

# The Protection of Geographical Indications in ASEAN Community

*Tanatthep Tianprasit\**

## Abstract

Geographical Indications have originated from linking between natures and man that is people use specific geographical locations (e.g. district, province, or region) to indicate an origin, quality or to protect reputation of their products. In fact, for many products, location or area of product becomes the most important factor because the product which is produced in some area will have better quality than product from other area. For example, a watch which is made in Switzerland, leather from Italy or perfume from France. Therefore, manufacturers of watches, leathers or perfumes in these areas would like to advertise that their products are made in Switzerland, Italy or France to persuade consumers to buy their products. Moreover, some countries or some regions become the birthplace of reputation goods or products because some area in these countries or regions have geographical locations, weather or environment which assist to increase quantity or quality of the products more than any other locations. Most of products as stated are spirits, beer, wine, juice or mineral water.

According to the reputation or quality of these geographical indication products, manufacturers of the same products from outside the area try to use geographical indication in misusing cases to their advantage. The misusing of geographical indications which always happen is the user of geographical indications who have no right to use that geographical indications but claim that their products

---

\* Lecturer, Graduate School Of Law, National Institute of Development Administration (NIDA)  
118 Serithai Road, Khlongchan, Bangkok, Bangkok 10240 THAILAND.

are the same products or same quality as the original products which are made in the area of geographical locations. Therefore, the countries of origin of the geographical indication products try to protect their geographical indications from misusing.

ASEAN Community is one community which keeps an eye on the advantage of the protection of geographical indication closely because all countries of this community know that they have their own typical geographical location and want to add value to their distinctive products, thus the protection of geographical indication is one of the best answer to increase product value and improve livelihood of their people. Nevertheless, there are many problems on Geographical Indications for ASEAN Community to solve.

This Article will analyses the protections and problems of geographical indications in ASEAN Community and suggests the right solutions for ASEAN Community to improve the protection of their geographical indications in the future.

**Keywords:** Geographical Indication, ASEAN Community, ASEAN Economic community (AEC)

## การคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ในประชาคมอาเซียน

ธนัทเทพ เตียรประสิทธิ์\*

### บทคัดย่อ

สิ่งบ่งชี้ทางภูมิศาสตร์ (Geographical Indications) มีที่มาจากความเชื่อมโยงระหว่างธรรมชาติกับมนุษย์ โดยเกิดจากการที่บุคคลใช้ลักษณะพิเศษของที่ตั้งทางภูมิศาสตร์เช่น ตำบล จังหวัด หรือภูมิภาค เพื่อบ่งชี้ถึงที่มา คุณภาพหรือปกป้องชื่อเสียงของสินค้าของตน ในความเป็นจริงสำหรับสินค้าหลายๆอย่าง แหล่งหรือบริเวณที่มีการผลิตนับได้ว่ามีความสำคัญยิ่ง ด้วยเหตุที่ว่าสินค้าที่ผลิตในบางแหล่งหรือบางบริเวณดังกล่าวมีคุณภาพที่ดีกว่าสินค้าจากแหล่งการผลิตอื่น ๆ เช่น นาฬิกาจากประเทศสวิตเซอร์แลนด์ เครื่องหนังจากประเทศอิตาลี หรือ น้ำหอมจากประเทศฝรั่งเศส ด้วยเหตุนี้ผู้ผลิตนาฬิกา เครื่องหนัง หรือน้ำหอม ดังกล่าวจึงต้องการที่จะระบุดังถึงความเชื่อมโยงระหว่างสินค้าและแหล่งที่มาของผลิตภัณฑ์ดังกล่าวเพื่อชักจูงให้ผู้บริโภคซื้อสินค้าของตน นอกจากนี้ด้วยสภาพแวดล้อมที่เหมาะสม บางประเทศหรือบางแคว้นได้กลายเป็นแหล่งกำเนิดของสินค้าหรือผลิตภัณฑ์ที่มีชื่อเสียงเพราะพื้นที่ดังกล่าวมีที่ตั้งทางภูมิศาสตร์ อากาศ สภาพแวดล้อม ที่เอื้ออำนวยต่อการเพิ่มขึ้นของปริมาณหรือคุณภาพของสินค้าที่ดีกว่าแหล่งการผลิตอื่น ซึ่งสินค้านี้ดังกล่าวมักจะเป็น สุรา เบียร์ ไวน์ น้ำผลไม้ หรือ น้ำแร่

จากชื่อเสียงที่เป็นที่ยอมรับของบุคคลทั่วไปหรือคุณภาพของสินค้าที่เป็นสิ่งบ่งชี้ทางภูมิศาสตร์ดังกล่าว ทำให้ผู้ผลิตสินค้าชนิดเดียวกันที่อยู่นอกพื้นที่และบริเวณที่กล่าวมา พยายามใช้สิ่งบ่งชี้ทางภูมิศาสตร์ในทางที่มีขอบกรณีต่างๆเพื่อประโยชน์ของตน อาทิเช่น การอ้างว่าสินค้าของตนเป็นสินค้าที่ผลิตในพื้นที่หรือบริเวณที่เป็นสิ่งบ่งชี้ทางภูมิศาสตร์ หรือ อ้างว่าสินค้าของตนมีคุณภาพเช่นเดียวกับสินค้าที่ผลิตในพื้นที่หรือบริเวณที่เป็นสิ่งบ่งชี้ทางภูมิศาสตร์ ดังนั้น จึงมีความพยายามของเหล่าประเทศผู้ผลิตสินค้าที่เป็นสิ่งบ่งชี้ทางภูมิศาสตร์ในการที่จะคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ของตนจากการกระทำอันมิชอบต่าง ๆ ที่เกี่ยวกับสิ่งบ่งชี้ทางภูมิศาสตร์

\* คณะนิติศาสตร์ สถาบันบัณฑิตพัฒนบริหารศาสตร์

118 ถนนเสรี แขวงคลองจั่น เขตบางกะปิ กรุงเทพฯ 10240

nat\_qmul@yahoo.com

ประชาคมอาเซียน (ASEAN Community) เป็นอีกหนึ่งประชาคมซึ่งจับตามองถึงผลดีของการคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์อย่างใกล้ชิด เพราะทุกประเทศในประชาคมรู้ว่าพวกเขา มีสิ่งบ่งชี้ทางภูมิศาสตร์ที่เป็นเอกลักษณ์ และต้องการที่จะเพิ่มมูลค่าให้กับสินค้าเหล่านั้น ดังนั้น การให้ความคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์จึงเป็นอีกหนึ่งในคำตอบที่ดีที่สุดในการเพิ่มมูลค่าของสินค้า และยกระดับความเป็นอยู่ของประชาชน อย่างไรก็ตามยังคงมีปัญหามากเกี่ยวกับสิ่งบ่งชี้ทางภูมิศาสตร์ที่รอให้ประชาคมอาเซียนแก้ไข

บทความนี้จึงมุ่งวิเคราะห์ถึงการคุ้มครองและสภาพปัญหาที่เกี่ยวกับสิ่งบ่งชี้ทางภูมิศาสตร์ของประชาคมอาเซียน และเสนอแนวทางแก้ไขปัญหาเพื่อให้ประชาคมอาเซียนปรับปรุงการคุ้มครองสิ่งบ่งชี้ทางภูมิศาสตร์ให้ดีขึ้นสืบไป

**คำสำคัญ:** สิ่งบ่งชี้ทางภูมิศาสตร์ ประชาคมอาเซียน ประชาคมเศรษฐกิจอาเซียน

## Introduction

Geographical Indications have originated from linking between natures and man that is people use specific geographical locations (e.g. district, province, or region) to indicate an origin, quality or to protect reputation of their products. In fact, for many products, location or area of product becomes the most important factor because the product which is produced in some area will have better quality than product from other area. For example, when people think about whisky, most of them think about Scotch whisky. There are many reasons why most of people choose Scotch whisky as the best of whisky. Scotch whisky uses only best multi grain (barley, wheat, maize) from every region in Scotland, pure water from natural sources and traditional process to distill, mellow, and combined by skilled whisky maker (Department of Intellectual Property<sup>2007</sup>). The result is the one of the best quality whisky on the earth. Crossing the English Channel to the continent, Cognac, French's brandy, is one of the best brandies of the world. With the same reasons like Scotch whisky, the reputation of Cognac has originated from the selected grape varieties grown only in selected areas of Cognac regional in France, special technique of cultivation and secret process of distillation, combination and taste by specialist (Department of Intellectual Property<sup>2006</sup>). From example, it can be seen that these people know how to combine geographical locations such as air, weather or environment with their own skill or technique to produce the outstanding products. Nowadays, people call "Geographical Indication" for the linking between man and nature like example above.

## Geographical Indications in ASEAN

Back to the landmass of Eurasia in Southeast Asia, a sub region of Asia which located in south of China, east of India, north of Australia, there are 10 countries of ASEAN Community which have plentiful of natural resources, agricultural products and indigenous knowledge. This small part of the world has many reputations throughout the world for many agricultural products. For example, most of people in the world know that the best of rice is "Thai Hom Mali rice" or "the Thai jasmine rice" from Thailand. This kind of rice has originated from the selected grain of rice which has been developed by farmers from generation to generation and combined with a unique environment, territory and labor skill of Thailand(S Jaovisidha,2003), the result is the unique appearance, cooking texture

## 6

and district aroma like jasmine. This product of Thailand has been exported to every part of the world as the pride of the one of the largest rice exporter country of the world. For coffee lovers, everyone wants to try the taste of “Kopi Luwak” or Civet coffee of Indonesia before dies. Kopi Luwak is supposed to be the most expensive and tasty coffee of the world. The price of this coffee is around 175-450 U.S. dollars per pound. The origin of Kopi Luwak is so interesting because it is made from coffee beans which pass through the digestive system of an Indonesian animal “civet”, its appearance like cat combines with monkey. The best quality of coffee bean that has grown in Indonesian soil combined with the incredible digestive system of Indonesian civet can make Kopi Luwak to be one of the great taste coffees of the world (T Subagyo, 2011). Moreover, Sabah, one of the 13 states of Malaysia, is the birthplace of one of the best quality seaweed of the world like “Sabah Seaweed”. Sabah Seaweed has its unique characteristics because it is cultivated in clear and unpolluted seas of northern and south-eastern parts of Sabah (Coral Triangle) and surrounded with tropical, sub-tropical and has wide climatic range. The successful cultivation of Sabah Seaweed is the seaweed which has high soluble fiber content and plus with other beneficial element. The fiber of this seaweed has proven to lower blood cholesterol and lipid level as well as beneficial for constipation, appetite suppression and cough relief (ASEAN Project on Intellectual Property Rights, 2011). From examples, these products are the one of the best geographical indications but there are still have many more geographical products that have potential to be the best geographical indications in Southeast Asia.

### **Problems on Geographical Indications**

Unfortunately, some manufacturers from outside areas want to use these geographical indications because they know that consumers are pleased to spend more money for the reputation or quality of the products. The result of this case is the misusing of these geographical indications by some manufacturers who have not right to use these geographical indications but claim that their products have the equal quality to the original products which are made in the areas of geographical location. Moreover, some trickery manufacturers try to do worse by produce the counterfeit products (Helbling, 1997, p.51). The effects of these problems are not only infringe the fair competition and good faith of entrepreneur, but also harm the safety and health of consumers.

## Protection of Geographical Indications

At international level, most developed countries have attempted to use multilateral agreement as a key to protect geographical indication such as Paris Convention for the protection of Industrial Property 1883(Paris Convention), Madrid Agreement for the Repressing of False or Deceptive Indication of Source on Goods 1891 (Madrid Agreement) and Lisbon Agreement for the protection of Appellation of Origin and their International Registration 1958(Lisbon Agreement). However, the most effective multilateral agreement to protect geographical indication at present time is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) which is hosted by World Trade Organization (WTO) that have 159 countries as members on 2 March 2013 (World Trade Organization, 2013). The TRIPs Agreement becomes the most powerful multilateral agreement on the protection of geographical indication because every WTO member has to accept the terms and conditions of the TRIPs Agreement if they want to be the members of WTO. Thus, many countries choose to accept The TRIPs Agreement for more benefits on international trade forum of WTO. Furthermore, the triumphant of the TRIPs Agreement is that the TRIPs Agreement does not aim to harmonize the protection of intellectual property of all members but wants to set the minimum standard of intellectual property protection in countries of members (Matthews, 2002, p.7). With this strategy, it is no doubt why WTO members feel free to sign this agreement than other multilateral agreements in the past. The protection of geographical indication is in the TRIPs Agreement Articles 22,23and24. Article22 is the definition and standard protection of geographical indication, Article 23 sets the additional protection for wines and spirits and Article 24 is the exceptions which originate from the international negotiations.

At present, the importance of geographical indication protection is realized not only in most developed countries but also in other countries which have their own outstanding products from every area of the world. ASEAN Community, a group of ten countries in the South East Asia, is one community which keeps an eye on the advantage of the protection of geographical indication closely because all countries of this community know that they have their own typical geographical location and want to add value to their distinctive products, thus the protection of geographical indication is one of the best answer to increase product value and improve livelihood of their people.

## Problems and Protection of Geographical Indications in ASEAN Community

ASEAN Community has originated from “Bangkok Declaration” to establish the Association of Southeast Asian Nations-ASEAN in 1967. At the first time of establishment ASEAN had 5 countries as members Thailand, Indonesia, Malaysia, Philippines and Singapore, (Brunei Darussalam joined in 1974). After the end of the cold war, ASEAN had a chance to welcome the new 4 members, Vietnam joined in 1995, Lao and Myanmar joined in 1997 and Cambodia joined in 1999. Nowadays, ASEAN Community has ASEAN Charter as a model for members to respect and operate. ASEAN Charter can be divided into 3 main pillars as follows (Ministry of Foreign Affairs, 2013)

### 1. Politic and Security Pillar (ASEAN Political and Security Community-APSC)

This pillar aims to promote security, democracy and good governance for peace in ASEAN Community.

### 2. Social and Culture Pillar (ASEAN Socio-Cultural Community-ASCC)

This pillar aims to promote friendship and relationship between member countries especially, people in any fields of education, artist or journalist and mass communication to maintain and develop social and cultural of ASEAN Community

### 3. Economic Pillar (ASEAN Economic community-AEC)

This pillar aims to promote the economics of ASEAN to be the single market and single production base and support the flow of products, services, investments, labor between member countries.

Moreover, for achievement of ASEAN economic, every country has to have strict regulations on monetary system, the protection of intellectual property, fair-trade competition system and consumer protection law. At last, ASEAN Community will set up “ASEAN Economic Community” or “AEC” in 2015 to increase competency of ASEAN Community at international economic forum

With the reasons of “ASEAN Economic Community”, every member country must issue the internal law for the protection of intellectual property which includes geographical indication protection (Ministry of Foreign Affairs, 2013). Nevertheless, there are still some problems for ASEAN Community regarding geographical indications as to be discussed below.

### **The problem of the lack of regulation**

On WTO forum, every member of ASEAN Community has already joined WTO forum. Latest, LAO People's Democratic Republic has joined WTO on 2 February 2013 (World Trade Organization, 2013). In fact, it should be guaranteed that every country of ASEAN Community must have the protection on intellectual property rights at minimum standards of the TRIPs Agreement which including geographical indication protection. Unfortunately, at present, there are only 7 member countries of ASEAN Community (Thailand, Vietnam, Singapore, Philippines, Malaysia, Indonesia and Cambodia) which have the regulation on the geographical indication protection, while Myanmar, LAO People's Democratic Republic and Brunei Darussalam still have no regulation to protect geographical indication in their countries (ASEAN Project on Intellectual Property Rights, 2011). This is one of the biggest problems of the protection of geographical indication in this community because if there is still no regulation to protect geographical indication in every member country, it is impossible for ASEAN Community to discuss, harmonize and set the minimum standard of geographical indication protection for member country in this community.

### **The problem of the different regulations of member countries**

At present, although, 7 member countries of ASEAN Community (Thailand, Vietnam, Singapore, the Philippines, Malaysia, Indonesia and Cambodia) have had the regulations on the geographical indication protection, the regulations that be used in these countries are different. We can divide the regulations for the protection of geographical indication in these countries into 2 groups (M Bannerji, 2012). Firstly, "sui generis" protection system is used by Thailand (the Geographical Indication Protection Act B.E.2546 (A.D.2003)), Singapore (Geographical Indications Act (Cap.117B)), Malaysia (Geographical Indications Act 2000 and Geographical Indications Regulation 2001), and Cambodia (Prakas No.105 MOC/SM 2009 (GI Prakas). On the other hand, some member countries choose to protect geographical indications in their countries in different ways. For example, in the Philippines, there is no "sui generis" protection system of geographical indications in the country. Nevertheless, geographical indications may receive some protection under the trademark system (collective or certification marks). In Vietnam, the protection of geographical indication is in the Intellectual Property Law Paragraph 22, Article 4

(definition) and Article 79 (the conditions for protection) and Indonesia decides to protect geographical indications in Chapter 7 of the Law No. 15 Year 2001 on Trademark and Government Regulation No. 51 Year 2007 on Geographical Indications. From the examples above, it can be seen that this problem is one of the main problems of the protection of geographical indications in ASEAN Community because different countries have different ways to protect the geographical indications in their countries. The different systems can be an indicator of geographical indications in that member country because “sui generis” protection system can give an effective protection to geographical indications more than legislate a protection of geographical indications in other regulations.

### **The problem of the proof of linkage product and geographical indications**

Practically, the proof of linkage between product and geographical origin is very difficult because some of the products have to be approved by scientific evidence about the quality, characteristic or geographical origin. The scientific evidence may be a certificate from government organizations or reliable private organizations. The cost of scientific evidence from government organizations is cheaper than reliable private organizations but spending a longer time than private organizations. If applicants want to apply for register of geographical indication quicker than others, applicants, they have to pay more (T. Ekyokaya<sup>2004,p.629</sup>). This situation is unfair to the applicants who has not much money. Moreover, some member countries are not ready to certify the linkage between product and geographical origin with the reasons of technology, revenue and scientific machines.

The confusion of geographical indication protection laws to local producer.

The regulation on the protection of geographical indications in every member country of ASEAN Community is a fully technical law which has many complex structures while the producers of most geographical indication products in ASEAN Community are the people in countryside. For example, in case of local producers of One Tambon One Product (OTOP) project of Thailand<sup>1</sup>, this program wishes to support the unique locally made and marketed products for each Tambon. These local producers cannot understand the complex of regulation, thus government organizations have duty to give the true knowledge and true information to these local producers. Unfortunately, nowadays

<sup>1</sup> Tambon is the sub-district administrative division of Thailand.

the operation in this case cannot reach to the satisfied level because the lack of personnel administration and the rural officers also lack of knowledge to inform the information to local producers.

### **The problem of the conscience of the producers**

In fact, the most important thing to develop geographical indications in ASEAN Community is the conscience of the producers. However, sometimes some producers of famous geographical indication product in ASEAN Community do not realize this virtue. For example, in Thailand, when the product is still not famous, the quality of the product is the best, however when the product has already been renowned, some producers in geographical origin try to reduce quality of the product to increase their excessive profit. The action like this is against the virtue and damages not only the reputation of that geographical indication, but also effects to other honest producers in that geographical origin (J Kuanpoth, 2005, pp.35-44). On the other hand, in Thailand, if some geographical indication products become a well-known product, the producers in other areas will try to produce the same product and try to use name, symbol or other thing which is used for calling or representing of that product with their own products. For example, if “Chaiya salted egg” is very popular for consumers, you can see many “Chaiya’s formula salted egg”, “Chaiya salted egg made in... (other areas)” products in the market. Although, some cases of this action are not illegal, in fact this action can damage the reputation of the true geographical indication products and can confuse consumers about quality and geographical origin of the products.

From the problems above, it can be seen that there are still have many problems of the protection of geographical indications in ASEAN Community but it is a good opportunity for ASEAN Community to develop more advanced protections for this kind of intellectual property protection too, thus I would like to suggest some comments about the geographical indication problems in ASEAN Community as to be discussed below.

## **Suggestions for solving Geographical Indication Problems**

### **Solutions to the problems of the lack of regulation and the different regulations of member countries**

For this problems, firstly, every member country of ASEAN Community must legislates the regulation of the protection of geographical indications immediately to guarantee that geographical indications will be protected in every part of ASEAN Community. The regulation should be legislated by use the minimum standard of the TRIPs Agreement as a role model to study because the minimum standard of the TRIPs Agreement is the minimum standard of geographical indication protection at international nowadays too. Moreover, after every country of ASEAN Community has the regulation of the protection of geographical indications, ASEAN Community should arrange a conference on the protection of geographical indications of ASEAN Community to give, exchange and share the knowledge on geographical indications and discuss to the possibility about how to harmonize the regulation of the protection of geographical indications of each country into “the ASEAN Community regulation on geographical indications”. The advantage of harmonizing the different regulation of geographical indications in every country into one regulation is that the member countries will have the same protection of geographical indications which will be easy for ASEAN’s people and officers to understand the regulation. Moreover, when ASEAN Community uses the same regulation to protect geographical indications in this community, it will be easy for ASEAN Community to target the direction of geographical indication protection in the future together.

### **Solutions to the problem of the proof of linkage product and geographical indications**

The problem of this case is some of the products have to be approved by scientific evidence which can cost a lot of money for the producer of geographical indications products in case of proving by private organizations. Therefore, ASEAN Community should co-operate with government organizations in member countries which have potential to prove the linkage between product and geographical origin in their fields such as Ministry of Science and Technology, Ministry of Industry, Ministry of Agriculture in more developed member countries to help the producer of geographical indication products in every member country to prove the linkage between product and geographical origin because

these government organizations specialize not only in their responsible duties, but also have branches in many parts of ASEAN Community that can provide facilities to the producers who want to prove their products and can reduce the cost of travel expenses. This method also helps the government of each member country to reduce spending a lot of government's budget to establish the new organization for proving of the linkage between product and geographical origin by just using the present organizations in more developed member countries that already have in more developed member countries more effective than ever.

### **Solutions to the confusion of geographical indication protection laws to local producer**

Because of the regulations of the protection of geographical indications being fully technical laws which have many complicated structures, it is difficult for not only the local producers of geographical indication products in countryside to understand these regulations, but also includes the government officers in every member country . Moreover, there is not enough personnel administration which results from limited budget of government.

This is one of the important problems because although the governments of member country can legislate specific law to protect the rights of the producers of geographical indications, they do not know about their rights. Therefore, the protection of geographical indications cannot accomplish.

In this case, I would like to suggest that the governments have a duty to give the true knowledge and true information about geographical indications to people in their countries to let them know about their rights. Therefore, before the government's officer will give knowledge to people, they must already have that knowledge. The governments of member country have to be the host to practice government's officers about the geographical indications law because most of these governments have the sector of Intellectual Property which is the most specialist in every intellectual property protection laws in their countries. Moreover, in ASEAN Community, we cannot refuse that most of geographical indication products come from local producers in countryside, thus it is necessary of the sector of Intellectual Property in every member country to teach the local leaders of the local community in every member country about the importance of the

protection of geographical indications too. This is the best solution for the lack of personnel administration problem because the government teaches one local leader but one local leader can pass on the knowledge information to all local producers in his/her community in member country. However, the government must intend to support the publicity about this in anyway because if people realize to protect their rights, the value of the products will increase that will be a benefit to the member countries and ASEAN Community in overall.

### **Solutions to the problem of the conscience of the producers**

This problem is the most importance in ASEAN Community because most of people in ASEAN Community do not think that the infringement of any kinds of intellectual property is a crime. Therefore, I would like to suggest that in case of the producers produce the geographical indications products, the governments of member countries must recheck the quality of the product at all times such as every 6 months or every year to maintain the quality of the product and to threaten the producers who wish to do this action to stop them. If the governments found any infringement, they have to punish the offender with the maximum punishment under the law to be an example for other producers who wish to do the same action. For a long term policy, ASEAN Community has to inform the producers about the disadvantages of this action to urge their conscience about working together for maintaining a quality and reputation of their products.

In case where producers in other areas try to produce the same product and using name, symbol or other things which is used for calling or representing of the famous products, the governments should add the terms and conditions in the law about the famous geographical indications products that the producers of these products should have any rights. The example for this is that the right to stop other producers from using their geographical indications although that geographical indications are still not registered. Moreover, the governments should strictly enforce the laws against the misuse in this case. For a long term solution, the governments should help other producers to find their own unique geographical indications in their areas to solve this problem permanently.

## Conclusion

In the past, many developed countries especially in Europe have used geographical indications as a tool to increase their product's value. At international level, there are many international conventions or international agreements that attempt to protect geographical indications. The main international conventions protected geographical indications are Paris Convention, Madrid Agreement and Lisbon Agreement. However, the efficiency of protection of geographical indications under these agreements is not satisfied because a small numbers of members. Therefore, the developed countries have changed the target by combining the protection of intellectual property with the international trade forum. Finally, after the negotiation at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994, they had the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs). The TRIPs Agreement is an international agreement that sets down minimum standards for many kinds of intellectual property including geographical indications. It can be seen that the principle of protection of geographical indications under the TRIPs Agreement came from the pressure of European Community which want the minimum standards to protect their geographical indications products.

At present, ASEAN Community is the one community which has many unique geographical indication products. Some geographical indication products from member countries of ASEAN Community are very famous at international level. ASEAN Community knows that the protection of geographical indication is one of the best answers to increase product value and improve livelihood of people. Consequently, ASEAN Community should have "sui generis" protection system in every member country because "sui generis" law is the most effective regulation to protect geographical indication products. Moreover, ASEAN Community should co-operate with government organizations in member countries which have potential to prove the linkage between product and geographical origin more effective than ever to reduce the cost of proving. In conclusion, although ASEAN Community will have a specific geographical indication protection law in the future, the conscience of people in the community still be the most importance for the sustainable development and protection of geographical indications in this community.

## References

- ASEAN Project on Intellectual Property Rights. (2011). *ECAP III Regional Workshop on the Control of Geographical Indications(GIs) 24-27 January 2011, Bangkok, Thailand*. Retrieved February 20, 2012, from [http://www.ecap-project.org/index.php?q=ECAPIII\\_Regional\\_workshop\\_on\\_the\\_control\\_of\\_GIs](http://www.ecap-project.org/index.php?q=ECAPIII_Regional_workshop_on_the_control_of_GIs)
- ASEAN Project on Intellectual Property Rights. (2011). *GEOGRAPHICAL INDICATIONS IN MALAYSIA*. Retrieved February 20, 2012, from <http://www.ecap-project.org/>
- Beier, F.K., & Knaak, R. (1994). *The Protection of Direct and Indirect Geographical Indications of Source in Germany and the European Community*, 11IC 1-38 at 9.
- Blakeney, M. (1996) *Trade Related Aspects of Intellectual Property Rights: A Concise Guide to the TRIPs Agreement*. London: Sweet&Maxwell.
- Chaiyos, Hemaratchata. (2005). *The Feature of Intellectual Property Law*. Bangkok: Nititham.
- Department of Intellectual Property of Thailand. (2006). *Notice of the Department of Intellectual Property, Ministry of Commerce of Thailand on the register of "Cognac" as the Geographical Indication No. 50200017*. Retrieved May 17, 2013, from [http://www.ipthailand.go.th/ipthailand/index2.php?option=com\\_docman&task=doc\\_view&gid=347&Itemid=372](http://www.ipthailand.go.th/ipthailand/index2.php?option=com_docman&task=doc_view&gid=347&Itemid=372)
- Department of Intellectual Property of Thailand. (2007). *Notice of the Department of Intellectual Property, Ministry of Commerce of Thailand on the register of "Scotch Whisky" as the Geographical Indication No. 52200032*. Retrieved May 17, 2013, from [http://www.ipthailand.go.th/ipthailand/index.php?option=com\\_content&task=view&id=1160&Itemid=201](http://www.ipthailand.go.th/ipthailand/index.php?option=com_content&task=view&id=1160&Itemid=201)
- Helbling, T. (1997) *The Term "Swiss" on Trade Goods: A Denomination of Origin and Its Legal Protection in the United Kingdom*. EIPR.51-58.
- Jakgrit, Kuanpoth. (2005). *International Copyright, Patent and Trademark Laws*. Bangkok: Nititham.39-44.
- Malobika, Banerji. (2012). *GEOGRAPHICAL INDICATIONS: WHICH WAY SHOULD ASEAN GO?*. Retrieved May 10, 2013, from <http://www.bciptf.org>
- Matthews, Duncan. (2002). *Globalising Intellectual Property Rights*. NewYork: Routledge.
- Ministry of Foreign Affairs.(2013). *History of ASEAN*. Retrieved May 10, 2013, from [http://www.mfa.go.th/asean/th/other-20121128-163749-35062\[1\].pdf](http://www.mfa.go.th/asean/th/other-20121128-163749-35062[1].pdf)

- Ministry of Foreign Affairs.(2013). *ASEAN Community in 2015*. Retrieved May 10, 2013, from <http://www.mfa.go.th/asean/th/other-20121128-164605-461529.pdf>
- P, Tanasanti. (2007). *Geographical Indication protection and promotion in Thailand*, presented at the International Symposium on Geographical Indications jointly organized by the WIPO and the State Administration for Industry and Commerce of the People's Republic of China, Beijing 26-28 June Retrieved March 5, 2012 from [http://www.wipo.int/edocs/mdocs/geoind/en/wipo\\_geo\\_bei\\_07/wipo\\_geo\\_bei\\_07\\_www\\_81772.doc](http://www.wipo.int/edocs/mdocs/geoind/en/wipo_geo_bei_07/wipo_geo_bei_07_www_81772.doc).
- S, Jaovisidha, (2003). *Protection of geographical indications – “Thailand’s perspective”*. Paper prepared for the European Union-Association of Southeast Asian Nations Workshop on Geographical Indication: A Way into the Market, Hanoi, 7-8 October. Retrieved March 5, 2012 from [www.ecap.project.org/fileadmin/ecapII/pdf/en/activities/regional/gi\\_2003/gi\\_thailand\\_surapol.pdf](http://www.ecap.project.org/fileadmin/ecapII/pdf/en/activities/regional/gi_2003/gi_thailand_surapol.pdf)
- Tanapojana, EkyoKaya. (2004) Geographical Indications Protection Laws. in N.Intanon. Editor (ed.), *Intellectual Property in Globalisation vol.2*, 619-629. Bangkok: Thai Bar Association.
- T, Subagyo. (2011). *Promoting know-how, Tradition, Diversity and Quality : GI Products from ASEAN and Indonesia*. Retrieved February 20, 2012, from <http://www.ecap-project.org/>
- World Trade Organization. (2013). *UNDERSTANDING THE WTO: THE ORGANIZATION Members and Observers*. Retrieved May 10, 2013, from [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)

## Laws

- Agreement on Trade-related Aspects of Intellectual Property Rights. (1994). (TRIPS Agreement).
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. (1958).
- Madrid Agreement for a Repression of False or Deceptive Indications of Source on Goods. (1891).
- Paris Convention for the Protection of Industrial Property. (1883).
- Thailand Act on Protection of Geographical Indication B.E. 2546. (2003).