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# Protection of Geographical Indications in Asia: successes and challenges to awakening sleeping GIs

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# Dynamic protection of GIs in Asia since TRIPs Agreement

- GI sui generis system introduced widely in IP legal framework
- numerous GIs on agricultural products, foodstuff, handicraft goods
  - India: 370
  - China: more than 7500, 10 + 100 in EU
  - Japan: 79
  - Thailand: 145, 4 in EU
  - Indonesia: 140, 1 in EU
  - Vietnam: 88, 1 in EU
  - Malaysia: 120
  - Cambodia: 3, 2 in EU
  - Laos: 1
- Bilateral agreements on GIs in Asia:
  - EU-China, EU-Vietnam, EU-Japan, EU-South Korea, EU-Singapore, ASEAN-Japan, Malaysia-Chile, ASEAN-Australia-New Zealand, Vietnam-Mexico
- Cambodia: 1st signatory of the Geneva Act of the Lisbon Agreement (2015)

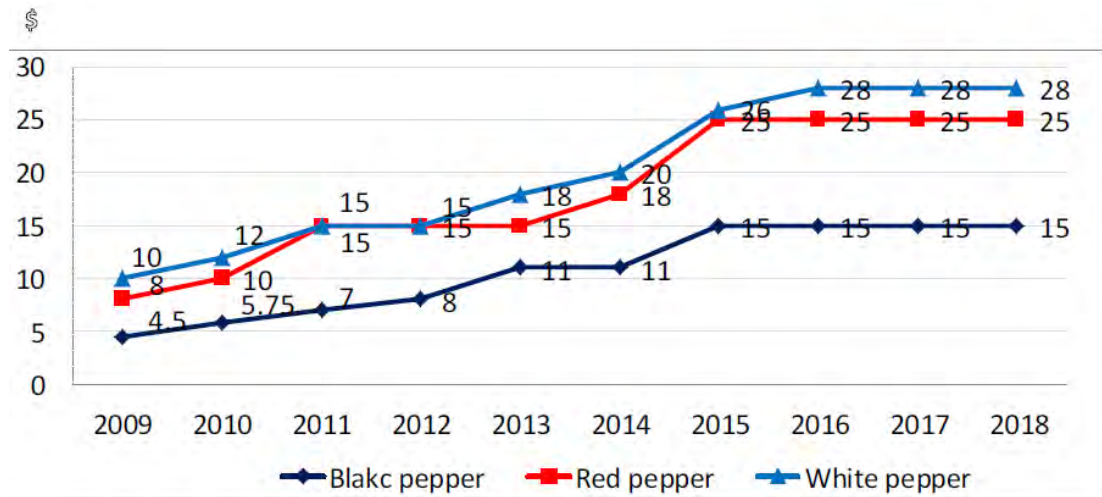




# Some success story: Kampot Pepper



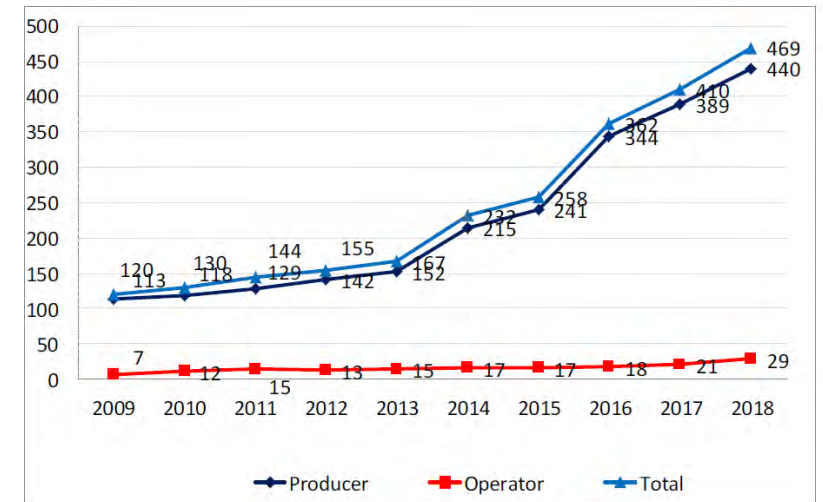
## High price at farm gate



Regular pepper from Cambodia:

- 2016 : \$9 - \$10 / kg
- 2018: \$2.5 - \$3 / kg
- 2019-2020: \$1.5 - \$2 /kg

## Increase of producers



- Producer : pepper farmer
- Operator: pepper processors (can also produce pepper)

Registered in 2010 - Supported by French Development Agency – EU Commission

# Some challenges :

## Lack of use and control of GIs

- Asian way for GI protection : state driven top-down process
  - by law both government institutions and producers groups apply for GI
  - in practice majority of GIs filed by government institutions
- Not enough involvement of GI producers who do not know a GI is registered
  - GI specification not based on producers practices, sometimes too complicated
  - No collective GI organizations of producers or only formed after GI registration
- Issues
  - Lack of use and controls of GIs
- Sleeping GIs...like the sleeping beauty!

# Ex : Orange Cao Phong (VN)



- Confusion about what is the GI
  - No use of the GI logo: producers understand the GI = the logo which belongs to the local authorities, is not for them
- Use of GI name Orange Cao Phong
  - but no control of compliance with the GI specification before commercialization
  - no control in the markets of the use of the GI name left free for all



# Lack of use and controls of GI

- Difficulty of controlling names already used in the market before GI registration
- temptation to control () only the products using the GI product logo or national GI logo and leave the use of the name free
- Not to exclude producers/processors/traders not knowing there is a GI
- Weakens the concept of GI: a name designating a link between a product's quality/reputation and its origin as the name will be used for any product including low quality

# Consequences for Asian countries?

- Need to place value-chain stakeholders at the core of GI management
- Need to set up a GI collective management organisation of producers
- Representative of all beneficiaries of the GI
  - Who is member ? Which voting rights ?
  - Kampot Pepper Promotion Association : producers, processors and first exporters; DIP/MoC participate to the meetings
- Non discriminatory membership to the organization:
  - only criteria should be the compliance with GI specifications, no obligation of selling the product through the organization





# Consequences for the EU?

- When foreign GIs are applied at the EU or when the EU is negotiating FTAs with Asian countries :
  - How to examine the nature of the applicant, its representativeness, the control mechanism (before & after commercialisation, the use of the GI in the market?
- Reflexion on the object of protection
  - a name, logo is for promotion: why such a confusion, in Asia, but also in Europe in view of numerous non-compliance (lack of use of the EU PDO/PGI logo) ?
- Protection of Asian GIs on handicraft products in the EU ?

# Conclusions

- Famous Asian GI success stories
  - but many Asian GIs are still Sleeping Beauties.
- Asian way: top-down state-driven process
  - to compensate for the weak tradition of self-governance of VC stakeholders.
- Any transition possible in Asia?
  - History of GIs in France: AO first defined by the state but failure
  - Mandatory creation of a collective organization of producers/processors within a short period after the GI is registered if not at the time of the registration of the GI?
- Can the EU play a role in strengthening Asian GI?



Thank you for your attention

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