

Avropa İttifaqının Azərbaycan Respublikası üçün  
Qonşuluq və Tərəfdaşlıq Aləti



## GUIDELINES FOR THE DRAFTING OF AN ARTICLE ON GEOGRAPHICAL INDICATIONS



Layihə Avropa İttifaqı  
tərəfindən maliyyələşdirilir



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## RATIONALE:

The following Guidelines are aimed at permitting a swift drafting of an Article on Geographical Indications of a maximum of 5 pages. This article would present general information for non-expert readers to help them understand geographical indications generally as well as the national institutional and regulatory framework in Azerbaijan. The article would also present the database, and would be published by the PTO.

The basic concepts proposed for the said article are as follows:

- 1 - Explaining to readers what is a geographical indication;
- 2 - Explaining why it is so useful to Azerbaijani producers;
- 3 - Indicating how Geographical Indications can be registered, and briefly how the system works;
- 4 - Detailing the effectiveness of Geographical Indications, including the existence of the new database.

Images of Azerbaijani Geographical Indications well-known in the country should be included in the Article, as illustrations (two small images on each Article page, e.g.).

[https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html?filter\\_17=AZ&cc=p](https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html?filter_17=AZ&cc=p) some carpets

[https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html?filter\\_17=AZ&cc=p](https://www.origin-gi.com/i-gi-origin-worldwide-gi-compilation-uk.html?filter_17=AZ&cc=p)), so that the Azerbaijani reader can also identify visually the topic of Geographical Indications.

The present Guidelines are in the form of a very detailed proposed Article structure with explanations for the choice of each section whenever necessary, as well as proposed content elements that may be useful to ease the work of final drafters of the said Article.

## PROPOSED CONTENTS:

### 1 - WHAT?

The objective is to explain to readers what is a Geographical Indication.

In this section it is important to explain what is a Geographical Indication, and differentiate it from other commonly used distinctive signs.

It is proposed that the following content be present:

#### 1.1. Definition of a Geographical Indication

There should be a Definition of Geographical Indications. Below is an example of suitable definition:

*A geographical indication is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. Most commonly, a Geographical Indication consists of the name of the place of origin of the good, such as ["an Azerbaijani Geographical Indication name should be indicated here"] or ["an Azerbaijani Geographical Indication name should be indicated here"].*

*There are three major conditions for the recognition of a sign as a geographical indication:*

- *it must relate to a good or a service;*
- *these goods must originate from a defined area;*
- *the goods must have qualities, reputations or other characteristics, which are clearly linked to the geographical origin of goods.*

## **1.2. Dangers for misuse of Geographical Indications:**

Below is an example of suitable brief text:

*Geographical Indications can be misused by producers with no link to the designated place of origin who try to profit from the reputation of the original goods. This is why protecting a Geographical Indication ensures fair competition for producers and provides consumers with reliable information on the place of production or specific characteristics of a product.*

## **1.3. The various categories of Geographical Indications and their value**

Below is an example of suitable brief text:

*Geographical Indications are given different names such as appellations of origin, designations of origin, origin signs, etc., in different national laws. According to a study published by the European Commission, the estimated worldwide sales value of products protected by Geographical Indications in the EU in 2010 was € 54.3 billion and it is estimated that, on average, products protected by Geographical Indications in the EU are sold at a price 2.23 times higher than that of a similar quantity non Geographical Indication product.*

## **1.4. What is the difference between a geographical indication and a trademark?**

It is recommended to insert a sentence explaining the difference between them, for example:

*A Geographical Indication is not a Trademark. It offers a different, and somehow higher degree of protection to producers.*

*In most cases a trademark often consists of an arbitrary sign that may be used by its owner or another person authorized to do so. A trademark can be assigned or licensed to anyone, anywhere in the world, because it is linked to a specific company and not necessarily to a particular place. In contrast, the sign used to denote a Geographical Indication usually corresponds to the name of the place of origin of the good, or to the name by which the good is known in that place. A Geographical Indication may be used by all persons who, in the area of origin, produce the good according to specified standards. However, due to its link with the place of origin, a Geographical Indication cannot be assigned or licensed to someone outside that place.*

## **2-WHY?**

The objective is to explain to readers why Geographical Indications are so useful for Azerbaijani producers.

The following items are recommended:

## 2.1. Geographical indications as differentiation tools in marketing strategies:

A text along the following example could be inserted:

*Consumers pay increasing attention to the geographical origin of products, and care about specific characteristics present in the products they buy. In some cases, the “place of origin” permits consumers to understand that the product has a particular quality or characteristic for which they can be prepared to pay more.*

## 2.2. Brand recognition is an essential aspect of marketing. Geographical indications convey information about the origin characteristics of a product

A text along the following example could be inserted:

*They function as product differentiators on the market by enabling consumers to distinguish between products with geographical origin-based characteristics and others without those characteristics. Geographical indications can thus be a key element in developing brands for quality-bound-to-origin products.*

**2.3. Geographical indications support rural development** as Geographical Indications products can be sold at a higher price and support better the producers’ income and job creations.

**2.4. Geographical indications represent a preservation of local /regional traditional knowledge and traditional cultural expressions** as goods identified by a Geographical Indication are the result of traditional processes and knowledge (and sometimes artistic heritage) developed in a particular region from generation to generation.

## 2.5. Strategies for Geographical Indications

The Article could usefully describe briefly both offensive and defensive strategies:

- **The offensive approach**, i.e. a collective strategy of differentiation and promotion, chosen by a producers’ group or a support organization, as a good system for improving access to new markets and creating a reputation for the product in order to encourage consumers to pay a higher price for it;

- **The defensive approach** is the most frequent scenario, i.e. a Geographical Indication already benefits from a well-established reputation and the typicality of the Geographical Indication product is recognized by consumers, so that registration of the Geographical Indication aims primarily at protecting the product against imitations and misappropriation of the name. In such cases, historical stakeholders in the supply chain develop specifications to create barriers to the entry of competitors who are non-Geographical Indication producers.

## 2.6. Why is it risky not to protect Geographical Indications?

A text along the following example could be inserted:

*If a Geographical Indication is not protected, it may be registered as a trademark by an individual producer or company, for goods identical or similar to those identified by the Geographical Indication. This is most likely to occur at the international level for indications protected in one jurisdiction but not in others. Sometimes, mostly in foreign*

*jurisdictions in which the Geographical Indication is not protected, the indication may be considered a distinctive sign available for registration as a trademark. The first to file for registration would obtain the trademark, which might raise the right to exclude use of the indication by anyone else, including the legitimate producers who had historically used it in Azerbaijan. Protection of the Geographical Indication is thus crucial, starting from Azerbaijan, the country of production.*

### 3 - HOW Geographical Indications can be protected in Azerbaijan and abroad?

#### 3.1. How Geographical Indications can be protected and registered in Azerbaijan?

##### What protection is granted in Azerbaijan?

In Azerbaijan, the [Law of the Republic of Azerbaijan No. 504-IQ of June 12, 1998, on Trademarks and Geographical Indications \(as amended up to Law No. 823-IVQD of November 22, 2013\)](#) offers protection on Geographical Indications to applying producers through Registration of their Rights at the Azerbaijani IP Office, thanks to a sui generis protection system.

##### 3.1.1. The registration procedure is simple and obeys to the following rules:

Rules could be summarized as follows in the brochure (together with an IP Office contact address for applicants):

*- Legal protection of the Geographical Indication shall extend both to its graphic or figurative representation and to the geographical representation of the country, city, region or locality whose names constitute the Geographical Indication.*

*- A geographical name may be used as a characteristic element of goods or service if it does not signify misleading or false origin.*

*- The use of Geographical Indication shall be intended for undertakers of services rendered in the locality.*

*- The official name of the geographical area, its historical name or any derivatives from them may be constituted as a Geographical Indication.*

*A sign shall not be registered as a Geographical Indication if it does not meet the above conditions.*

*Designations, which represent or contain the name of a geographical area that does not refer to the geographical area in Azerbaijan, shall not be registered as a Geographical Indication from Azerbaijan. Also, a Geographical Indication not protected in the country of origin is not to be registered in Azerbaijan.*

*The authority to receive an application for registration of a geographical indication for a national product is exclusively the IP Office of Azerbaijan.*

*A request for registration of a geographical indication shall contain:*

*a request for registration;*

*the name of the applicant, his headquarters or residence, signature (the name, surname, address and signature of the patent attorney, if the application is filed through the patent attorney);*

*the reproduction of the claimed geographical indication;*

*the designation of a goods or service which geographical indication is sought;*  
*the borders of the geographical area where the product is manufactured or service are to be rendered;*  
*the description of the essential characteristics of the goods.*

*A small amount State fee is to be paid for the application.*

*Once the Geographical Indication is registered, the Register shall also include the reproduction of the said Geographical Indication, the particulars concerning the owner who has right to use the geographical indication, a description of specific peculiarities of the product, the date of registration thereof and any later amendment of the foregoing particular.*

### **3.1.2. Protection granted**

A summary of the Law could be presented as follows in the Article (the objective is to give the reader enough information on rules applying while avoiding too many detail):

*The use of the registered Geographical Indication by persons without authorization to do so, even if the indication of the source is used in translated form or accompanied by terms such as "kind", "type", "imitation", or the like, as well as the use of similar indication for products (including wines and spirits) of the same type liable to mislead the consumer as to the geographical origin and particular properties of the product shall be deemed to constitute an infringement of the rights conferred upon the registered owner of the Geographical Indication.*

*Concerning the use of the registered geographical indication the followings shall be prohibited:*

*all acts of such a nature as to create confusion with the goods, rendered service or activities of undertaker;*

*false allegations in the course of trade of such a nature as to discredit the goods, rendered service or commercial activities of undertaker;*

*indications, which in the course of trade is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose, or the quality of the goods.*

*Any person, who unlawfully uses a Geographical Indication, either fully or in part, shall be to discontinue the unlawful use and compensate the damage caused to the owner. When the unlawful use of the registered sign is considered in a court proceeding, the court may decide to discontinue the said use and to compensate for inflicted damages, also to destroy unlawfully used signs, means and equipment destined for the manufacture thereof as well as counterfeited goods (in the case where the unlawfully used signs cannot be removed from the goods).*

*All goods that are unlawfully bearing a Geographical Indication shall be seized on importation into Azerbaijan, excluding transit goods, and seizure shall take place on the demand of the public prosecutor, the court, the respective body of executive power or any interested party. Seizure shall be ordered in the case of direct or indirect use of false indications as to the origin of goods or the identity of the undertaker in conformity with legislation of Azerbaijan.*

### **3.2. How can Azerbaijani Geographical Indications be protected abroad?**

The following text is suggested:



*Azerbaijani Geographical Indications owners can obtain protection abroad by applying for a Geographical Indication in other countries, based on their National Geographical Indication, or, when other countries do not apply such protection, through a collective mark application and /or business products application schemes.*

## 4 - Databases as a support to the effectiveness of Geographical Indications

*Databases are available, which permit IP Offices in the world to check the existence or not of registered Geographical Indications in other countries, and possibly avoid the risks of undue registrations of geographical names.*

### Where to search for Geographical Indications?

#### 4.1. At national level

*Some national intellectual property offices have developed lists of geographical indications protected in their country. National IP Offices should be contacted individually. Azerbaijan has developed such a list, even in a publicly available web format, incorporating all geographical names protected in the country (www.....).*

*This Database permits Azerbaijani citizens and businesses as well as foreign governments, businesses and individuals to know about the existence of each and every Azerbaijani Geographical Indication. This may also serve as a primary public mean of proof of the existence and validity of the Geographical indication in Azerbaijan that can also be used abroad if needed.*

#### 4.2. At European Union level

*There are four official online databases:*

- DOOR for foodstuffs;*
- E-BACCHUS for wines;*
- E-SPIRIT-DRINKS for spirits;*
- the file of Aromatised Wines<sup>25</sup>.*

*Altogether they contain some 3,500 EU registered Geographical Indications.*

#### 4.3. At International level

*Geographical Indications protected under the Lisbon System can be searched in the online WIPO LISBON EXPRESS Database.*

### Conclusion

Below is an example of suitable brief text:

*Protecting Geographical Indications in Azerbaijan and abroad reinforces Azerbaijani legitimate producers for developing their business in the country and abroad and get larger markets and earnings for their products.*

*The Azerbaijani IP Office (www website) provides additional information to all parties interested in getting protection for their products bearing a Geographical Name.*



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The current draft Guidelines build on efforts made at International level, and in particular on those of WIPO, FAO and the European Union, in promoting awareness on Geographical Indications, as well as on Geographical Indications focused publications developed at national level, which provided very useful sources of references to its Author.

## DEVELOPMENT OF A DATABASE ON AZERBAIJANI GEOGRAPHICAL NAMES

### I- RATIO FOR THE DATABASE

A database on GIs in Azerbaijan that could be shared with other IP offices in the World would reinforce abroad the public visibility of National Geographical Indications and thus permit to better protect the interests of Azerbaijani right holders and give better negotiation tools to Azerbaijan in avoiding misuse of these names abroad.

### II- GUIDELINES

It is recommended that a database indicating Azerbaijani geographical names, and established in order to reinforce acknowledgment by the public of Azerbaijani geographical names, contain information permitting to identify:

#### 1 - THE PRODUCT AND ITS PROTECTION, i.e.

- 1.1. The Geographical Name;
- 1.2. The protection requested for it in the country, detail on the holders of the protection (i.e. on the producers organization), and their objective (defensive or promotion);
- 1.3. The type of product protected and connected specification for the product;
- 1.4. Possible other names of places connected to the geographical name.

#### 2 - THE PRODUCT'S VALUE IN ALL ITS POSSIBLE ASPECTS, i.e.

- 2.1. Knowledgeability abroad (e.g. examples of caviar house where the product is sold in France /in Russia /in the USA etc.) vs. local cultural identification to the product in the place of production (e.g. local fairs and festivals etc.);
- 2.2. Commercial value of the product bearing an Azerbaijani Geographical Name;
- 2.3. Sales value of the product bearing an Azerbaijani Geographical Name (quantity of products /total sale value/ unitary product value);
- 2.4. Percentage of Exports of the product bearing an Azerbaijani Geographical Name / total Export Value/ percentage of Azerbaijan total Exports.

**All the above information represents the basic relevant information that should be indicated in the Database to be displayed on the website of the Azerbaijani IP Office, and also for transmission to each IP Office of third countries, so that:**

- (1) The importance of the Azerbaijani names be duly weighed by them, and**
- (2) Third countries avoid undue registration of these names, and Azerbaijan be in a better position to negotiate the protection of such names abroad.**



In addition, while the Public Database is developed, reserved information could be developed, for Azerbaijani Government international monitoring of each Geographical Indication.

### 3 - RESERVED GOVERNMENT USE AND MARKET MONITORING INFORMATION

3.1. Status of Protection of the Azerbaijani Geographical Name in Foreign Countries;

3.2. Percentage of Azerbaijani Geographical Product in Global Trade (by category of products /by Geographical Name).

The above reserved information would also permit National Authorities to fine tune their strategy in their international negotiations for due respect of Azerbaijani Geographical Names.

#### III- PROPOSED TABLE

COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER
1	2	3	4	5
Azerbaijani Geographical Name	Status of Protection in Azerbaijan / Producers' Organization /Objective of the Producers in getting protection	Types of products (product description) / specifications from the said area	Other names of places connected to the Azerbaijani Geographical Name	Information on Knowledge of the said geographical products in foreign countries (reputation / places where the products are sold, etc.)/ Local cultural identification to the product in the place of production

COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER	COLUMN NUMBER
6	7	8	9*	10*
Commercial value of the Product bearing an Azerbaijani Geographical Name	Sales value of the Product bearing an Azerbaijani Geographical Name (quantity of products / total sale value/ unitary product value)	% of Exports of the Product bearing an Azerbaijani Geographical Name / total Export Value /% of Azerbaijan total Exports	Status of Protection of the Azerbaijani Geographical Name in Foreign Countries	Percentage of the Azerbaijani Geographical Product in Global Trade (by category of products /by Geographical Name)

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