

REGISTRATION OF GEOGRAPHIC INDICATIONS OF ALCOHOL BEVERAGES FROM ABROAD IN INDONESIA

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ABSTRACT

The research aimed to describe why alcoholic beverage products belonging to foreign countries can be registered in Indonesia's Geographical Indications (GI) protection regime. Then it outlined the legal implications of protecting foreign alcoholic beverage products in the GI protection regime. This research was normative legal research which was strengthened by interviews. The research shows that the protection of foreign alcoholic beverages in the national GI regime is caused by two factors, including disharmony between law 20/2016 and Permenkumham number 12 the Year 2019, and the GI regime gives each member country the freedom to apply the GI provisions in accordance with their national interests. Furthermore, the implications for the protection of foreign alcoholic beverage products in the GI protection regime in Indonesia, besides showing the inconsistency of GI protection arrangements for alcoholic beverage products, also injure the sense of justice for traditional alcoholic beverage activists who want their traditional knowledge products to be protected through the GI regime.

Keywords: geographical indications, alcoholic drinks, traditional knowledge

INTRODUCTION

The writing of this research is a form of the authors' endeavor to participate in contribute to the repertoire of thoughts in an effort to achieve this goal, not without reason. The author conveys that considering various works of literature, it is said that proper legal protection of Intellectual Property (hereinafter referred to as IP) can stimulate intellectual property rights. IP has various definitions, including the concept of IP based on the thought of intellectual works produced by humans that require the sacrifice of energy, time, and money. The existence of these sacrifices makes the work produced has economic value because of the benefits it enjoys. Based on this concept, it encourages the need for an award for the

work in the form of legal protection for intellectual property rights. Substantively, the definition of IP can be described as wealth that arises or is born due to human intellectual abilities. According to Sykes (2021), IP is categorized as property rights that eventually produce intellectual works in the form of knowledge, art, literature, and technology.

Initially, the IP system was a private right, which meant an exclusive right granted by the state to an individual who was nothing but an appreciation for his/her work or creativity so that others were stimulated to develop it further. However, in its development, there are also IPs whose ownership is communal (Sui Generis), including (a) geographical indications and (b) expression of traditional knowledge. For the record, there are several traditional cultural expressions that

also have the character of geographical indications (hereinafter referred to as GI).

Talking about GI until now, the discussion about GI protection is still an interesting issue in the global Intellectual Property (IP) discourse. According to Kovac et al. (2020), this is not without reason, considering the scope and benefits of GI protection are very broad, even to the protection of traditional knowledge and culture, which is certainly very beneficial for countries with cultural diversity such as Indonesia. The scope and benefits of GI protection include. Protection against GI can help promote rural and regional development, support emerging creative industries, then help protect traditional cultural expressions. Ensure that the exploitation of traditional knowledge will recognize the sacred beliefs and practices of traditional communities, protect cultural heritage, promote environmentally friendly sustainable development, and indirectly contribute to the improvement of tourism.

Seeing the large scope and benefits of GI protection, the model and concept of protection should also be able to accommodate the big interests mentioned. Given the enormous potential of GI owned by the Indonesian people, as well as to show the existence and sovereignty of the state in protecting the diversity of national products, the traditional knowledge possessed has implications for improving the community's economy. Some examples of GI products include sweet potato Cilembu, *salak pondoh*, arabica coffee Kintamani Bali, and so on. In addition, many GI products are produced based on local culture and traditional knowledge, either in the form of goods or local arts, such as Balinese *gringsing* weaving, Jepara carved furniture, Mandar silk weaving, etc.

In the national legal system, the protection of GI is regulated in Law Number 20 of 2016 concerning brand and geographical Indications (hereinafter referred to as Law 16/2016); in Article 1, Paragraph 6 of Law 20/2016, GI is defined.

“Geographical Indication is a sign indicating the area of origin of an item and/or product which due to geographical environmental factors including natural factors, human factors or a combination of these two factors gives a certain reputation, quality, and characteristics to the goods and/or products produced.”

The right to GI is said to be an exclusive right granted by the state to the holder of the registered Geographical Indications, as long as the reputation, quality, and characteristics are the basis for protecting the Geographical Indications. Due to the nature of GI as communal intellectual property, applications for registration of rights to GI can only be made by community groups or institutions that represent or have an interest in the product concerned. Geographical indications are protected after they are registered with the Minister of Law and Human Rights and can also be registered under international agreements. In contrast to brand protection, geographical indications do not know the time limit of protection as long as the characteristics that become superior can still be maintained. Several lists of Geographical Indications in Indonesia have been recorded in the data of the Directorate General of Intellectual Property (hereinafter abbreviated as DJKI), the Ministry of Law and Human Rights can be seen in Table 1 (Cañizares-Espada et al., 2021).

Table 1 Geographical Indications Registered in Indonesia

No	GI Registered in Indonesia	Origin	No	GI Registered in Indonesia	Origin
1	Kintamani Bali Arabica Coffee	Bali	19	Sweet Potato Cilembu Sumedang	West Java
2	Champagne	Perancis	20	Salak Pondoh Sleman	Yogyakarta
3	Jepara Carved Furniture	Central Java	21	Aceh Patchouli Oil	Aceh
4	Muntok White Pepper	Bangka Belitung	22	Java Preanger Arabica Coffee	West Java
5	Gayo Arabica Coffee	Aceh	23	Ijen-Raung Java Arabica Coffee	East Java
6	Pisco	Peru	24	Sidoarjo Smoked Milkfish	East Java
7	Sumedang Black Tobacco	West Java	25	Toraja Arabica Coffee	South Sulawesi
8	Mole tobacco sumedang	West Java	26	Lampung Robusta Coffee	Lampung
9	Parmigiano Reggiano	Italia	27	Srintil Temanggung Tobacco	Central Java
10	Sumbawa Horse Milk	West Nusa Tenggara	28	Cashew Kubu Bali	Bali
11	Lombok Kangkung	West Nusa Tenggara	29	Coconut Sugar Kulonprogo Jogja	Yogyakarta
12	Sumbawa Forest Honey	West Nusa Tenggara	30	Sindoro Java Arabica Coffee – Sumbing	Central Java
13	Rice And Krayan	North Kalimantan	31	Simalungun Sumatran Arabica Coffee	North Sumatra
14	Flores Bajawa Arabica Coffee	East Nusa Tenggara	32	Jambi Single Liberica Coffee	Jambi
15	Purwaceng Dieng	Central Java	33	Minahasa Cloves	North Sulawesi
16	Carica Dieng	Central Java	34	Pandanwangi Rice Cianjur	West Java
17	Alor Islands Vanilla	East Nusa Tenggara	35	Semendo Robusta Coffee	South Sumatra
18	Enrekang Kalosi Arabica Coffee	South Sulawesi	36	Siau Nutmeg	North Sulawesi

Table 1 Geographical Indications Registered in Indonesia (Continued)

No	GI Registered in Indonesia	Origin	No	GI Registered in Indonesia	Origin
37	Java Preanger Tea	West Java	65	Flores Manggarai Arabica Coffee	East Nusa Tenggara
38	Amed Bali Salt	Bali	66	Sipirok Arabica Coffee	North Sumatra
39	Lamphun Brocade Thai Silk	Thailand	67	Pulo Samosir Arabica Coffee	North Sumatra
40	Aceh Gayo Tangerines	Aceh	68	Scotch Whisky	Skotlandia
41	Liberica Coffee Stimulates Meranti	Riau	69	Modena/Di Modena	Italia
42	Lampung black pepper	Lampung	70	Bareh Solok	West Sumatra
43	Koerintji Cinnamon	Jambi	71	North Halmahera Dukono Nutmeg	North Maluku
44	Tequila	Mexico	72	Kepahiang robusta coffee	Bengkulu
45	Grand Padano	Italia	73	Watermelon Fish	Central Java
46	Balinese Grinsing Woven Fabric	Bali	74	Celuk Silver Crafts in Gianyar Bali	Bali
47	Mandar Silk Weaving	West Sulawesi	75	Marmorata Poso . eel	Central Sulawesi
48	Mandailing Sumatran Arabica Coffee	North Sumatra	76	Alor Ikat Weaving	East Nusa Tenggara
49	Pala Tomandin Fakfak	West Papua	77	Weaving Songket Alor	East Nusa Tenggara
50	Orange SoE Mollo	East Nusa Tenggara	78	Sidikalang Robusta Coffee	North Sumatra
51	Clove Moloku Kie Raha	North Maluku	79	Rolled Sugar	East Nusa Tenggara
52	Muna Cashew	Southeast Sulawesi	80	Bogor Java Robusta Coffee	West Java
53	Temanggung Robusta Coffee	Central Java	81	Doyo Weaving Benuaq Tanjung Isuy Jempang Kutai Barat	East Kalimantan
54	Sawo Sukatali Sumedang	West Java	82	Silungkang Songket	West Sumatra
55	Four Lawang Robusta Coffee	South Sumatra	83	Baliem Wamena Arabica Coffee	Papua
56	Sikka Ikat Weaving	East Nusa Tenggara	84	Pasuruan Robusta Coffee	East Java
57	Duku Komering	South Sumatra	85	Sago Linga	Riau islands
58	Koerintji Sumatran Arabica Coffee	Jambi	86	Tanah Karo Arabica Coffee	North Sumatra
59	Rubusta Pinogu Coffee	Gorontalo	87	Robsuta Rejang Lebong Bengkulu Coffee	Bengkulu
60	Bali Pupuan Robusta Coffee	Bali	88	Malonan white pepper from Kutai Kartanegara, East Kalimantan	East Kalimantan
61	Tanimbar tie weaving	Maluku	89	COGNAC	Perancis
62	Tambora Robusta Coffee	West Nusa Tenggara	90	East luwu pepper	South Sulawesi
63	Sumatran Lintong Arabica Coffee	North Sumatra	91	Nitik Yogyakarta's hand-drawn batik	Yogyakarta
64	Rice King Uncak Kapuas Hulu	Central Kalimantan			

Source: Directorate General of Intellectual Property, 2020

For the record, not all products have met the requirements of a GI in Indonesia. It can be registered as a GI and obtain legal rights. Law 20/2016 through Article 56 Paragraph (1) provides restrictions regarding products that cannot be registered as a GI with parameters, including contrary to state ideology, laws and regulations, morality, religion, decency, public order; misleading or deceiving the public regarding reputation, quality, characteristics, origin, source, the process of making goods, and/or their use. The others are a name that has been used as a plant variety and is used for a similar plant variety unless there is an addition of equivalent words that indicate a

similar geographical indication factor.

In connection with the writing of this research, the authors will focus on Article 56 Paragraph (1) letter a of Law 20/2016, where the parameters of an unacceptable GI registration application are contrary to state ideology, laws and regulations, morality, religion, decency, and public order. According to Indiryanto and Yusnita (2017), what is meant by Article 56 Paragraph (1) letter a of Law 20/2016 is if a sign is in the form of words, symbols, paintings, or anything that can offend the feelings and peace of certain religious people so that can lead to chaos or unrest in the community. The formulation of the definition's provisions is carried out

to prevent turmoil among religious people (Indriyanto, & Yusnita, 2017).

The definition of religion is indeed difficult when given an understanding according to universal truth because it relates to the individual and the supernatural. However, it is not impossible that 'religion' can be defined according to various perspectives. Kusuma (2015) has said that morality and religion have a close relationship; namely, morality through conscience guides humans to the right path when the individual lives in society. While religion is more than morals because it is not only accountable in the world, but when carrying out activities in society, all good and bad deeds will be recorded and accounted for later in the afterlife. A person who adheres to religious teaching is definitely a moral person. This is based on a reality that in any religious teachings, there is nothing that teaches about how to do wrong or evil to others. It is undeniable that religion has a close relationship with morality (Indriyanto & Yusnita, 2017).

Coordination with Direktorat Jenderal Kekayaan Intelektual (DJKI) Article 56 Paragraph (1) letter an of Law 20/2016, in its application, one of them is that GI products of various types and based on intoxicating alcohol cannot be registered as GI. Serfiyani, Hariyani, and Serfiyani (2020) have said that this has implications for a variety of Indonesian traditional drinks made from alcohol that cannot be protected through the GI regime. According to Zhang (2020), traditional alcoholic beverages are a sensitive issue and tend to be controversial considering that alcoholic beverages, regardless of traditional or non-traditional, are included in the category of haram (illicit) products where Indonesia is a country with a majority Muslim population. In fact, a person's assessment of traditional alcoholic beverages actually depends on the chosen point of view. Serfiyani, Hariyani, and Serfiyani (2020) have said that if the legal study is carried out from the point of view of consumer protection law, for example, the circulation of traditional alcohol is allowed to meet the needs of non-Muslim consumers, except for traditional alcohol products that do not yet have legality. Likewise, when a legal study is carried out from the point of view of Islamic jurisprudence, it is clear that traditional alcohol is considered a *haram* product for Muslims. The research will be different when viewed from the point of view of legal culture and intellectual property. However, as a record, the IP protection regime in Indonesia has not separated the categorization of IP protection and religious morality in its protection arrangements (Lestari, 2016).

The results of the authors' inventory of 91 GI products registered with the DJKI are several types of foreign-owned alcoholic beverages. These have been registered through the GI regime, which is registered through the international GI registration mechanism, as long as the search for authors of foreign-owned GI registrations falls into the category of alcoholic drinks, including tequila (Mexico), cognac (France), scotch whiskey (Scotland). Then the question that arises is how these three alcoholic beverage products can be

registered and get protection under the GI regime in Indonesia, while Article 56 Paragraph (1) letter a of Law 20/2016 is interpreted that one of the products that cannot be protected through the GI regime in Indonesia is alcoholic beverages (both traditional and non-traditional). Therefore, the problem in this research is, "why can foreign alcoholic beverage products be registered in the Geographical Indication protection regime in Indonesia?"

METHODS

This research is normative legal research, where the concept used is the law of positive norms in the statutory system (Cohen et al., 2019). This research confirms that the appropriate approaches used in this legal research are the statute, comparative, and conceptual approaches (Wilson, 2021). The data collection technique used is a document study which is strengthened by interviews.

RESULTS AND DISCUSSIONS

Undeniably, intellectual property as a right generated by human intellectual ability is essential to obtain adequate legal protection in accordance with the TRIPs Agreement. This needs attention, especially since Indonesia has become a free and open market for products or works domestically and abroad. Therefore, it is appropriate for these products to require more effective legal protection against all acts and violations that are not in accordance with the provisions as stipulated in the TRIPs/WTO Agreement and international conventions that have been agreed upon. Robert M. Sheerwood, in the journal law and technology, has said that economic development is the overall goal of building an effective IP protection system (Fabrice, 2019). The same thing is also expressed by Ramly et al. (2010), who have said that property rights attached to the term IP cannot be separated from the economic value of a property as part of material rights. The economic right is in the form of a monetary benefit obtained due to the use of IP itself or by other parties based on a license. The fact that there is economic value shows that IP is one of the objects of trade (Jimenez, 2021).

As the authors explained at the beginning of writing, intellectual property in its development is classified into two types: Individual KI and Communal IP. One type of communal IP is known as Geographical Indication. The problem of protecting goods products through the geographical indication registration system is not only related to the concept of Intellectual Property protection, especially mark protection, which refers to The Related Aspects of Intellectual Property Rights (TRIPs Agreement). It also has to do with the concept of germplasm protection (biodiversity) as a genetic resources and protection of the farmer's rights and traditional knowledge as regulated in the Rio Conventions, Cartagena Conventions, and the Union

for the protection of New Varieties of Plants (UPOV) Conventions for Plant Varieties. From the substantive aspect, the material closest to geographical indications in terms of Intellectual Property is the concept of plant variety protection and the concept of traditional knowledge protection, many of the listed GIs are products of local plant species or products of traditional knowledge (Serfiyani, Hariyani, & Serfiyani, 2020).

In addition, to borrow Christop Anton's view that three of the seven benefits of the protection of geographical indications are: (a) help protect traditional cultural expressions, (b) ensure that the exploitation of traditional knowledge will give recognition to the sacred beliefs and practices of traditional communities, (c) protect cultural heritage (Jimenez, 2021). So it can be said that the provisions regarding the protection of geographical indications are actually very close to the protection of traditional knowledge (Lin et al., 2021).

Traditional knowledge itself is an understanding or skill that is developed and preserved by members of an indigenous group, both actual and potential social benefits from the use of natural resources (such as plants, animals, or their components) or cultural practices (such as rituals, narratives, poetry, drawing, design, clothing, fabric, music, or dance). The definition is a picture the authors take from William Fisher. Fisher (2018) has said that traditional knowledge is defined as understanding or skill developed and preserved by the members of an indigenous group concerning either actual or potential socially beneficial uses of natural resources (such as plants, animals, or components thereof) or cultural practices (such as rituals, narratives, poems, images, designs, clothing, fabrics, music, or dances). More expansive definitions of traditional knowledge can be readily imagined. However, they would encompass territory outside the zone of plausible legal intervention.

Then the claim and use of traditional knowledge without rights create controversy or problems about the legal status of traditional knowledge. Such incidents usually arise when companies or individuals in developed countries utilize such knowledge without permission in a manner that either results in profits that are not shared with relevant members of the original group or offends group members (Fisher, 2018). One type of traditional knowledge in society is traditional alcoholic beverages. Traditional alcoholic beverages have been part of the lives of some Indonesians in various parts of the archipelago since time immemorial. Traditional Indonesian alcoholic drinks such as Balinese wine, *ballo*, *moke*, and others historically are not just drinks containing a certain alcohol content but have a role and value in the life of indigenous peoples since time immemorial, starting from religious rituals, traditional rituals, and symbols in daily life activities. This drink is appropriately used with restrictions by the indigenous peoples concerned (Serfiyani, Hariyani & Serfiyani, 2020). Examples of distilled beverage products are palm wine, arak, anding, *sopi*, and *moke*. Generally, Indonesian alcoholic beverages are produced from various fermented fruits or plants that

live in Indonesia.

The second characteristic is in terms of the existence of a knowledge inheritance that has been passed down from generation to generation in certain regional groups or communities. This is certainly a clear distinction between these traditional alcoholic drinks and domestically adulterated alcoholic beverages. For example, *ballo* from South Sulawesi Province is made from the palm tree sap by fermentation and must be served in a bamboo cup to maintain its sweet taste and relatively low alcohol level, likewise, with *moke* from East Nusa Tenggara/NTT (Zhang, 2020). The method of making *moke* is applied standardly according to the heritage of traditional knowledge handed down from generation to generation only among people born and living permanently in Flores. *Swansrai* from Papua has also been served for generations by indigenous Papuans, although the alcohol level is high (Taquyuddin, 2019).

The third characteristic is in terms of the presence of certain cultural values and benefits, which are also passed down from generation to generation. For example, *swansrai* symbolizes welcoming guests, and *moke* has been a social symbol for hundreds of years in Flores. *Moke* raw materials are obtained directly from the bunches and left for days through fermentation. For the people of NTT, *moke* symbolizes family and respect. However, they never force the guests to drink it because they will ask the guest first whether they are willing or not to consume the *moke*. The presence of a *moke* is a sign that the host appreciates the guest, like *ballo*, *swansrai*, Balinese wine, and many more (Sitaraman, Ricks, & Serkin, 2020).

However, traditional alcoholic beverages as a derivative of traditional knowledge belonging to the Indonesian people cannot be protected through the GI regime due to restrictions on products that can be registered to be protected under the GI regime by Article 56 Paragraph (1) of Law 20/2016 (Sitaraman, Ricks, & Serkin, 2020).

Contrary to state ideology, laws and regulations, morality, religion, decency, and public order, mislead or deceive the public regarding reputation, quality, characteristics, origin, source, the process of making goods, and/or their use; and is a name that has been used as a plant variety and is used for a similar plant variety, unless there is an addition of equivalent words that indicate a similar geographical indication factor (Lu et al., 2018).

However, this limitation can be said to be inconsistent because based on the results of the authors' inventory of 91 GI products registered with the DJKI; several types of foreign-owned alcoholic beverages have been registered through the GI through the international GI registration mechanism, as long as the authors search registration of foreign-owned GIs that are included in the category of alcoholic beverages. It includes tequila (Mexico), cognac (France), and scotch whiskey (Scotland).

Disharmony between the law on trademarks and GI and the Minister of Law and Human Rights

regulation concerns GI. The disharmony of laws and regulations has meaning of legal uncertainty in its implementation. This is certainly contrary to the principles of the rule of law, both materially and formally. Materially related to the disorder in society due to laws and regulations that do not guarantee legal uncertainty. This has been regulated in the 1945 Constitution article 28 D paragraph (1), which reads, "Everyone has the right to recognition, a guarantee of protection, and fair legal certainty and equal treatment before the law." (Merrill, 2021).

In other words, disharmony is said to be a condition of uncertainty caused by ambiguity in interpretation, namely the uncertainty of using the rule of law in solving problems due to the existence of different rules. Ambiguity is also caused by legal disharmony in several laws and regulations (Chubarova, Maly, & Nemeč, 2020). According to Oka Mahendra, as quoted by Sodikin (2021), it is said that six factors cause disharmony, namely: (1) the formation of laws and regulations is carried out by different institutions at different times, (2) the change of authorized officials due to the end of the term of office, (3) the sectoral approach is stronger than the systems approach, (4) weak coordination between agencies or legal disciplines, (5) limited public access to participate in the process of forming legislation, and (6) the absence of a method that definite, standard, and binding standards for all authorized institutions.

The logical consequence of disharmony of a statutory regulation has a negative impact on law enforcement, namely the emergence of different interpretations by law enforcers, ineffective law enforcement, the emergence of legal uncertainty, the occurrence of legal dysfunction, as well as disorder and a sense of unprotected society (Sodikin, 2021). Legal dysfunction results in the inability of the law to function in providing behavioral guidelines to the community, being a social controller, resolving disputes, and as a means of carrying out social change. Disharmony in laws and regulations can be overcome in several ways, such as revoking/amending the disharmony rules, submitting a judicial review, forming laws that comply with the principles, and harmonizing the drafting of laws and regulations (Prasetya & Hafidz, 2017). However, an effective way to overcome this problem is to make efforts to harmonize existing and interrelated laws and regulations or referred to as synchronization.

In this context, there is disharmony between Law 20/2016 and Permenkumham 12/2019. Indeed, Law 20/2016 provides an obligation to regulate the implementation of the registration of geographical indications through a Ministerial Regulation (in this case, the Minister of Law and Human Rights). However, the conditions accommodated in Article 56 Paragraph (1) of Law 20/2016 are not regulated in the Permenkumham 12/2019. In the context of Article 56 Paragraph (1) of the 2016 Law, it is only regulated in the context of GI registration through an international agreement mechanism, not in the mechanism for

applying for GI protection from abroad.

Applications for GI protection from abroad in plain language will be immediately or automatically granted protection if "the Geographical Indication has obtained recognition from the government of its country and/or is registered in accordance with the provisions in force in its country of origin". Therefore, it can be said that the parameters for GI registration applications from abroad use the GI protection parameters from the country of origin, and if they want to be registered to obtain GI protection in Indonesia, it will be automatically accepted without any verification under the provisions of Article 56 Paragraph 1 of Law 20/2016.

Therefore, in this case, the authors feel the need to synchronize the implementing regulations for GI registration, namely Permenkumham 12/2019 with Law 20/2016, for certainty in providing legal protection for GIs in Indonesia, especially so far, DJKI has provided an interpretation in Article 56 Paragraph (1) Law 20/2016, one of which is alcoholic beverages. This is also useful in an effort to provide a sense of justice between traditional alcoholic drink activists in Indonesia, where traditional alcoholic beverage products cannot be protected through the GI regime due to restrictions by Article 56 Paragraph (1) of Law 20/2016 while beverage products Foreign alcoholic beverages can be protected through the GI regime in Indonesia.

The GI regime provides freedom for each member country to apply the provisions of the GI in accordance with its national interest. It is known that the existence of GI in the TRIPs Agreement is the result of a long negotiation process. The inclusion of GI provisions in the TRIPs Agreement has created a fierce debate among developed countries. Almeida in Widodo (2014) has said that the issue of GI is not a "North-South" quarrel but a "North-North" dispute. In fact, until now, there is still debate about the regulation of the multilateral system of notification and registration of GIs (multilateral system of notification and registration) and also about the extension of objects that are given protection. The European Community (EC) proposes that GI be included in the agenda for negotiating the TRIPs Agreement (Zhang, 2020). In this regard, the European Community has the experience and a long tradition of producing and marketing quality goods using geographic names, for example, cheese and wine from several European countries, including Roquefort Cheese from France, Feta Cheese from Greece, Champagne Wine from France, and Port Wine from Portugal.

Viewed from the aspect of international trade, the use of geographic names as an indication or indication of the origin of an item has a comparative advantage that is able to increase the competitiveness of the commodity in question. According to Widodo (2014), it helps increase the marketing of goods so that traders encourage their government to provide legal protection for such products by making multilateral international agreements. In this regard, international agreements

have been made, namely the Paris Convention for the Protection of Industrial Property in 1883, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods in 1891, the Lisbon Agreement for the Protection of Appellation of Origin and their International Registration in 1958, and finally the TRIPs Agreement in 1994. The international agreement essentially regulates the use of geographic names as names or signs to indicate the origin of an item. Thus, the use of geographic names, including legal arrangements, was carried out long before the TRIPs Agreement was made (Taquuddin, 2019).

The GI provisions in the TRIPs Agreement are binding on member countries of the WTO (the World Trade Organization). However, in Article 1 Paragraph (1) of the TRIPs Agreement, it is stipulated that members shall be free to determine the appropriate method of implementing the provisions of this agreement within their own legal system and practice. This means that every WTO member country, including Indonesia, is given the freedom to determine the appropriate method to apply the provisions of the TRIPs Agreement, including the provisions on GI, according to its legal system and practice. In other words, each member country can apply the GI provisions in accordance with its national interest.

Related to the national interest, for example, in South Korea and France, *soju*, *sul*, *munbaeju*, *Gyeongju*, and *gwasilju* are traditional Korean alcoholic drinks that have been proclaimed as intangible cultural heritage. The cultural heritage administration institution in South Korea as a state institution in charge of maintaining and promoting South Korean cultural heritage even places it in an important position or essential intangible cultural heritage in South Korea (Jimenez, 2021).

The South Korean government started developing traditional alcoholic beverages in the 1970s. The regulation at that time already considered traditional alcoholic beverages to be under the realm of origin and geographical indications because they were considered part of local identity (Jimenez, 2021). Legal protection is aimed at protecting local farmers and producers by requiring the market to distribute soju produced by local farmers and producers with an alcohol content of less than 30% for safe consumption (Wilson, 2021). This alcohol level was later relaxed after the issuance of the Liquor Tax Act of South Korea, although the alcohol content of the circulating products remained below 35%, for example, *kwahaju* and *samhaeju* at 3,1-13,9 % or *sokokju*, both *haju* and *hosanchun* at 10,9-23%. A special forum called the Korean Alcohol and Liquor Industry Association (KALIA) also plays a role in monitoring the quality and authenticity of traditional alcohol in circulation. They continued with *munbaeju*, which was declared to be included in the list of important intangible cultural heritages since 1986. *Sul* in ancient times was used in religious rituals as a drink offering to the gods to answer prayers and give good fortune. It was also used during harvest celebrations in the life of an agrarian

society in South Korea. Meanwhile, *soju* has been part of the local wisdom of South Korean society since the Joseon Dynasty. *Soju* develops in several versions, namely *takju* (southern region) and *yakju* (central region), as traditional medicine.

France is also a country that protects its traditional alcoholic beverages as an indication of the origin and intangible cultural heritage that has been recorded on the UNESCO Representative List of the Intangible Cultural Heritage of Humanity. Wine is regulated as part of a protected designation of origin (de Noronha, Nijkamp, & Rastoin, 2008). Geographical indications in France are regulated in the Paris Convention for the Protection of Industrial Property of 1883. In subsequent developments, wine has been regulated as a cultural heritage product since the issuance of Act no. 2014-1170 of 2014 concerning Farming, Forest and Alimentation Framework (*de l'agriculture, de l'alimentation, de la Peche maritime et de la foret*), which complements the rules in chapter V, Part VI of Book VI of the Rural and Maritime Fishing Code by Section L. 665-6. It states that wine, vine-ecosystem, and viticultural products, including ciders (apple extract) and perries (pear extract), as well as beverages and beers derived from local traditions, are part of the cultural heritage and gastronomy protected by French law.

Meanwhile, since 2015, champagne from France has been recognized as an intangible cultural heritage by France and has also been recognized globally by UNESCO as a heritage since the 17th century and has been industrialized since the 19th century (Fabrice, 2019). Champagne from France is one of the products of the country's flagship for export. Before being officially protected as intangible cultural heritage, champagne was protected using the concept of geographical indication. The manufacture of champagne is required to follow a method called the Champenoise Method and in accordance with the standards of the Committee Interprofessional du Vin de Champagne (CIVC) so that the product quality and legality of the original French champagne label can be accounted for by consumers. Therefore, the provisions of Article 1 Paragraph (1) of the TRIPs Agreement ultimately provide freedom for WTO member countries to form legal rules related to GIs that are in accordance with national interests. This ultimately leads to the absence of legal unity for global GI protection related to alcoholic beverages as the object of IG. In the context of the National Legal System, of course, restrictions on traditional alcoholic beverages that are protected under the GI regime are certainly very common, but they are different from countries outside Indonesia (especially Europe) which have cultural differences from Indonesia (Alfons, 2017).

CONCLUSIONS

Based on the authors' search, it is known that the protection of foreign alcoholic beverages

in the national GI regime is caused by two factors. The first is disharmony between Law 20/2016 and Permenkumham Number 12 the Year 2019, and the second is that the GI regime provides freedom for each member country to apply the provisions of the GI in accordance with its national interest. Furthermore, the implications for the protection of foreign alcoholic beverage products in the GI protection regime in Indonesia, besides showing the inconsistency of GI protection arrangements for alcoholic beverage products, also injure the sense of justice for traditional alcoholic beverage activists who want their traditional knowledge products to be protected through the GI regime.

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