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Geographical Indications: A French and European insight

Workshop BRASIL - FRANCA

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Alexandre LEVY



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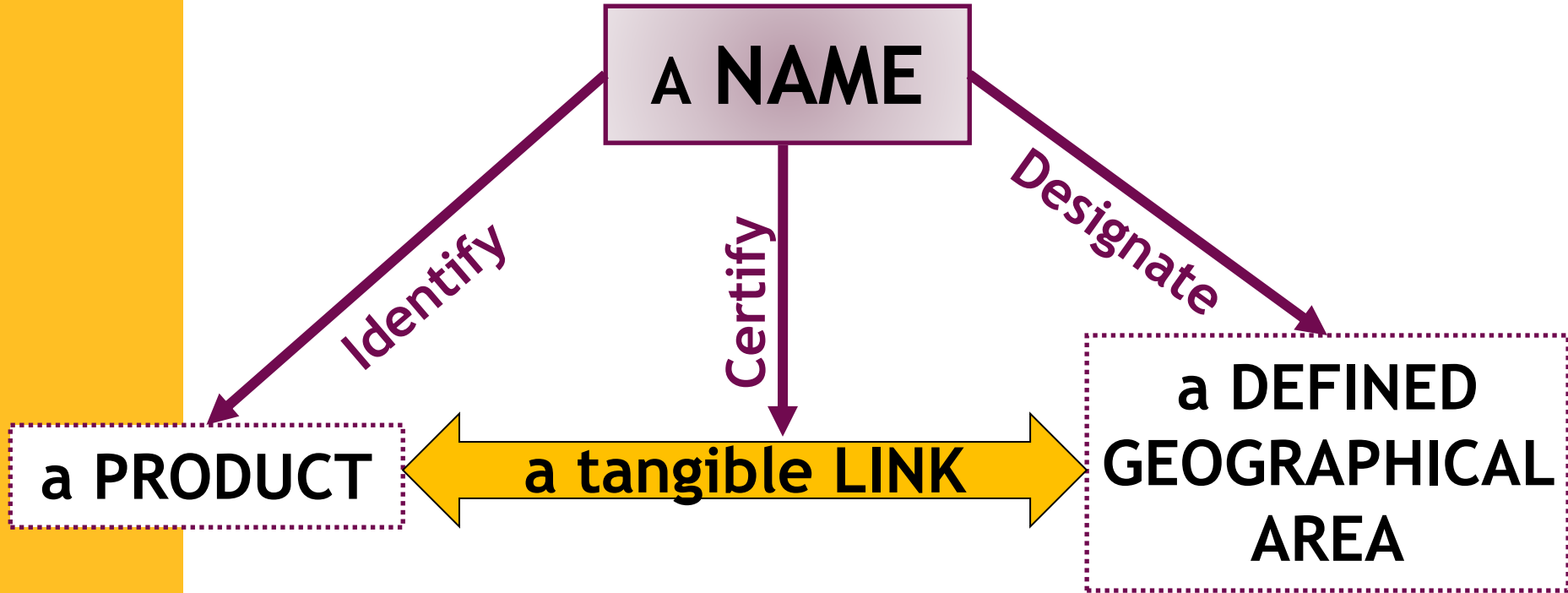
1: What is a Geographical Indication (GI) ?





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Main characteristics:



with **organoleptic specificities**



PDO



PGI

with **defined boundaries**

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**GEOGRAPHICAL
INDICATIONS**

≠

**INDICATION OF
SOURCE / OF
PROVENANCE**

BOTH DESIGNATE A PLACE

BOTH ARE REGULATED (IP)

To **INFORM** the consumer that
the product is a **QUALITY**
product
with either : A whole **LINK**
(PDO)
or : A partial **LINK**
(PGI)
with the **GEOGRAPHICAL AREA**
where it is produced

COLLECTIVE approach
Specifications approved by **THE
GOVERNMENT**

≠ **OBJECTIVES**

To **DIFFERENTIATE** a product from
those of competitors in the same
market.

There is **NO LINK** between the
characteristics of the product
and the place where it is
produced

≠ **APPLICATIONS**

INDIVIDUAL or **COLLECTIVE**
approach
NO SPECIFICATIONS necessary and
NO GOVERNMENT APPROVAL
needed





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PDO



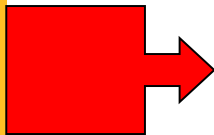
PGI

**PROTECTED DESIGNATION
OF ORIGIN**

**PROTECTED GEOGRAPHICAL
INDICATION**

COMMON CHARACTERISTICS

■ the name of a region, a specific place or, in exceptional cases, a country, used to describe a product originating in that region, specific place or country,



DIFFERENCE : THE LINK TO THE ORIGIN

Product must be produced and processed and prepared in the geographical area.

Quality or characteristics essentially due to a particular geographical environment with its inherent natural and human factors

- Product must be produced or processed or prepared in the geographical area
- Specific quality or reputation or other characteristics attributable to that area





The GIs

Three public policies

Various benefits of geographical indications

Producers :

- added value in terms of price
- Protection against misuses of the name and unfair competition
- Encouragement of the diversification of products on the market

Consumers :

- more detailed information on the origin and quality of the product (place of origin, specific features linked to geographical origin ...)
- Authenticity and safety through controls
- Benefit from a wider range of choice
- Traceability of the product

Economy of the country :

- development of rural economy (maintain people in agricultural areas / tool against rural depopulation and promotion of tourism (eg : wine trailers))
- contribute to the protection of environment
- contribute to avoid standardization of food products on the market





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2: What are the authorities and bodies implied in the GI process ?





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Relations between EU Commission and Member States (MS) of the EU

→ The EU Commission has an exclusive competence for GIs of all MS

MS have regular contacts with the EU Commission for:

- Recognition of new GIs
- Modification of existing GIs
- Indirect participation to EU and Third Countries negotiations for bilateral agreements





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Competent Authorities involved with GI in France

→ MINISTRY OF AGRICULTURE and FOOD :

In charge of the definition and implementation of the policy dealing with Geographical Indications :

- Provide the legal Framework
- Validate the product specification approved by INAO
- Participate in the various INAO Committees and in the INAO Board
- Participate in the Promotion of GI





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Competent authorities involved with GI in France

→ MINISTRY OF ECONOMY

- Industrial property Office (INPI) :

In charge of GI for non-agricultural products

-Fraud Authorities (DGCCRF) :

In charge of controls on the market (protection of consumers against deception and Food Frauds)

-Customs Authorities (DGDDI) :

In charge of the controls of goods originating from third countries accessing the EU market





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INAO's missions



- Public Body under the Supervision of Ministry of Agriculture, created in 1935, which is in charge of various assignments :

- Examination and Recognition of new GI products

- Modification of existing GIs specification

- Supervision of controls: INAO is the competent control authority in France as regards as the EU Law

- Protection of GI in France and abroad





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Organization

President : Jean-Louis PITON

Director : Marie GUITTARD

240 member staff, 70% in local offices

Central services and 8 Territorial Units spread on 18 local offices providing a support to the professionals

Head office located in Montreuil





Decision-making structures

National Committees					Approval and Control board
Wines and spirits PDO	Wines and Ciders PGI	PDO dairy and foodstuff products	PGI, TSG, Red Label	Organic Farming	
<ul style="list-style-type: none">• about 60 members, appointed for 5 years• Composition : Professionals, members of the Administration and qualified people					35 members including representatives of control bodies
<p>Check applications of recognition of new SIQO, define quality, origin and control criteria, express an opinion on the recognition of the defence and management bodies</p>					<ul style="list-style-type: none">• defines principles of controls• expresses an opinion about the approval of control bodies,• expresses an opinion about control schemes





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3:

Recognition and modification of a GI

or

Presentation of the life of a GI





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National procedure of recognition (PDO - PGI)

- Need to set up one group of producers representing all stakeholders of the future GI: it will become the futur *defense and management body (DMB)* which works with INAO local office
- Preliminary examination and presentation before the competent National Committee
- Nomination of a board of experts (with visits on the spot)
- Approval of the applicant as the Defense and Management Body (INAO Director decision)
- National procedure of objection (2 months)
- Approval of the specification + approval of control scheme
- Publication of the specification approval decision





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European registration procedure

(PDO - PGI)

- Transmission of the application to the European Commission by the Ministry of Agriculture (specification + single document + decision of recognition)
- Examination (additional information, observations requested from the member state) - 6 months maximum
- Objection procedure at the European level (3 months)
- Publication at the Official Journal of the European Union
and registration

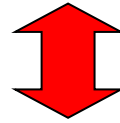




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Procedure of recognition

Application by a group of producers (DMB)
*drafting of a product specification and application for
recognition*



INAO

*checking, national procedure of opposition
then proposal*



GOVERNMENT

decision of recognition and forwarding to the UE



EUROPEAN COMMISSION

*formal examination + publication and european procedure of opposition
(2 months for wine), then registration within a unified register*





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The applicant - Defense and Management Body: a key role in the GI process

Before the recognition:

- has a role of drafting the product specification along with INAO and the control scheme along with the control body
- must have a legal status (Union / Association) to be representative in the light of the number of producers involved and the volume of products
- Have to collect fees from the GI producers

After the recognition:

- Participation in the control of the specification of the product
- Contribution in the GI protection (along with INAO)
- Initiative in the amendements of the specification,
- Initiative in the GI promotion





Contents of the application : product specification

- name of the product
- a description of the good, and particularly its physical or chemical characteristics,
- the boundaries of the geographical area including its characteristics in terms of geology, climate, or hydrography,
- a description of the method of production,
- the documents proving the product's link to the geographical environment or geographical origin,
- the method of controls,
- the specific labelling rules





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***4: A transparent and public
control system
as
essential guarantee for
producers & consumers***





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The implementation of controls in France

The importance of control :

- **The State guarantee**
- **The confidence of the consumers**
- **The protection of the products and the producers**





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INAO : official competent authority for controls in France

- INAO Approval and Inspection Board define the principles of controls and expresses an opinion about approval of control bodies and control schemes
- 100% of controls are delegated by INAO to control bodies (certification bodies)

Control bodies must be :

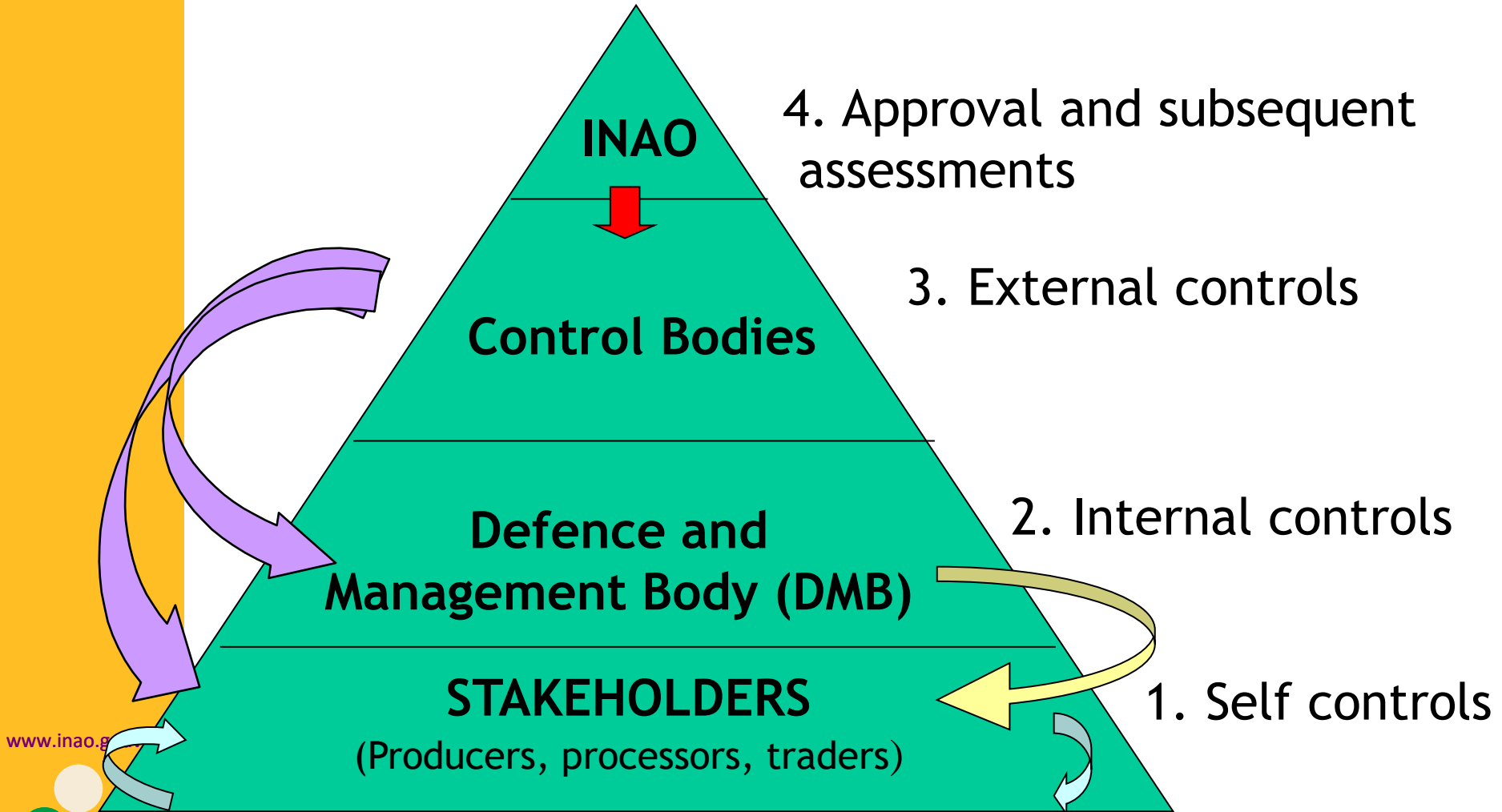
- approved by INAO and subsequent regular assessments (supervision)





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Organisation of controls in France



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CERTIPAQ



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6: Legal provisions for GIs : a need of sui generis/specific system dedicated for GIs





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Protection of Geographical indications (GI)

→ *Why do GI need protection ?*

- protection of consumers from false and misleading information
- protection of producers from unfair competition





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Protection of GIs : the heart of the Law

Protection against :

- Any direct or indirect commercial use which exploits the reputation of the GI
- Any misuse, imitation, evocation even if the true origin of the product is indicated, even if accompanied by expressions as « type », « kind », « sort », etc.
- Any other false or misleading indication or practice which mislead the consumers about the true origin (presentation, description, packaging, labelling...)
- Any translation, transliteration of the GI name





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Protection of GI at the International level

- Multilateral treaties
(regarding Intellectual Property rights) :
- - Lisbon Agreement (1958)
- - Geneva Act (2015)
- - TRIPS Agreement (1994)

- Bilateral Agreements

Between EU and a third country
=> Goal = « TRIPS + »

- Domestic legislation

- Unfair competition law
- Deception of consumers





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Protection of GI at the European level

Legal framework :

- ⇒ Regulation for **agrifood products** : Regulation n°1151/2012 (PDO / PGI)
- ⇒ Specific regulation for **spirit drinks**: Regulation (EC) n° 787/2019 (GI)
- ⇒ Specific regulation for **wine-sector products** : Regulation (EC) n° 1308/2013 (PDO / PGI),





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An extensive protection of GIs in the European Union

A wide protection of GI names : misuse, usurpation, false or misleading indication

direct or indirect commercial use

misuse, imitation or evocation (even in translation or accompanied by expressions such as « type » or « style »)

false or misleading indication

any other practice liable to mislead the public as to the true origin of the product

A large protection of the GI :

- for a similar product : forbidden (usurpation)
- for a different kind of product : excluded if risk of weakening or altering the notoriety of the geographical indication

Protected names may not become generic.

In both cases : use of an identical name / translated name / evocative name





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INAO's action regarding protection of GI

- Different means of information (monitoring of the trademarks registries, network of lawyers, embassies, stakeholders)
- Settlement out of court or legal actions
- 50 law firms around the world
- Monitoring bilateral (EU-3rd Country) and multilateral negotiations (WTO-TRIPS)
- Cooperation in the world (Europe, South America, Asia...): information and promotion of the GI scheme





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Examples of infringements

- Comparable / similar products
- Different products





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Use for comparable products

Wine PDO Côtes de Provence USA



PDO Lentille verte du Puy GERMANY



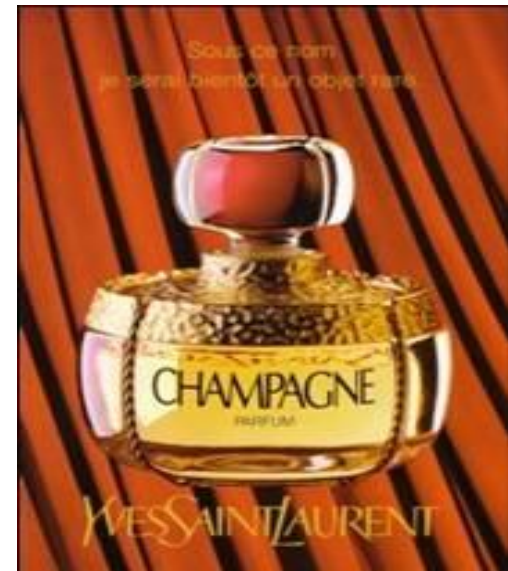
Weakening/dilution of notoriety by different products

Argentina



**Champagne for
biscuits**

France



**Champagne for a
Fragrance**



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Thank you for your attention !

<https://www.inao.gouv.fr/>

a.levy@inao.gouv.fr

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