

## REVIEW PAPER

# Geographical Indications in India: An Overview

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## ABSTRACT

Every region, territory or locality has its claim to fame. Geographical Indication gives the producers of a region the exclusive right to use the indication for their products originating from that region. Geographical Indication tells consumers that a product is produced in a certain place and has certain qualities and characteristics that are due to that place of production. India is a signatory of World Trade Organization (WTO). India enacted "Geographical Indications of Goods (Registration and Protection) Act" in 1999. This act confers legal protection to geographical indications in India. It prohibits unauthorized use of a registered geographical indication. This review provides an overview of geographical indications in India. Up to March 2016, 261 goods have been registered. Of these 160 are handicraft goods and 70 are agricultural goods. Registration of GI is not compulsory in India. If registered, it will afford better legal protection to facilitate an action for infringement. Once a GI is registered in India, it becomes relatively easier to seek protection in other countries, particularly the member countries of WTO.

## HISTORICAL BACKGROUND

The combined package of trade rules and tariff concessions better known as the General Agreement on Tariff and Trades. The General Agreement on Tariff and Trades (GATT) came into force in January 1948 in Geneva. The main objective behind the establishment of GATT was to provide a frame work for rule based multinational trading system, to promote free trade in order to encourage growth and development of all member countries. GATT provided a forum for discussions and negotiations on international trade issues. Several rounds of the talks were held among the member countries to negotiate various trade issues. The GATT completed 8 rounds of multilateral trade negotiations (MTNS) between 1986-1994 better known as Uruguay Round. The World Trade Organization (WTO) was established on the successful completion of the

Uruguay round of negotiations of GATT. World Trade Organization (WTO) came into force on January, 1995. Three important issues discussed in Uruguay rounds are.

- 1) Agreement on Agriculture (AOA)
- 2) Trade Related Investment Measures (TRIMS) and
- 3) Trade Related Aspects of Intellectual Property Rights (TRIPs)

TRIPs provides minimum national Standards for levels of protection to the creators of intellectual property. Under Articles 1 (2) and 10 of the Paris Convention for the Protection of Industrial Property, geographical indications are covered as an element of IPRs. They are also covered under Articles 22 to 24 of the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement, which was part of the Agreements concluding the Uruguay Round of GATT negotiations.

Intellectual Property Rights are the rights given to mankind for the creations of their minds. IPR gives the creator an exclusive rights over the use of their creation for a certain period of time to inventions, literary, artistic works, symbols, designs, images etc. IPR confers legal ownership to the persons which prohibits others from unauthorized use.

## Intellectual property is usually divided into two basic groups

- The Industrial Property includes Patents, Designs, Trade Marks, Trade Secretes, Integrated Circuits and Geographical Indication
- The copy rights

As far as agriculture concerned patent (PPV&FRA) and GI are two main types of IPR. Among the listed IPRs our main concern is on geographical indications

As India is a signatory of WTO, it needs to provide Protection for Plant Varieties either through

**Table 1. Rounds of negotiations held since 1947. (1)**

Sr. No	Year	Place	Subject covered	Countries participated
1	1947	Geneva	Tariffs	23
2	1949	Annecy	Tariffs	13
3	1951	Torqay	Tariffs	38
4	1956	Geneva	Tariffs	26
5	1960-61	Geneva	Tariffs	26
6	1964-67	Geneva	Tariffs and anti- dumping measures	62
7	1973-1979	Geneva	Tariffs, non-tariff measures, frame work agreements	102
8	1986-1994	Geneva	Tariffs, non-tariff measures, rules, services, Intellectual property, dispute settlements, textiles, agriculture, creation of WTO etc.	123

patents or effective *sui generis* system or combination of both. According to the fact, in India the Government enacted the legislation on Protection of Plant Varieties and Farmers Rights Act in 2001. This act will accelerate agriculture development and provides protection of new varieties including extant and farmer varieties

As per article 22 of the TRIPs, the member countries to provide for the protection of all . Geographical indications, where the obligation is for members to provide the legal means for interested parties to secure protection of their GIs.

The Government of India enacted the legislation on registration and protection of geographical indications in the year 1999. The Act came into force on 30<sup>th</sup> December, 1999 as “Geographical Indications of Goods (Registration and Protection) Act, 1999”. Act No. 48 of 1999. This Act provides for the registration and better protection of geographical indications relating to goods. Good means any agricultural, manufactured goods or any goods of handicraft or of industry and includes food stuff. Indication includes any name, geographical or figurative representation or any combination of them conveying or suggesting the geographical origin of goods to which it applies.

**Geographical Indication (Goods) :** An Indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating or manufactured in the territory of a country or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory,

region or locality.

### **Why Geographical Indication need protection?**

Registration of Geographical indications to provide comprehensive and effective protection to goods. GIs may be associated with agricultural, manufactured or industrial goods Non-agricultural products, which typically qualify for GI protection include handicrafts, jewellery, textiles etc. India enacted the Geographical Indications of Goods registered under the Act.

Geographical Indications acts as a mechanism that helps producers differentiate their products from competing products in the market and enables producer to build a reputation and goodwill around their products that will fetch a premium price.

### **Under Article 22, the scope of protection is composed of three aspects (2)**

1. Protection against the use of indications that mislead the public or are deceptive
2. Protection against the use of indications in a manner that are acts of unfair competition and
3. Refusal of invalidation of trade market that contain or consist of indications, where it was mislead the public.

One of the best features of Geographical Indication of goods Act (Registration and Protection) 1999 is the agricultural natural and manufactured good came under the scope of GIs. Another important aspects of the Act is the possibility of protection a GI indefinitely by renewing the registration when it expires after a period of 10 years

### **Geographical Registry in India**

The Government of India has established the

Geographical Indications Registry at Chennai, where the GIs can be registered. This Act has two key characteristics; (i) protection of producers against counterfeiting and misleading commerce, and (ii) striking of balance between trademark and GI protection. According to this Act, once a GI is registered, any person claiming to be the producer of the good designated by the registered GI can file an application for registration as an authorized user. The GI Act to be administered by the Controller General of Patents, Designs, and Trademarks- who is the Registrar of GIs. The registration of a geographical indication is for a period of ten years. Renewal is possible for further period of ten years. If a registered GI is not renewed, it is liable to be removed from the register

### **Who can apply for Geographical Indication?**

Under section 11(1) any association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods, who are desirous of registering a geographical indication in relation to such goods shall apply for registration.

### **Requirements of GIs application**

- The class of goods to which the geographical indication shall apply.
- A statement of how the geographical indication serves to designate the goods as origination from the concerned territory in respect of the quality, reputation or other characteristics which are due exclusively or essentially to the geographical environment, with its inherent natural, and human factors and the production or processing or preparation or which takes place in such territory or region or locality.
- The geographical map of the territory of the country or region or locality in the country in which the goods originate or are being manufactured;
- The particulars regarding the appearance of the geographical indication as to whether it is comprised of the words or figurative elements or both;
- A statement containing such particulars of the producer of the concerned goods, if any, proposed to be initially registered with the registration of the geographical indication as may be prescribed; and such other particulars as may be prescribed

After an application for registration is accepted by the registrar and if there has been an opposition which is dismissed the geographical indication shall be registered.

### **What does not qualify for Geographical Indication?**

The following geographical indications are prohibited from registration under section 9 of the Act:

#### **Any geographical indication .**

- the use of which would be likely to deceive or cause confusion;
- the use of which would be contrary to any law for the time being in force;
- which comprises or contains scandalous or obscene matter;
- the comprises of contains any matter likely to hurt the religious susceptibilities of any class or citizens of India
- this would be disentitled to protection in the court of law.
- which are determined to be generic names or indication of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country;
- which, although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be, shall not be registered as a geographical indication.

### **Registration of Geographical Indications of India**

- An application for the registration of a GI is to be made to the Registrar of Geographical Indications in the form prescribed under the Geographical Indications of Goods (Registration and protection) Act, 1999.
- The Register of Geographical Indication is divided in to two parts. Part 'A' consists of particulars relating to registered geographical indications and part 'B' consists of particulars of the registered authorized users.

### **Stepwise Registration Process of Geographical Indication In India (3)**

#### **STEP 1 : Filing of application**

Applicant shall check the application, whether

**Table 2. List of Geographical Indications (Agricultural Goods) in India**

Sr. No.	Geographical Indication	Type	State
1	Darjeeling Tea (word & logo)	Agricultural	West Bengal
2	Kangra Tea	Agricultural	Himachal Pradesh
3	Coorg Orange	Agricultural	Karnataka
4	Mysore betel leaf	Agricultural	Karnataka
5	Nanjanagud Banana	Agricultural	Karnataka
6	Mysore Jasmine	Agricultural	Karnataka
7	Udupi Jasmine	Agricultural	Karnataka
8	Hadagali Jasmine	Agricultural	Karnataka
9	Navara rice	Agricultural	Kerala
10	Palakkadan Matta Rice	Agricultural	Kerala
11	Malabar Pepper	Agricultural	Kerala
12	Allahabad Surkha	Agricultural	Uttar Pradesh
13	Monsooned Malabar Arabica Coffee	Agricultural	Karnataka
14	Monsooned Malabar Robusta Coffee	Agricultural	Karnataka
15	Spices – Alleppey Green Cardamom	Agricultural	Kerala
16	Coorg Green Cardamom	Agricultural	Karnataka
17	Eathomozhy Tall Coconut	Agricultural	Tamil Nadu
18	Pokkali Rice	Agricultural	Kerala
19	Laxman Bhog Mango	Agricultural	West Bengal
20	Himsagar (Khirsapati Mango)	Agricultural	West Bengal
21	Fazli Mango	Agricultural	West Bengal
22	Naga Mircha	Agricultural	Nagaland
23	Nilgiri (Orthodox) Logo	Agricultural	Tamil Nadu
24	Assam (Orthodox) Logo	Agricultural	Assam
25	Virupakshi Hill Banana	Agricultural	Tamil Nadu
26	Sirumalai Hill Banana	Agricultural	Tamil Nadu
27	Mango Malihabadi Dusseheri	Agricultural	Uttar Pradesh
28	Vazhakulam pineapple	Agricultural	Kerala
29	Devanahalli Pomello	Agricultural	Karnataka
30	Appemidi Mango	Agricultural	Karnataka
31	Kamalapur Red Banana	Agricultural	Karnataka
32	Bikaneri Bhujia	Agricultural	Rajasthan
33	Guntur Sannam Chilli	Agricultural	Andhra Pradesh
34	Mahabaleshwar Strawberry	Agricultural	Maharashtra
35	Central Travancore Jaggery	Agricultural	Kerala
36	Wayanad Jeerakasala Rice	Agricultural	Kerala
37	Wayanad Gandhakasala Rice	Agricultural	Kerala
38	Nashik Grapes	Agricultural	Maharashtra
39	Byadgi chilli	Agricultural	Karnataka
40	Gir Kesar Mango	Agricultural	Gujarat
41	Bhalia Wheat	Agricultural	Gujarat
42	Udupi Mattu Gulla Brinjal	Agricultural	Karnataka
43	Ganjam Kewda Rooh	Agricultural	Odisha

Sr. No.	Geographical Indication	Type	State
44	Ganjam Kewda Flower	Agricultural	Odisha
45	Madurai Malli	Agricultural	Tamil Nadu
46	Bangalore Blue Grapes	Agricultural	Karnataka
47	Kalanamak Rice	Agricultural	Uttar Pradesh
48	Kaipad Rice	Agriculture	Kerala
49	Kolhapur Jaggery	Agriculture	Maharashtra
50	Nagpur Orange	Agriculture	Maharashtra
51	Bangalore Rose Onion	Agriculture	Karnataka
52	Naga Tree Tomato	Agricultural	Nagaland
53	Arunachal Orange	Agricultural	Arunachal Pradesh
54	Sikkim Large Cardamom	Agricultural	Sikkim
55	Mizo Chilli	Agricultural	Mizoram
56	Assam karbi Anglong Ginger	Agricultural	Assam
57	Tripura Queen Pineapple	Agricultural	Tripura
58	Chengalikodan Nendran Banana	Agricultural	Kerala
59	Tezpur Litchi	Agricultural	Assam
60	Khasi Mandarin	Agricultural	Meghalaya
61	Kachai Lemon	Agricultural	Manipur
62	Memong Narang	Agricultural	Meghalaya
63	Basmati	Agricultural	Entire state of Punjab, Haryana, Delhi, Himachal Pradesh, Uttarakhand, and parts of western Uttar Pradesh and J&K
64	Ajara Ghansal Rice	Agricultural	Maharashtra
65	Mangelwedha Jawar	Agricultural	Maharashtra
66	Sindhudurg & Ratnagiri Kokum	Agricultural	Maharashtra
67	Waghya Ghewada	Agricultural	Maharashtra
68	Navapur Tur Dal	Agricultural	Maharashtra
69	Vengurla Kashew	Agricultural	Maharashtra
70	Lasalgaon Onion	Agricultural	Maharashtra

the indication comes within the bounds of the definition of a GI under section 2(1)(e).

- Applicant shall be applied application in triplicate.
- The application shall be signed by the applicant or his agent and must be accompanied by a statement of case.
- Details of the special characteristics and how those standards are maintained shall be given in application.
- Three certified copies of the map of the region to which the GI relates shall be attached with application.
- Details of the inspection structure if any to regulate the use of the GI in the territory to which it relates shall be mentioned.
- Details of all the applicant together with

address shall be given in application. If there is a large number of producers a collective reference to all the producers of the goods shall given in the application and the G.I., if registered will be indicated accordingly in the register.

#### **Application sent to the following address in India:**

Geographical Indications Registry  
Intellectual Property Office Building  
Industrial Estate, G.S.T Road  
Guindy, Chennai – 600 032  
Ph: 044 – 22502091-93 & 98  
Fx : 044 – 22502090  
E-mail: [gir-ipo@nic.in](mailto:gir-ipo@nic.in)

**Table 2. Yearwise registration of GIs in India**

Sr. No.	Year	No. of GIs registered
1	2004-2005	03
2	2005-2006	24
3	2006-2007	03
4	2007-2008	31
5	2008-2009	45
6	2009-2010	14
7	2010-2011	29
8	2011-2012	23
9	2012-2013	21
10	2013-2014	22
11	2014-2015	20
12	2015-2016	26

**Website : [ipindia.gov.in](http://ipindia.gov.in)**

The applicant must have an address for service in India. Application can be filed by a legal practitioner or a registered agent.

**STEP 2 and 3: Preliminary scrutiny and examination**

- The Examiner will scrutinize the application for any deficiencies.
- The applicant shall submit the remedy within one month of the communication.
- The content of statement of case is assessed by a consultative group of experts will versed on the subject.
- They will ascertain the correctness of particulars furnished.
- Thereafter an Examination Report would be issued.

**STEP 4: Show cause notice**

- If the Registrar has any objection to the application, he will communicate such objections to the applicant.
- The applicant must respond within two months or apply for a hearing.
- The decision will be duly communicated. If the applicant wants to appeal, he may make a request within one month.
- The Registrar is also empowered to withdraw an application, if it is accepted in error, after giving an opportunity of being heard.

**STEP 5: Publication in the geographical indications Journal**

**Every application**, within three months of acceptance shall be published in the Geographical Indications Journal.

**STEP 6: Opposition to Registration**

- Any person can file a notice of opposition **within three months against** the GI application published in the Journal.
- The registrar shall serve a copy of the notice to the applicant.
- The applicant shall sent a copy of the counterstatement within two months to the office.
- If he does not reply he shall be deemed to have abandoned his application. Where the counter-statement has been filed, the registrar shall serve a copy to the person giving the notice of opposition.
- Thereafter, both sides will lead their respective evidences by way of affidavit and supporting documents.
- Thereafter a date for hearing of the case will be fixed.

**STEP 7: Registration**

- Where an application for a GI has been accepted, the registrar shall register the geographical indication. If registered, the date of filing of the application shall be deemed to be the date of registration.
- The registrar shall issue a certificate with the seal of the Geographical indications registry to the applicant.

**STEP 8: Renewal**

A registered GI shall be valid for 10 years and can be renewed by paying renewal fee.

**STEP 9: Additional protection to notified goods**

Additional protection for notified goods is provided in the Act.

**STEP 10: Appeal**

Any person aggrieved by an order or decision may prefer an appeal to the intellectual property appellate board (IPAB) within three months. The address of the IPAB is as follows:

Intellectual Property Appellate Board  
Annexe 1, 2<sup>nd</sup> Floor, Guna Complex,  
443, Anna Salai, Chennai – 600 018

**Table 3. State wise registration of GIs in India**

Sr. No.	Year	No. of GIs registered
1	Karnataka	38
2	Tamil Nadu	27
3	Kerala	26
4	Andhra Pradesh	13
5	Telangana	10
6	Uttar Pradesh	21
7	Maharashtra	17
8	West Bengal	10
9	Madhya Pradesh	09
10	Odisha	15
11	Rajasthan	10
12	Himachal Pradesh	06
13	Bihar	05
14	Asam	05
15	Chattisgarh	05
16	Gujrat	12
17	Jammu & Kashmir	06
18	Nagaland	02
19	Goa	01
20	Pondechary	02
21	Manipur	04
22	Sikkim	01
23	Mezoram	01
24	Tripura	01
25	Meghalaya	02
26	Arunachal Pradesh	01
27	Foreign countries	09
28	Combined states	02

Under section 11(2) of the GI Act the application shall contain the following documents:  
(4 )

- A statement as to how the GI serves to designate the goods as originating from the concerned geographical territory in respect of specific quality, reputation or other characteristics that are due exclusively or essentially to the geographical environment, with its inherent natural and human factors; and the production processing or preparation of which takes place in such geographical location
- The geographical map of the territory of the country, region or locality in the country concerned
- The particulars regarding the appearance of the GI as to whether it is comprised of the words of figurative elements or both
- An affidavit as to how the applicant claims to represent the interest of the association of

persons or producers or any organization or authority established by or under any law

- The standards benchmark for the use of the GI or the industry standard as regards the production, exploitation, making or manufacture or the goods having specific quality, reputation, or other characteristic of such goods that is essentially attributable to its geographical origin with the detailed description of the human creativity involved, if any, or other characteristic from the definite geographical territory;
- The particulars of the mechanism to ensure that the standards, quality, integrity and consistency or other special characteristic in respect of the goods to which the GI relates, which are maintained by the producers, makers or manufactures of the goods, as the case may be;
- The particulars of special human skill involved or the uniqueness of the geographical environment or other inherent characteristics associated with the GI to which the application relates;
- The particulars of the inspection structure, if any, to regulate the use of the GI in respect of the goods for which application is made in the definite territory, region or locality mentioned in the application.

#### **Benefits of Registration (5)**

1. The authorized users can exercise the exclusive rights to use the geographical indication.
2. It confers legal protection to geographical indication in India.
3. The registered proprietor and authorized users can initiate infringement action.
4. It prevents unauthorized use of a registered geographical indication by others

#### **Infringement of Geographical Indications**

A geographical indications is said to be infringed if a person without authorization

1. uses such geographical indication by any means in the designations or presentation of goods that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which misleads the persons as to the geographical origin of such goods
2. uses any geographical indication in such

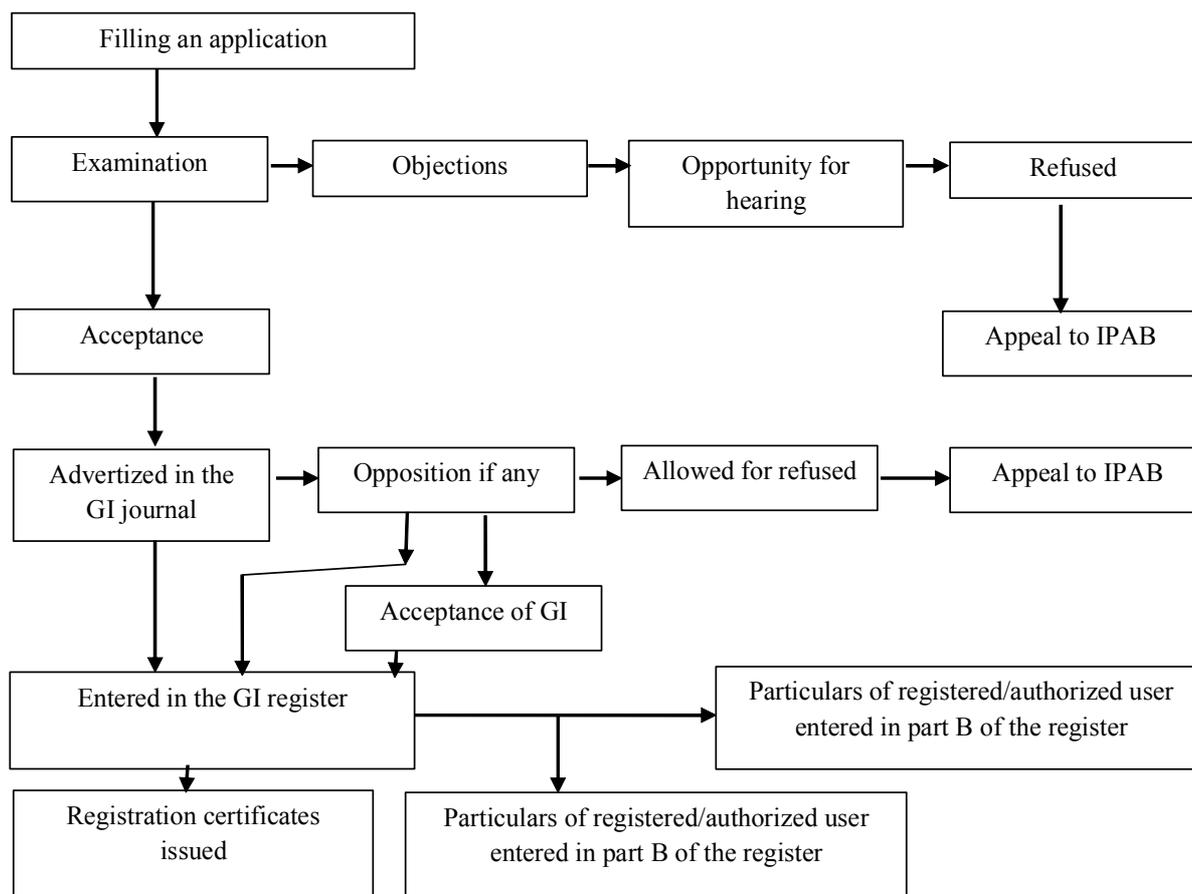


Fig. 1. Flow chart of filling of an application for registration of GI (6 )

manner which constitutes an act of unfair competition including passing off in respect of registered geographical indication

- uses another geographical indication to the goods which, although literally as to the territory, region or locality in which the goods originate, falsely represents to the persons that the goods originate in the territory, region or locality in respect of which such registered geographical indication relates.

Under the Geographical Indications of Goods (Registration and Protection) Act, 1999 falsification of a Geographical Indications will carry a penalty with imprisonment for a term which may not be less than six months but may extend to three years and fine which may not be less than Rs. 50,000 and extend to Rs. 2,00,000.

### How a geographical indication differs from a trade mark?

A trade mark is a sign which is used by an enterprise which distinguishes its goods or services from those of other enterprises. Whereas, a geographical indication is used to identify goods

having certain qualities and characteristics originating from a definite geographical region or territory or locality in the country.

### Present Scenario of geographical indications in India

The registrations of GIs in India have been presented in Table 2. Year wise registrations of GIs have been presented in Table 3 and State wise registrations of GIs have been presented in Table 4.

Since the first Indian geographical indication Darjeeling Tea registered in 2004, total 261 GIs have been registered with GI registry of India till 31<sup>st</sup> March 2016. Of these, 160 are handicraft goods, 70 are agricultural goods, 18 are manufacturing goods, 6 are food stuffs, 6 are textile goods and 1 is natural good named makrana marbel.

It was observed from Table 2 that during the year 2004-2005 only 3 goods have been registered. Maximum 45 goods have been registered during the year 2008-2009.

It was observed from Table 3 that the maximum 38 GIs are registered by Karnataka state

sharing 14.56% contribution followed by Tamil Nadu registered 27 GIs sharing 10.34% contribution. It was observed that, most GIs have been registered from Southern states.

Since 2009, 9 foreign goods have been registered under the Geographical Indications (Registration and Protection) Act, 1999. These are Peruvian Pisco from Peru, Champagne and Cognac from France, Napa Valley from USA, Prosciutto di Parma from Italy, Porto and Douro from Portugal, Tequila from Mexico and Scotch Whisky from United Kingdom.

## CONCLUSION

The GI Act, which came into force with effect from 15 September 2003. The central government has established the Geographical Indications Registry with all-India jurisdiction, at Chennai, where right-holders can register their GI. Up to March 2016, 261 goods have been registered. Maximum handicraft goods are registered. Southern state like Karnataka, Tamil Nadu, Kerala, Andhra Pradesh are leading states in registration of GIs. GI registered products fetches better price than non registered products. Registration of GI is not compulsory in India. If registered, it will afford better legal protection to facilitate an action for infringement. Once a GI is registered in India, it

becomes relatively easier to seek protection in other countries, particularly the member countries of WTO. Hence it is suggested to identify such goods from different territory of India and register such goods under Geographical Indications for fetching better prices for that goods.

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