

# The Protection of Agricultural Products under Geographical Indication : An Alternative Tool for Agricultural Development Indonesia

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## The Protection of Agricultural Products under Geographical Indication: An Alternative Tool for Agricultural Development in Indonesia

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Indonesia has a lot of agricultural products with unique quality and special characteristic associated with geographical factors such as Toraja Coffee, Alor Vanili, Banda Nutmeg, Java Tea, Deli Tobacco, Cianjur Rice, etc. This paper argues that GI protection may contribute to agricultural product diversities and productivity by enhancing production, processing and developing of unique local, niche and special agricultural products. By qualifying intangible assets that are difficult to transfer to other territories, GIs can be conceptually understood as a catalyst and counter point to dynamics of the local agriculture development in Indonesia. GI strategy becomes a tool to ensure the development of agriculture in Indonesia by increasing productivity, creating employment, increasing the incomes of farmers and producers, adding economic value to products, increasing the diversity of supply products, improving the exports of GI products and contributing to GDP, enhancing agriculture investment, etc.

**Keywords:** Geographical Indication, Green Revolution, TRIPS, Indonesian Trademark Law, National Medium-Term Development Plan, Agricultural and Rural Development Strategy 2020, Indonesian Food Law 2012, SME, agricultural products, food security

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Agriculture in Indonesia is one of the key sectors to contribute Indonesian economy, trade surplus and the main source for fulfilling domestic consumption. With its vast and abundant fertile soil, Indonesia is a major global key producer of a wide variety of agricultural tropical products. Most of global agricultural commodities thrive in Indonesia and the important agricultural commodities include palm oil, natural rubber, cocoa, coffee, tea, cassava, rice and tropical spices. Recently Indonesia is the world's largest producer of palm oil, coffee, rubber, cocoa, and spices (nutmeg, cinnamon, and cloves).<sup>1</sup>

Based on the advantages on agriculture sector, actually Indonesia has more than enough natural resources and agricultural commodities to develop agricultural business. However, Indonesia is still facing the problem to develop agriculture because of adverse weather condition, natural disasters, crops failures, economic and financial crisis, dependent system of agriculture, the government policy, etc.

Historically, Indonesian agriculture has performed well by focusing on the staple food crops such as rice, corn, sugar and soybeans, and contributed significantly to Indonesia's growth, bringing with it

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significant increases in employment and a remarkable reduction of poverty.<sup>2</sup> However, then the productivity gains of most food crops is significantly slowing down, and the majority of farmers are operating less than one-half hectare, thus, such crops provide less potential for generating additional employment and income growth.<sup>3</sup>

Currently, Indonesian agriculture is characterised by low and declining productivity, poor market access and information, environmental degradation, and vulnerability to changing and unpredictable climate, pest infestations or the late arrival of the wet season, floods and other natural disasters causing inevitable crop failures. The declining productivity pushes Indonesian governance to imports a number of food staples mostly from Thailand, Vietnam, India, China and the Philippines. The imports increase every year and Indonesia is still among countries that are importing huge amounts of food staples, as a result Indonesia is probably the most dependent agrarian country.<sup>4</sup> Import policy are caused by the failure of the Government to fulfill rising food demand, low productivity and less competitiveness of local products.

Low productivity is caused by decreasing prices during harvest period that hurt farmers and forced them to cease farming, because the selling prices

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could not compensate their costs. Another factor is caused by the lower and unstable production levels of agricultural products that are influenced by soil fertility, climate change, weather, including rainfall, disasters and outbreaks of pests and diseases.

The less competitiveness of local products will affect to agriculture development. Since the competitiveness of local products and farming systems have become weakened, an alternative for development for certain regions is to consider local specificities as factors to overcome. Nowadays, developing traditional or local products are also part of a strategy for diversifying economic activity, conquering foreign markets and combating competition from imported products.<sup>5</sup>

Since Indonesian agricultural products are less competitive than imported products, it is important to increase the competitiveness of local agricultural products by promoting GI. GI will be the best mechanism because it allows producers to gain competitive advantages by achieving market recognition, capturing the premiums for their products in the marketplace by creating exoticness or scarcity images, differentiating their products from those produced elsewhere, and gaining legal protection. GI is recognized as a qualification strategy that emphasizes the socio-cultural territory where the agricultural products are produced, thus GI will likely ensure the local agricultural development.

The protection for agricultural products will be a main step<sup>13</sup> developing agricultural sector since agriculture is one of key sectors of Indonesian economy and<sup>25</sup> still provide<sup>34</sup> income for most Indonesian households today. Agriculture has also strategic roles in national economic development, especially in reducing poverty, providing job creation, improving farmers' welfare and maintaining sustainable utilization of natural resources and environment. In addition, agriculture sector becomes main source for fulfilling national consumption.

## GI Definition and Protection

### GI Definition

GI is one form of industrial property as a part<sup>4</sup> of an Intellectual Property (IP). The term of IP refers broadly to the creations of human mind that protect the interests of creators by giving them property rights over their creations. IP is usually divided<sup>11</sup> into two branches: copyright and industrial property. Industrial property is not limited to industry and commerce, but

applies also to agricultural and extractive industries and to all manufactured or natural products, such as "wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers and flour".<sup>6</sup><sup>17</sup>

In general speaking, GI is perceived as a geographic term used in relation to a product indicating three aspects of (1) its place or area of origin, (2) qualities or characteristics of the products and (3) qualities or characteristics due to the geographical and human characteristics of the place of origin.<sup>7</sup>

According to World Intellectual Property (WIPO), GI is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin".<sup>8</sup> They may highlight particular qualities of a product, which are due to natural (e.g., race, variety, soil, climate, etc.) and human factors, such as specific manufacturing skills and traditions, found in the place of origin of the products. To function as a GI, a sign must identify a product as originating in a given place and the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.<sup>14</sup>

Article 22 (1) of Trade Related Aspect of Intellectual Property Right (TRIPS) defines GI as:

*indications, which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.*

Indonesia has adopted above definition in Indonesian Trademark Law (Law No 15/2001) and the Government Regulation on GI (PP 51/2007). Article 56(1) of Indonesian Trademark Act and Article 1(1) of Government<sup>16</sup> Regulation on Geographical Indication define GI as:

*a sign which indicates the place of origin of goods, which due to its geographical environment factors, including the factor of the nature, the people or the combination of the two factors, gives a specific characteristics and quality on the goods produced there in.*<sup>9</sup>

### GI Protection in Indonesia

According to Article 22.1 of TRIPS, there is obligation of TRIPS member to provide legal means for GI protection:

<sup>39</sup> respect of geographical indications, Members all provide the legal means for interested parties to prevent: (a) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; (b) any use which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention (1967).

In order to comply with GI provision in TRIPS,<sup>10</sup> Indonesia has chosen to protect GI under the Indonesian Trademark Law<sup>11</sup> (from Article 56 to 60) which is then further regulated in Government Regulation No. 51/2007 on Geographical Indication<sup>11</sup> as implementation of GI provisions in Trademark Law.

Article 56 (2) of Indonesian Trademark Law requires registration for granting legal protection. Article 56 (2) of Indonesian Trademark Law also specify three eligible parties that can apply for GI registration, i.e.<sup>11</sup>

1. An institution that represents the society in the area which produces the goods concerned, which consists of: a) parties who undertake business on goods of natural products or natural resources; b) producers of agricultural products; c) people who make handicraft or industrial products; or d) merchants who sell the goods.
2. An institution that is given the authority to do so.
3. Groups of consumers of the goods concerned.

According to Article 56 (2) of Indonesia Trademark Law, individuals cannot register and hold the ownership of GI. It indicates that GI is clearly a communal or collective right that not capable of ownership by any individual but rather a fixture to the region or locality.

If the application meets the registration requirements, Government (Directorate General of Intellectual Property-DGIP) will grant the certificate of registration, and thus the legal protection will be given to the GI holders. A registered GI enjoys a legal protection, which persists as far as the features and or the quality on which the protection has been conferred shall exist.<sup>12</sup> The right holder of GI may file a lawsuit against an unlawful user of the GI, in the form of claim for damages and an order for stopping the usage

as well as disposal of labels of the GI concerned which have been unlawfully used.<sup>12</sup> To prevent any other loss on the party whose right has been infringed, a judge may order the infringer to cease any activities of producing, multiplying, and may order to destroy labels of the GI which have been unlawfully used.<sup>12</sup>

GI protection under Indonesian Trademark Law is likely unsuitable because of different nature and a total conflict between them. The essence of trademarks and GIs is that both regulate the use of signs in the marketplace by enabling their communicative function<sup>13</sup> and finally both built on existing reputation, however there are significant distinctions between them<sup>13</sup> and they have different legal concepts.<sup>13</sup> GI has characteristic as collective ownership, while trademark is individual property. Trademark is a sign used by individual or a company to distinguish similar goods and services from those of other companies and gives the owner the right to exclude others from using it. Whereas, GI tells consumers that the product is made in a certain geographical area and has certain characteristics influenced by geographical factor. It may be used by producers who make their products in the place designated by a GI and whose products share typical qualities.<sup>14</sup> GI can indicate many origins of goods as long as all origins emanate from the same geographical area, whereas a trademark must indicate only one origin of source of goods.<sup>15</sup> In addition, in order to remain protection, trademark must be renewed in certain period,<sup>15</sup> while GI will obtain perpetual protection and does not need to be renewed to gain validity as long as the specific characteristics still exist.<sup>15</sup>

Differ from trademark that requires distinctiveness, GI lack of the requisite distinctiveness because GI describes the geographical origin of the product rather than its trade or commercial origin.<sup>16</sup> Thus, trademark might be invalidated because it has become generic term,<sup>16</sup> whereas registered and protected GI cannot become generic. Trademarks are used in order to distinguish particular goods and services from similar products, on the other hand GI signs are used in order to distinguish products from a particular region from equal products coming from outside that region. Trademarks function as the main communication between a manufacturer and the consumers to give information about quality, whereas GI underlines the geographical origin of a good and the characteristics



derived from.<sup>17</sup> GI linked to something more than mere human creativity but includes topography, climate or other factors independent from human creativity, while trademarks are mostly the result of human creativity only.<sup>17</sup>

GI is clearly a collective right and not capable of ownership by any individual but rather a fixture to the region or locality which represent, meanwhile trademarks are personal property.<sup>18</sup> As property, trademarks can be licensed to third parties,<sup>19</sup> while GI licensing is banned. Since GI cannot be licensed or sold to producers outside of the region,<sup>19</sup> some argue that GI is not property.<sup>19</sup> GI is categorically not associated with private ownership but instead characterized as a right to use.<sup>19</sup> It can never be privately owned, and thus GI differs from IP.<sup>30</sup> The protection of GI under trademark as one of IP is controversial since some still believe that GI are not IP<sup>20</sup> and should not be subject to IP regime.

### Indonesian Agricultural Development

Indonesia started out as a predominantly agrarian economy, with agriculture contributing the largest share to Gross Domestic Product (GDP), employment, and export earnings. Under the colonial regime, agriculture was geared toward the production of tropical export crops such as sugarcane, rubber, tea, which benefited from significant investment in research and infrastructure development.<sup>21</sup> After independence, Indonesia depended heavily on the same export crops.

The major challenges in the agriculture sector are unstable export prices and the inability to produce enough food for the population. With uncertain foreign exchange earnings and limited ability to pay for food imports, increasing domestic food production to assure sufficiency and food security became a key national policy priority.

Accordingly, agriculture policy in Indonesia focused largely on achieving food self-sufficiency and price stability. However, Indonesian agricultural policy has been narrowly focused, both in terms of the commodities usually favoured by interventions, mainly rice, sugar and palm oil and the policy instruments deployed, principally trade interventions and input subsidies.<sup>22</sup> The Government has used a wide variety of policy instruments in pursuing those goals and spent substantial sums of public budget for giving subsidies and financial support for investments in agricultural research, innovation and dissemination.

One of Government programs to improve agricultural productivity is the Green Revolution.<sup>23</sup> The Green Revolution aims at achieving self-sufficiency in certain agricultural products, particularly rice as the main staple food for the majority of the population.<sup>24</sup> Green revolution was necessary to rapidly increase staple food yields by improved varieties combined with the expansion of fertilizers and other chemical inputs<sup>25</sup> that has had a dramatic impact on incomes and food supplies in Indonesia. The Green Revolution has facilitated institutional and social changes in rural areas and provided opportunities for self-sustaining economic growth and reduced poverty.<sup>26</sup> By implementing Green Revolution, in the mid-1980s self sufficiency was temporarily achieved and during 1975-1996 Indonesian National Logistic Agency (BULOG) was successful in stabilizing domestic rice prices as a conscious effort made to keep domestic rice prices on the long-run trend of world prices<sup>27</sup> to make rice farming more profitable. Since rice is the primary staple food commodity, the stable prices on rice allowed consumers access to the additional rice produced, and gave farmers confidence to make the necessary investments to raise productivity, affecting to agricultural growth.

Thus, the growth in the agricultural sector in Indonesia coincided with the Green Revolution as seed-fertilizer technologies and substantial government subsidies allowed increased production through crop intensification. It ensures the agricultural growth and productivity, including consumer food demand. The agricultural development has affected Indonesian agricultural trade patterns, the food security status, and the outlook for these trends.<sup>28</sup> The growth of agricultural production has increased food availability and accessibility.

However, according to agronomist Jhamtani Hira, the weaknesses of agricultural development programs in Indonesia are too much focus on rice production and the dominance role of the Government that leaves little opportunity for people to develop initiatives based on local resources.<sup>29</sup> The Indonesian experience with the Green Revolution indicates that it was focused on increasing rice production rather than farmers' income and that the program was not cost-efficient and required huge funding. Ironically, then Indonesian agricultural sector become dependent on imports to secure the domestic rice supply because of the failure of rice production.

After evaluating the previous policy on agricultural development, several programs are currently being conducted in order to reach the target of self-sufficiency in staple food in 2017. Since 2007, the Government has also started revitalization programs for small farmers in order to raise production. In addition, improving trade chains, data system, agricultural productivity, agricultural information and technologies become key targeted programs to agricultural development.

Indonesian Government develops agricultural policy focused on efforts to achieve sustainable food self-sufficiency, to promote food diversification, to improve the value added and competitiveness of agricultural products, as well as improve farmer welfare. The Government of Indonesia's 2015–2019 National Medium-Term Development Plan (RPJMN) highlights two goals of the agriculture development which are to (a) increase rice production for food security, and (b) develop higher value cropping to improve rural livelihoods. The 2015–2019 RPJMN promotes programs of: (a) the rehabilitation of 3.2 million ha of irrigated land; (b) the development of 1.0 million ha of new irrigation systems; (c) the adoption of sustainable approaches to farming on rehabilitated upland areas; (d) the development of farm roads; and (e) increased adoption of environmentally friendly technologies for food crops.

In Vision for Rural Indonesia in 2020, the Ministry of Agriculture must implement an agricultural and Rural Development Strategy 2020 that focuses on priority areas (Fig. 1): (a) human resource development and entrepreneurship; (b) social capital; (c) agricultural productivity; (d) agricultural and farming systems and rural industrial clusters; (e) growth and productivity in the rural nonfarm economy; and (f) natural resource management.

In order to make significant progress and overcome the agricultural development problem in Indonesia,

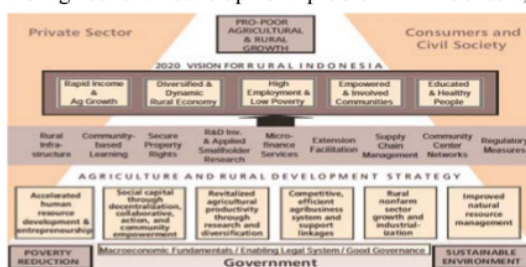


Fig. 1 — Agricultural and Rural Development Strategy 2020<sup>33</sup>

the strategy of Agricultural and Rural Development 2020 need to be supported. To support Agricultural and Rural Development strategy 2020, GI promotion for agricultural products can be chosen as an alternative tool for national agricultural development. Supporting agricultural development under GI mechanism will be one of best schemes since GI is typically used for agricultural products, foodstuffs, wine and spirit drinks and industrial products. GI provides both a trade benefit in generating market appeal and a non-trade benefit of promoting local agricultural traditions and methods.

On priority of human development, the establishment of GI promotion for agricultural products will accelerate human development and entrepreneurship in agricultural sectors since GI system requires the agricultural producers or farmers professionally provide and maintains supply and the product quality in order to have dominant power at agricultural market place.

While in line social capital priority, GI will encourage social capital by revitalizing decentralization since GI products - have typically specific quality or characteristic because of geographical factors- are developed and cultivated in certain district or region. The quality of GI products depends on the geographical place of production, thus there is a clear link between the products and its original place of production. Not surprisingly, GI products belong to and need to be regulated, managed and controlled by the local government or community. In addition, GI will also encourage collaborative action and community empowerment since the GI is collective ownership that belongs to community or local government. As the consequence of collective ownership, it is needed collaborative action among local community to internally and externally register, manage and control the use of GI over the producers or farmers, including maintain the quality of products and marketing the GI products.

On agricultural productivity, the promotion of GI for agriculture will revitalize the agricultural productivity through research and diversification. According to Article 42 of Indonesian Food Law of 2012, the food diversity should be developed by focusing on local products, optimization of local food, development of farm diversification, and development of food industry based on local products. The role of GI is crucial because it will benefit to the introduction and development of new type of food, including local

food that has not been consumed before. GI for agricultural products will give opportunity to local people to develop diversification of local agricultural products. It will also support the target of Indonesian Food Law of 2012 emphasizing the optimal utilization of local resources and performed with food diversification and prioritization of domestic food production.

In line the priority of agricultural and farming systems and rural industrial cluster, the promotion of agricultural products under GI will increase competitive, efficient agribusiness system and support linkage because the GI producers are required to establish general dynamics of the agricultural system in terms of standardization, globalization and market concentration. GI will encourage professionalism and enhance skill of local labors in producing, managing and improving quality of agricultural products, thus it will increase the competitiveness of local agricultural products. The increasing competitiveness may solve one of problems of less competitiveness of local agricultural products than imported products. The Government needs to establish competitive and efficient agribusiness system and support linkage in order to build gain market power. Market power and concentration can be achieved by providing the high and good quality products. GI becomes a quality guarantee that the agricultural products protected under GI have special quality and unique characteristic, including prominent reputation. The quality, characteristics and reputation linked to the geographical factors are important in distinguishing a product from the same products derived from other areas. Reputation refers to the opinion consumers have of a given product, which generally requires a substantial period to be formed.<sup>35</sup> The high and good reputation of agricultural products will increase consumer demand, enlarge market, then enhance the agricultural development.

Whereas on the policy improved natural resources management, GI promotion for agricultural product will improve the management of natural resources because GI is typically used mostly from natural resources such as agricultural products, foodstuffs, wine and spirit drinks (from grapes). To increase consumer demand and market expansion of GI products, it is necessary to establish the improved natural resource management. Management of natural resource will be important for supporting the sustainability and the consistency of GI agricultural

products, local processing, storage, native local plant varieties, local soil and climate conditions, local plantation, practices and local know-how that plays an important role and gives special quality attributes GI products.

#### GI Benefit for Supporting Indonesian Agricultural Development

Generally, GI functions as product differentiation, indication of quality and guarantee, indication of source, advertisement and promotion of the country, rural development, protection of traditional knowledge.<sup>36</sup> The other benefits of GI are for marketing strategies in both domestic and international spheres; adding value to the potential GI products; improving producers' livelihoods; developing rural areas on the basis of the good reputation of their quality; improving the reputation of the GI product in global trade; ensuring equal treatment and can be used as a tool for promotion abroad; avoiding unfair competition, misrepresentation or misleading and deceptive conduct.<sup>37</sup>

GI products may be performed on natural, tradition, on original, unique, distinctive products that constitute the local identity.<sup>38</sup> Indonesian agricultural products with unique characteristic and specific quality may serve as a basis for the creation of a strong and well-known GI products.

GI becomes an identification of source; thus, the GI protection will benefit to indicate the geographical origin of Indonesian agricultural products. Numerous Indonesian agricultural products with their specific quality are designated by their place of origin which is the geographical name of the place where they were elaborated such as Cianjur Rice, Toraja Coffee, Gayo Coffee, Banda Nutmeg, Bangka White Pepper, Tuban Starfruit, Palu Onion, Batu Apple, etc. The quality of Indonesian agricultural products is commonly associated with the geographical aspects such as natural factors, local tradition, culture, and human factor as the main factors lead to excellence and reputation of products. This association establishes the link between the quality, the origin, and the reputation derived from their place of origin.<sup>39</sup>

GI permits the identification of products involving unique quality and characteristics because of geographical factors and distinguishing from other similar products on the market by functioning as identification of source and product differentiation. Without GI to distinguish products, there will be no incentives for producers of high-quality products to



remain in such a market because all products tend to be sold at the same price.<sup>40</sup> GI protection may provide incentives for producers of agricultural products by allowing producer to get premium price and adding the economic value for the products, then attracting other farmers or producers to enter agricultural sector.

GI will escort the consumer that Indonesian agricultural products have unique characteristics and specific quality because of geographical origin, thus GI is not an indication of origin only, but it is also a reference to a quality. The environment, by virtue of its soil composition, climate, biodiversity, confers specific quality and characteristics on the products that make them unique.<sup>41</sup> The quality can also be determined in relation to the product's nutritional properties, flavor, appearance, or the process and raw materials used to produce.<sup>42</sup> In addition, the product's characteristics associated with geographical factor can be determined by physical or chemical or organoleptic traits.<sup>43</sup> The quality or characteristic may comprise attributes such as color, texture or fragrance that may be more neutral or even unfavorable consumers.<sup>44</sup> Moreover, geographical factors such as local breeds and plant varieties, traditional equipment, and human factors such as know-how and traditional knowledge, tradition, local culture and philosophy play key role in forming the quality, characteristics, and reputation of origin products.<sup>45</sup> The quality, characteristics and reputation linked to the geographical factors are important in distinguishing a product from the same products derived from other areas.<sup>46</sup> The high reputation of agricultural products will increase consumer demand, market expansion, and affect to agricultural development.

GI functions for distinguishing a product from other similar products in the market. Thus, Indonesian Government need develop GI to distinguish among their equals because the role of GI is helping to differentiate agricultural products from their competitors, as markers of quality and assurance of reputation. The distinctive signs and reputation, which denote the persistence of quality, play a key role in identifying a certain level of quality.<sup>47</sup> GI becomes a quality guarantee that the agricultural products protected under GI have special quality and unique characteristic. Then the growth in demand for high-quality products will benefit farmers or producers to have greater control over the quality and quantity of the items they produce. Only then can they guard against imitators, who would overwhelm an otherwise profitable niche market.

In addition, since GI functions as the indication of quality<sup>37</sup> and guarantee, it enables agricultural farmers or producers to convey a considerable quantity of products and it becomes a worthwhile marketing tool. As indication of quality and guarantee, GI benefits for keeping the continuity of the quality of a product and the consumers' positive perception related to a product. Since consumers have positive perception to GI products, the role of GI for agricultural products can play in improving market demand and access.<sup>48</sup> GI will become an effective tool since it allows producers to gain competitive advantages, achieve market recognition and help producers to gain market power because if a product is to bear a GI, it must have special qualities attributable to the geographical source.<sup>49</sup>

By developing GI, agricultural producers also create an image of "exoticism" or scarcity" that enables them to capture the premium prices for their products that would otherwise be ascribed commodity status.<sup>50</sup> The aura of exotics comes from the history and tradition associated with the production processes used in the specific geographical areas from which the products originate.<sup>51</sup> The exoticism can be from mystique surrounding, human diligence, heroism, morality, or sacrifice<sup>52</sup> in producing agricultural products. The source of exoticism may also derive from unique characteristic that may be attributed to unique production in a geographical area.<sup>53</sup> For instance, the first Indonesian GI product i.e. Bali Kintamani Coffee has specific characteristics because of the effect of farming process organized by unique farmer organization called "Subak Abian" which is established and operated under Balinese Hindu Philosophy. Also, the farming system in Kintamani (a highland of the south east Bali) such as organic<sup>49</sup> ming, single stem pruning, shade trees application as well as diversification with tangerine is expected to be unique factor influencing coffee taste produced from Kintamani area.<sup>54</sup> In addition, the Kintamani territory is favorable for products growing and inhibited by the Balinese people whom hold tightly Hinduism philosophy of "*Tri Hita Karana*"<sup>55</sup> that guides them to have tradition in cultivating land and applying farming technique in respect to the God, human and environment. The combination of local specific characteristics, agricultural farming, processing practices and philosophical aspect, generate high quality of Kintamani coffee beans with specific taste.<sup>56</sup>



Thus, GI functions as a tool for protecting traditional knowledge, meaning that the features of GI products are the result of not only the natural materials of a region but also the influence of cultural factors and traditional knowledge accumulation of centuries. According to Bruce, GI is achieving recognition for the place of the product origin which is established by the history of that region and the people who inhabit in it, including its culture, reputation and consistency.<sup>57</sup> GI also provide positive contribution to preserve and develop the traditional plants, natural resources, biodiversities and soil including the environmental surrounding. Felix Addor highlights that 'GIs are based on collective traditions and a collective decision-making process; they reward traditions while allowing for continued evolution; they emphasize the relationship between human efforts, culture, land, resources and environment.<sup>58</sup> According to FAO, the characteristics of agricultural products may involve specific local species or breed, local feeding, local processing, storage, native local plant varieties, local soil and climate conditions, traditional practices and local know-how that play an important role and give special quality attributes to flavor, aroma, color, texture.<sup>59</sup> Therefore, GI may preserve the local wisdom and philosophy related to local agriculture system. GI maintains traditional plantation and its intrinsic values, including keeping alive local culture and traditions.

Moreover, by enhancing competitiveness and qualifying products that are difficult to transfer to other territories, GI can be understood as a catalyst for processes and endogenous territorial development. GI is recognized as a qualification strategy that emphasizes the socio-cultural territory where the product is made, ensuring the development of agriculture. GI will establish a counterpoint to general dynamics of the agricultural system in terms of standardization, globalization and market concentration.

By promoting the unique quality of products under GI mechanism, the agricultural producers can capture economic value of agricultural products in market place. The added economic value of agricultural products will then provide the subsequent effects that contribute to development of agriculture. It will encourage entrepreneurship, professionalism and enhance skill of local labour in producing, managing and improving quality of agricultural products, thus it will increase the competitiveness of local agricultural

products. The increasing competitiveness may solve one of problems of less competitiveness of local products than imported agricultural.

The added economic value of agricultural products will attract Indonesian producers to enter agricultural sector and encourage existing producers to develop their smallholder production modes or Small Scale Enterprises (SME) to become more efficient and greater plantation or bigger agricultural. Developing bigger agricultural will ensure supply of products and expand products capacity, thus will support to agriculture development since a key factor in the development of agricultural is an increase in production capacity expansion, where farmers are developing and restructuring agricultural, institutional and infrastructure investment.

GI also allows better distribution of value added along the production chain, from the producers of raw materials to the manufacturers and provide the diversification of production. The diversification of agricultural production will ensure a better balance between supply and demand on the markets, then support to food distribution and availability. Thus, the protection of GI for local agricultural products will support the food security program because the protection will promote diversity of agricultural and food products. The diversity of agricultural and food products is one of key steps to ensure food availability. Indonesian Food Law of 2012 regulates that food diversification is an effort to increase food availability that is diverse and based on local potential resources.<sup>60</sup> According to Article 42 of Indonesian Food Law of 2012, the food diversity should be developed by focusing on local products, optimization of local food, development of farm diversification, and development of food industry based on local products.<sup>61</sup> The role of GI is crucial because GI is not only an essential tool to promote local agricultural-ecological products,<sup>62</sup> but also benefit to the introduction and development of new type of food, including local food that has not been consumed before.

GI improves product demand and creates consumers' confidence. Today, there is a growing demand that consumers tend to seek the quality products with specific characteristics under the designation of origin label. The demand of GI products, not only comes from domestic consumers but also from abroad, thus it will increase the number of agricultural export. The ability to export indicates

the ability of country to fulfill the national demand and ensure the food availability since Indonesia prohibits the producers to export of agricultural products before meeting the national supply. According to Article 34 of Indonesian Food Law of 2012, products can be exported with regard to domestic consumption necessity and national interest; the food can be exported only after fulfilling national food supply and staple food consumption necessity. The foreign exchanges derived from the agricultural export will be used by producers or Government to develop agricultural by providing subsidy for agricultural infrastructure, fertilizer production, revitalization and expansion of farming land, irrigation, R&D, market expansion, etc. Indonesian Government may also use public monies or subsidy to raise agricultural production, trade chains, data system, agricultural productivity, agricultural information, financial support for investment in agricultural research, innovation and dissemination.

Furthermore, the protection of GI for agricultural products will become an effective promotion and affect to fostering tourism because numerous tourists will visit the location to know the process and to get the original products. Thus, GI becomes an effective advertisement and promotion to visit Indonesia because Indonesia has a lot of GI products as reference to the country of origin.

Then, the increase number of the tourism will further affect to the local development. GI has an important role to play in the regeneration of the countryside since they ensure that agri-stuffs are produced in such a way that conserves local plant varieties, rewards local people, supports rural diversity and social cohesion, and promotes new job opportunities in production, processing and other related services. By promoting GI for agricultural products, the needs of today's population are met, while natural resources and traditional skills are safeguarded for the next generation.

Moreover, GI promotion will keep local people to remain stay and live in the agricultural production areas. GI will create better-paid employment in rural areas and motivate young people to continue to be involved in agricultural activity through the generation of premium prices. GI will ensure the permanence of indigenous and those people in place, cultivating habits passed from generation to generation, ensuring sustainable agricultural development of those communities. GI become a tool

of socio-economic harmonization since GI maintains and develop activities in disadvantaged rural areas and increase the local economic development. As a result, the urbanization wave caused by the disadvantaged rural areas will eradicate the increasing number of urbanization. Increasing urbanization means people are more likely to adopt new diets, particularly consuming more meat, fats and refined cereals, and fewer traditional cereals, vegetables and fruit.<sup>63</sup> The decrease number of urbanization will also erase the social and economic problems of urbanization effects.

The economic growth of developing countries is driven mainly by the export of agricultural products and natural resources. GI protection for agricultural products will contribute for the national income since many of them have grabbed the international market and they are main sources of foreign exchange for Indonesia. By exporting agricultural products, especially coffee Indonesia will giant foreign change since Indonesia is the world's 3rd biggest coffee producing countries in 2014, according to the International Coffee Organization. Indonesia's 17,000-mile archipelago with 13,000 islands, 130 active volcanoes, ample rainfall, fertile soil, and ideal temperatures has led to the existence of a variety of coffees. Specialty Arabica coffee is Indonesia's most popularly exported product and has gained worldwide acknowledgment. This has positioned Indonesia as the 2nd largest specialty Arabica exporter in the world, with 150,000 tons of export per year. Nearly 100 genetic varieties of Arabica coffee have been created since 1699 - some of these include Sumatra Lintong, Sumatra Koerinci, Sumatra Solok Minang, Java Preanger, Java Ijen Raung, Java Estate, Sulawesi Toraja, Papua Wamena and much more. 78 Local and foreign customers tend to purchase these products due to specific qualities, characteristics and reputation that derive from the place of origin. According to a Consumer Survey formed in European Union, 40% of the consumers are ready to pay 10% of the premium for origin guaranteed products (European Commission, 2003).

GI will provide the growth of agricultural industry and investment. Since there are various unique products in local regions, it will attract investors to establish business at these regions, thus it will increase the growth of investment and the growth of agricultural. Investment in GI products tends to be from the rural, agricultural and handicraft sectors,

thus, implicating to the local development.<sup>64</sup> GI protection will makes investments more secure and consequently raises levels of investment contributing the growth of agricultural industry and then scale of local development. The effects of investment plays an important role in economic growth in local areas by generating new employment and local revenue, adding economic value to products, reducing migration from rural to urban, bridging the income gap between the rural and urban areas, and having positive effect on the income distribution.<sup>65</sup> The local economic development ensures the important privileges to local producers of agricultural who earn their living from it that will be advantageous for rural development. The possibility of earning important privileges and increasing local revenues for local people in the different stages of the agricultural production process (production, processing, distribution, marketing and promotion) will eradicate poverty since agriculture is one of key sectors and still provides income for most Indonesian households today. Agriculture is the main source of employment in rural areas, where poverty is most prevalent, employed around 40.12 million people, equal to 33% of the total Indonesian labor force. It is estimated that 7% per annum increase in smallholder productivity could result in a \$50 billion increase in agriculture revenues by 2030.<sup>66</sup>

Thus, the GI protection for agricultural products is not only important for developing agricultural, but also for Indonesian economy since the role of agriculture is strategic in economic development. There are at least five reasons why agriculture or agricultural becomes strategic. (a.) Agriculture is main sector that provides the food needs of the community and fulfilling national consumption. (b.) A provider of raw materials for the industrial sector (agro-industry). (c.) Contributing to foreign exchange through the export of commodities. (d.) Provide job opportunities for rural labors, reducing poverty and improving public welfare. (e.) Maintaining for the balance of sustainable utilization of natural resources and ecosystem (environment) the ecosystem (environment) in creating food security.

#### **GI Protection Initiatives for Agricultural Products in Indonesia**

The first project in developing GI for agricultural products was initiated by municipal of the South East Bali to protect Kintamani Coffee. The process to

register GI for Kintamani Coffee required six years (from 2002 to 2008). According to data of GI registration at Indonesian IP Office - namely Directorate General of Intellectual Property (DGIP)<sup>67</sup> in 2010, there were two registered agricultural products for GI i.e Muntok White Paper, Gayo Coffee, Sumedang Forest Tobacco, whereas in 2011 five agricultural products were register as GI (Sumedang Forrest Tobacco, Sumedang Mole Tobacco, Sumbawa Horse Milk, Lombok Kale, Sumbawa Honey). The GI registration number was same during period 2012 (Adan Krayan Rice, Flores Bajawa Coffee, Purwaceng Dieng, Carica Dieng, Alor Vanili) and 2014 (Robusta Coffee of Lampung, Temanggung Srintil Tobacco, Kubu Bali Cashew, Kulonprogo Jogja Palm Sugar, Java Sidoru Sumbing Coffee) with the total of 10 registrations. Same number of registration also occurred in 2013 and 2015 with eight registrations in each year. Until December 2016, there were 38 GI registrations in DGIP (Table 1).<sup>68</sup>

Based on GI registration data, the registrations are dominated by domestic agricultural products (34 registrations), whereas only three foreign products were registered (Parnigiano Reggiano, Champagne, and Pisco). The only non-agricultural product (handcraft) was registered in 2010 for Jepara wood carving. It means that 89% of registrations are dominated by agricultural commodities, 7% by foreign products, 4% by non-agricultural.

However, the number of GI registration for staple food are two only (Adan Krayan Rice and Cilembu Sweet Potato), whereas it is surprising that 31% GI are dominated by coffee products that includes Kintamani Bali coffee, Gayo Coffee, Flores Bajawa Coffee, Kalosi Enrengkang Coffee, Java Preanger Coffee, Java Ijen Raung Coffee, Java Sidoru Sumbing Coffee, Sumatra Simalungun Coffee, Lampung Coffee, Liberika Tungkal Jambi Coffee, Toraja Coffee, and Sumendo Coffee (12 registrations).

Indonesia has encouraged local government and local community to register GI for agricultural products since the first step to build GI system is by empowering local community or farmer's organization. The involvement of local community is also important because GI is communal right that will belong to society.

For GI initiatives, Government has encouraged local community to establish GI organizations such as "GI Protection Community" based on pre-existing traditional producers/farmer's organization as a



representative of community. GI Protection Community will be an important organization because this organization has duty to manage the preparation

Table 1 — GI registrations in DGIP

S. No.	Products	Registration No.	Date of Registration
1	Kopi Arabika Kintamani Bali	ID G 00000001	5 December 2008
2	Champagne	20 00000002	14 November 2009
3	Mebel Ukir Jepara	ID G 00000003	28 April 2010
4	Lada Putih Muntok	ID G 00000004	28 April 2010
5	Kopi Arabika Gayo	ID G 00000005	28 April 2010
6	Pisco	ID G 00000006	1 July 2010
7	Tembakau Hutan Sumedang	ID G 00000007	28 April 2011
8	Tembakau Mole Sumedang	ID G 00000008	28 April 2011
9	Parnigiano Reggiano	ID G 00000009	21 October 2011
10	Susu Kuda Sumbawa	ID G 00000010	15 December 2011
11	Kangkung Lombok	ID G 00000011	15 December 2011
12	Madu Sumbawa	ID G 00000012	15 December 2011
13	Beras Adan Krayan	ID G 00000013	6 January 2012
14	Kopi Arabika Flores Bajawa	ID G 00000014	28 March 2012
15	Purwaceng Dieng	ID G 00000015	20 July 2012
16	Carica Dieng	20 00000016	20 July 2012
17	Vanili Kepulauan Alor	ID G 00000017	19 October 2012
18	Kopi Arabika Kalosi Engrekang	ID G 00000018	15 February 2013
19	Ubi Cilembu Sumedang	ID G 00000019	24 April 2013
20	Salak Pondoh Sleman Jogja	ID G 00000020	21 June 2013
21	Minyak Nilam Aceh	ID G 00000021	10 September 2013
22	Kopi Arabika Java Preanger	ID G 00000022	10 September 2013
23	Kopi Arabika Java Ijen-Raung	ID G 00000023	10 September 2013
24	Bandeng Asap Sidoarjo	20 00000024	9 October 2013
25	Kopi Arabika Toraja	ID G 00000025	9 October 2013
26	Kopi Robusta Lampung	ID G 00000026	13 May 2014
27	Tembakau Srinthil Temanggung	ID G 00000027	13 May 2014
28	Mete Kubu Bali	ID G 00000028	21 July 2014
29	Gula Kelapa Kulonprogo Jogja	ID G 00000029	21 July 2014
30	Kopi Arabika Java Sindoro-Sumbing	ID G 00000030	1 December 2014
31	Kopi Arabika Sumatera Simalungun	ID G 00000031	20 February 2015
32	Kopi Liberika Tungkal Jambi	ID G 00000032	23 July 2015
33	Cengkeh Minahasa	20 ID G 00000033	13 August 2015
34	Beras Pandanwangi Cianjur	ID G 00000034	16 October 2015
35	Kopi Robusta Semendo	ID G 00000035	20 November 2015
36	Pala Siau	ID G 00000036	20 November 2015
37	Teh Java Preanger	ID G 00000037	23 December 2015
38	Garam Amed Bali	ID G 00000038	23 December 2015

and registration, promotion, marketing activities, to control the use and product quality, including to regulate and avoid social conflicts related to GI ownership and utilization.

Several regions have established GI Protection Community (GIPC) such as GIPC of Kopi Kintamani Bali, GIPC of Gayo Cofee, GIPC of Sumedang Tobacco, GIPC of Flores Bajawa, GIPC of Purwaceng Dieng, GIPC Minahasa Cloves, etc. The most GI registration and ownership are held by GIPC. However, there are also the GI registration and ownership held by local governments - such as, the Muntok White Pepper registered by Agency of Management, Development and Marketing for Pepper, the province of Bangka Belitung - and by the network such as Network of Sumbawa Flores Honey. Some GI registration and ownership are also held by the association such as the Association of Sumbawa Horse Milk Development, the Lombok Kale Commodity Association, Association of Indigenous People for Adan Krayan Protection, the Association of Vanili Farmers of Alor Islands, the Association of Cilembu Sweet Potato Agrobusiness, etc.

The initiative of GI protection by empowering local community or farmer's organization should be followed by effort of defining unique and specific characteristic of a product; improving the quality of product; undertaking remote sensing study to provide information on estimated area of plantation, distribution of growing area and distribution of production-based agro-system, training on GI; and preparing "Specification Book" for applying GI registration.<sup>69</sup>

However, registration process in Indonesia is the most critical obstacle for achieving GI protection since GI registration is complex and intricate, time consuming and requiring many stakeholders involvement to: (a) register the product name and GI name; (b) identify in detail the distinguishing characteristics and quality of the product and (c) describe the characteristic or quality relates to the **53**ginating location of production; (e) describe the **geographical environment, and the natural and human factors** contributing to make the products, (d) provide an acknowledgement of the GI product from the community of origin; and including the production process and quality testing method.<sup>70</sup> The second obstacle is the requirement to provide a book of requirements (specification book) that is difficult to be created. In the book of requirement, GI applicant

48st describe and define the typical and characteristics of the product that distinguish it from other products in the same category, provide the description of the relationship of the geographical factor to the qualities or characteristics, and provide a description of the method used to examine the characteristics of product. As there is no database of GI identification in Indonesia, it is also difficult to determine the description of the history and tradition of GI use, social acknowledgement related to the GI use, and the description of the border of the geographical area. The third obstacle is that the producers must also register to use and produce GI. Hence, the granting of GI registration will most likely not give an automatic exclusive right to use and produce GI products. It seems an additional burden for an applicant to register twice first for GI registration and second to use and produce GI. To use and make production of GI items, the parties must also comply with the stipulations in the book of requirements as a basis to determine the infringement of GI rights.

Another initiative is establishing the internal and external control to ensure the quality of GI products since the most vital factor to remain GI protection is ensuring the quality or characteristic. However, since GI ownership is collective, then GI brand is not owned and not restricted to a single producer or a group of producers that everyone in that group has same right to produce as long as they are able to adhere to the regulations governing the GI utilization. As the consequence of collective ownership, it will be difficult to internally and externally manage and control the use of GI over the producers, including maintain the quality of products. Although ensuring the quality of GI in controlling mechanism is very difficult because of the collective nature of GI ownership, but combining auto control or self-control by each producer, control by GI organization, and external control by National GI Expert Team of the DGIP will solve the problem of quality control. The control mechanism must be equipped with the rules and regulation applied to the GI users. A set of common rules for GI utilization among producers is crucial to prevent misuse or expropriation, avoid unfair production and commercial practices, prevent abuse or damage to the GI reputation, ensure quality of the product, direct the behavior of local producers and coordinate support and cohesion to create, preserve or improve the GI product's reputation and GI name value.<sup>71</sup>

Furthermore, the initiative for promoting and marketing of GI will important to reward quality perception and develop improved reputation<sup>72</sup> including to maintain consistency of quality excellence. However, according to Anson C. J, GI producers are not able to utilize the GI brand value and effectively adopt marketing techniques and to effectively manage GI as an asset. In Indonesia, the lack of capacity to incorporate number of technical or management innovations for sustainable promotion and marketing system and the lack of empowerment of agricultural producers, become the problems of GI promotion and marketing.

Therefore, Indonesia needs to developed indicatives for promoting and marketing of GI by improving empowerment and skill in marketing and market access, establishing a direct business partnership between farmers and traders or exporters to obtain guaranteed sales and better prices for high-quality products. Keeping in constant communication with both current and potential consumers and provide information about the specific quality and characteristics of the GI product will increase consumers' willingness to purchase and pay Indonesian GI products. The initiatives to empower the integrated collective (by GI organization) and individual marketing (by its members) are based on right balance and coherence.

### Conclusion

It is important to develop agricultural by increasing the productivity and competitiveness<sup>2</sup> of agricultural products using GI mechanism. The scenario of promoting GI may indirectly contribute to agricultural development through adding value by incorporating territory specific cultural, environmental and social qualities into production, processing and developing of unique local, niche and special agricultural products. Since, GI is recognized as a qualification strategy that emphasizes the socio-cultural territory where the agricultural product is made, GI will ensure the development of agricultural and local development. The GI protection will provide benefits for increasing productivity, improving the exports of GI products, creating employment, adding economic value to products, and increasing the diversity of supply of natural and unique quality products, etc. that can contribute to agriculture.

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