



# Africa and geographical indications

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AfrIPI, project funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)



I. The emergence of geographical indications worldwide and in particular in Africa

II. Lessons learnt from the «1st generation» of GIs in Africa

III. Actions taken to mitigate the identified challenges

# The emergence of geographical indications worldwide and, in particular, in Africa



## KISII SOAPSTONE



- While it can be found all over the world, Kenyan soapstone is considered unique and naturally comes in all different colors.
- Long tradition of existence and strong reputation worldwide
- Small geographic area of production
- Local association of soapstone producers

# Ethiopian coffees

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- Classified by region
- The altitude at which they are grown have a significant impact on their flavor.
- Ethiopian coffee has rich history and culture that is deeply linked with the daily lives of its people.



## ARGAN OIL TYPICALITY CAN BE TRACED BACK TO AROUND THE 12TH CENTURY



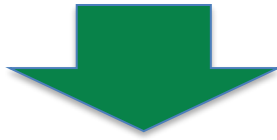
- An erudite named Ibnou Al Baytar, using denominations ALHARJANE, ARKANE et ARJANE, 12th century
- A historian named TEMPORAL, in 1556
- Another occurrence can be found in 1631, by J. ARMAND, 1877 (Le CLERC), 1888 (PERROT)

## NO ONE REALLY KNOWS WHEN GIS HAVE STARTED TO EXIST

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- GIS are not created, they are recognized
  - GIS have actually always existed for as long as human have stop producing for their auto-consumption. The indication of the origin was already used as an indication of specific features and ultimately higher prices.
  - The infringement of the name/geographical signs qualifying products was problematic. It resulted in removing the benefits to free riders.

## National protection by *ad hoc* mechanisms/administrative mechanisms

- **Roquefort:**
  - Protection by a decree from the Parliament of Toulouse (1666)
- **Champagne:**
  - Protection by a royal declaration



Only available:

- for the indicated product
- for the indicated territory



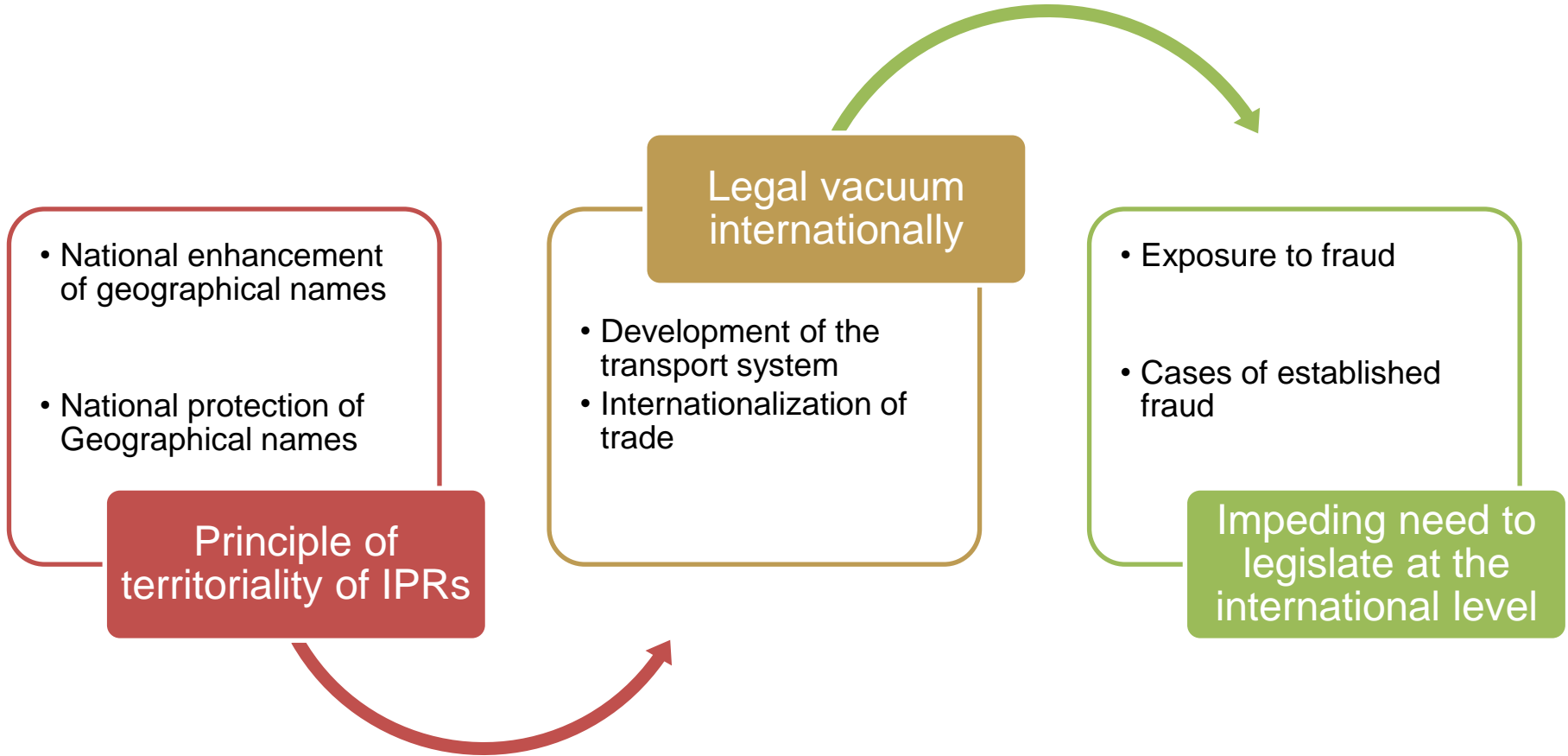


## NO ONE REALLY KNOWS WHEN GIs HAVE STARTED TO EXIST

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- No records of African GI registered by such administrative mechanisms
- How the story continues is going to affect the emergence of GIs on the continent.

# The need to protect Gis internationally



## Type of fraud observed (fictive examples)

### **Fake GIs**

#### **Rwenzori coffee**

For a coffee that is  
not from the  
geographical zone  
and do not respect  
the specification

### **Deceptive GIs**

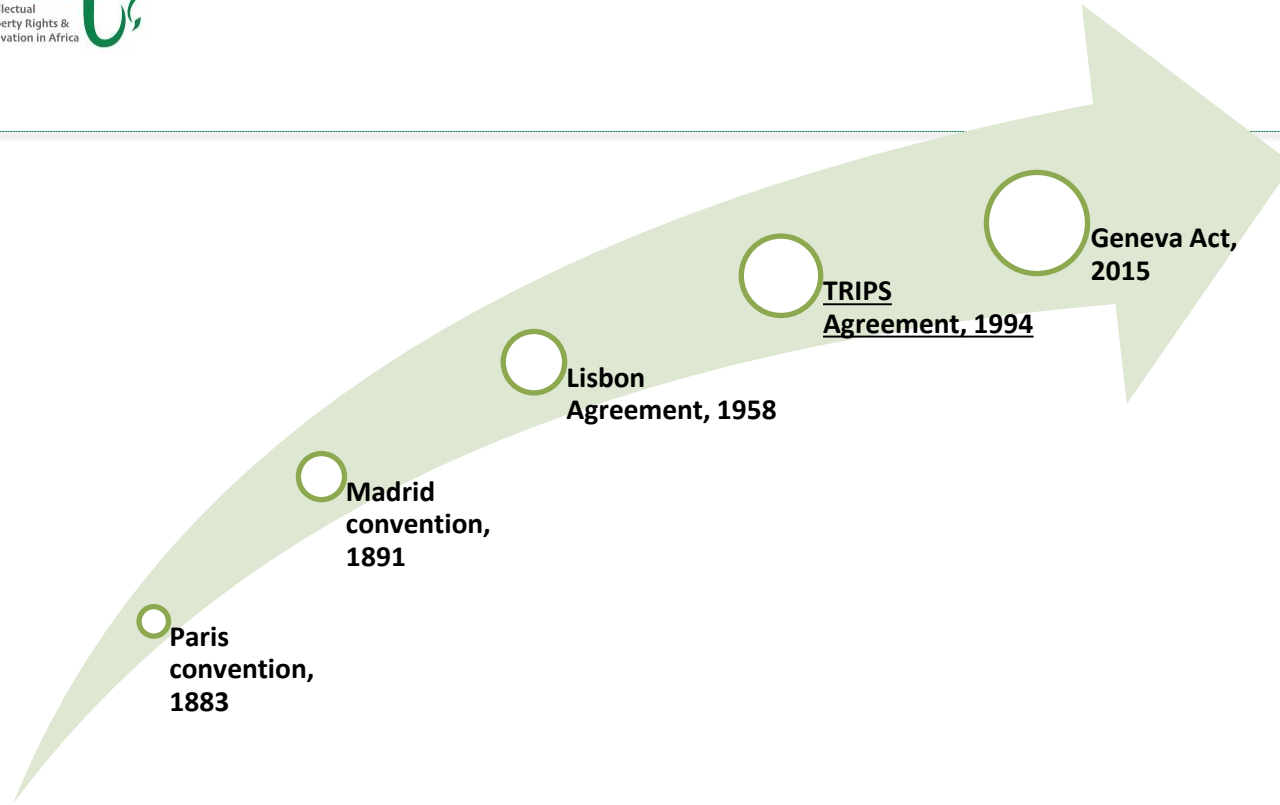
#### **Rwenzori coffee made in Kenya**

Reestablishment of  
the real origin of the  
product next to the  
use of the authentic  
name of the GI

### **Use of delocalisers Coffee, *Rwenzori like***

The use of  
delocalisers  
Like, type, style  
etc.

# Geographical indications are the “*Sleeping beauty*” of Intellectual Property Rights



# Geographical indications are the “*Sleeping beauty*” of Intellectual Property Rights

Highest standard of protection ever found  
– plurilateral agreement

Unauthorized use  
of AOs

Fake&Deceptive GIs

Fake GIs

Paris  
convention,  
1883

Madrid  
Agreement,  
1891

Lisbon  
agreement, 1958

TRIPS Agreement,  
1994

Geneva Act,  
2015

1 organisation:WTO  
166 states  
1 Definition for GIs  
1 regime for GIs

## An non contentious definition

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*“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 geographic origin”,  
Article 22.1 TRIPS*

# TRIPS: A two-speed regime

Additional protection for GIs on wines and spirits

Article 23 TRIPS wines & spirits

Basic protection for all products

Article 22 TRIPS  
All products

## State must forbid

- ⊙ **Bordeaux Style wine (delocaliser)**
- ⊙ **Borgonia (translation)**
- ⊙ **Bordão (translation)**
- ⊙ **Cognac D'Arménie (delocalisers)**

## States “may tolerate”

- ⊙ **Cabrito like Tete (delocalisers)**
  - ⊙ **Harare coffee (évocation of Harare coffee – Ethiopia)**
  - ⊙ **Coffee from Cameroon type Sidamo**
- Proof that the consumer has been misled



## The majority proposal

*Additional protection for all*

Brazil, China, Colombia,  
Ecuador, India, Indonesia,  
Pakistan, Perou,  
Switzerland, Thailand,  
Turkey, African Group,  
ACP countries, European  
Union



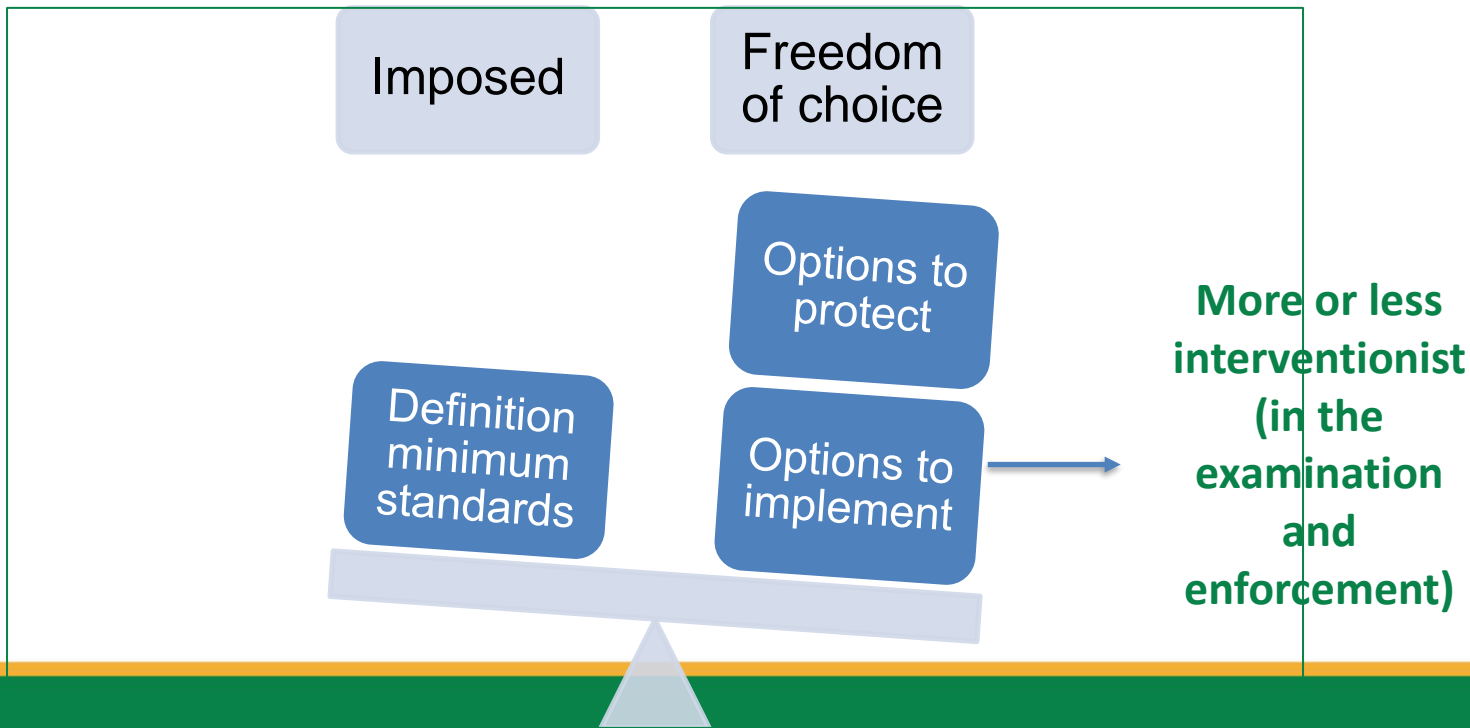
## The joint proposal

*Additional protection for W & S*

South Africa, Argentina,  
Australia, Canada, Chile,  
Corea, Costa Rica, El  
Salvador, USA, Guatemaly,  
Honduras, Israel, Japan,  
Mexico, Nicaragua, New  
Zealan, Paraguay

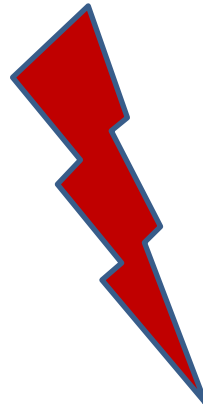
# A system of variable geometry

## TRIPS Agreement



### « GI Friends »

- protection of **industries that are vulnerable to competition**
- Protection of the traditions
- GI as an instrument of public policies



### « GI skeptical »

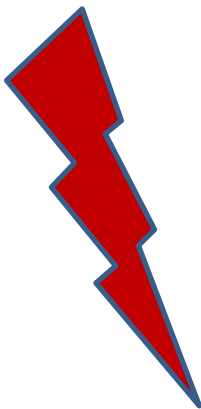
- Only the acknowledgement of the consumer should justify the exclusive use of the geographical name
- More keen on the protection of inventions
- GIs= Private rights

Satisfaction  
Service ←

→  
Sanitary  
Security

## oriGIn

- The assets of GIs as a tool for economic development deserve the attention of the public authorities to create the conditions of their protection and their promotion



## Common Food Names (CFN)

- Most GI names are in fact generic and should be free of use

Satisfaction  
Service ←

→  
Sanitary  
Security

## THE TRANSPOSITION OF TRIPS AND THE “BIRTH” OF THE FIRST GIs IN AFRICA

- TRIPS obligations had to be incorporated in national law with a period of transition of 5 years for developing countries and 11 years for the least developing countries. Considering most African countries belong to one of these categories, between 2000 and 2006, several initiatives were launched to reform the domestic legal frameworks at national and regional levels.
- This upgrading exercise was the occasion to contextualise the subject and reveal to the African countries what kind of potential they had in the matter which would justify that they make provisions on GIs.

# Emergence of GI projects in Africa



1st projects on GIs in MOROCCO



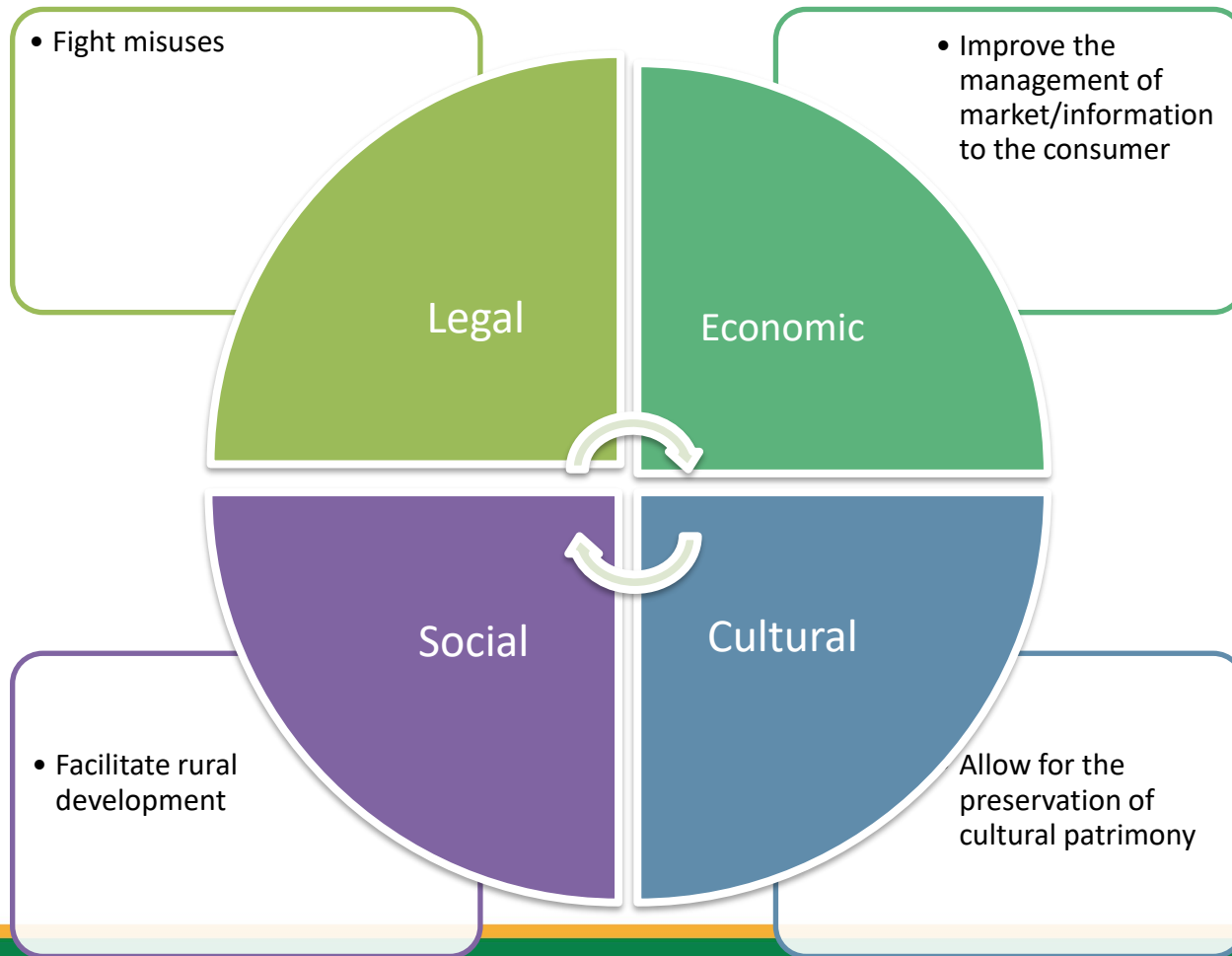
PAMPIG I

PAMPIG II same products OAPI

Improving the existing registered GIs

# Lessons learnt from the first generation of Gis in Africa







## GIs allow to fighting misuses

- Attempts to register the name Rooibos in various territories (France, USA)



- Registration of the name Argane in France before it was declared generic



## Importance of registering the name nationally

✓ **National certificate is a good start**

### **NB: Principle of territoriality**

- 1. Need to secure the protection abroad as well**
- 2. Secure even a low level of protection with TDK? (Niger: Violet de Galmi).**

*Copy is not always flattering*

- 3. Avoid the name be appropriated by “outsiders” or becoming generic for other countries**

THE BUDWEISER WAR



Both companies can use the name  
“Budweiser” on their territory

# Misused of European GIs on the African market



Translation of  
«Parmigiano  
Reggiano»

Deceptive use of  
Feta



## Fighting misuses is a constant battle



- **Market surveillance services (i.e Darjeeling Tea)**
- **Implementation of procedures (What when faced with infringement?)**
  - Who is responsible (*ex officio, ex parte*)
- **What is the level of awareness of competent authorities (customs, etc)?**



## GIs facilitate the management of markets

- The first idea was to defend the intellectual property behind “Colombia” for coffee but it became eventually an occasion to satisfy different market segments

Commercial  
trademarks

GIs allow to fighting misuses



Protected  
geographical  
name

Organic  
production

Fair trade



Which one is the authentic GI product?





## Informing the consumer is a constant battle

- **Logo to inform the consumer (4 covering 20 countries)**
- **A logo than can be recognized throughout Africa?**
- **Promotion on the virtues of the product (Mauritius *unrefined* sugar)**
- **How to capture the value (Coffee from Ethiopia vs Starbucks)**



From discouragement from the argan oil to valorisation of the GI = A game changer


## GIs allow to fighting misuses

- Literacy program; Meanwhile, educational materials in the form of comic strips were distributed to women to enforce the specifications.
- Social coverage, women in cooperatives are covered by an agreement with the Health mutual for the benefit of women in cooperatives
- A fund (interest-free credit) was created for the purchase of raw material available at Argane cooperatives.

## GIs allow to fighting misuses

- By ensuring a regular salary equivalent to the Moroccan minimum wage, the financial autonomy of women producers is now guaranteed
- Several of them have a bank account, others reinvest their income in micro-projects
- Many households have joined the electricity, sanitation and drinking water networks
- Touristic roads: The Argan road

## Rural development (or development) is a constant battle

- **Make GI systematically «work» (the case of dormant GIs)**
- **Ensure the redistribution of value along the chain ( GIs  Fair-trade)**
- **Creating complementary mechanisms on a case-to-case basis (Benefit sharing agreement for the Rooibos,adequate compensation for the indigeneous people at the root of this tea )**

## GIs allow preserving the cultural heritage



**Barki sheep**



**Mbigou stone**



**Korhogo  
canvas**



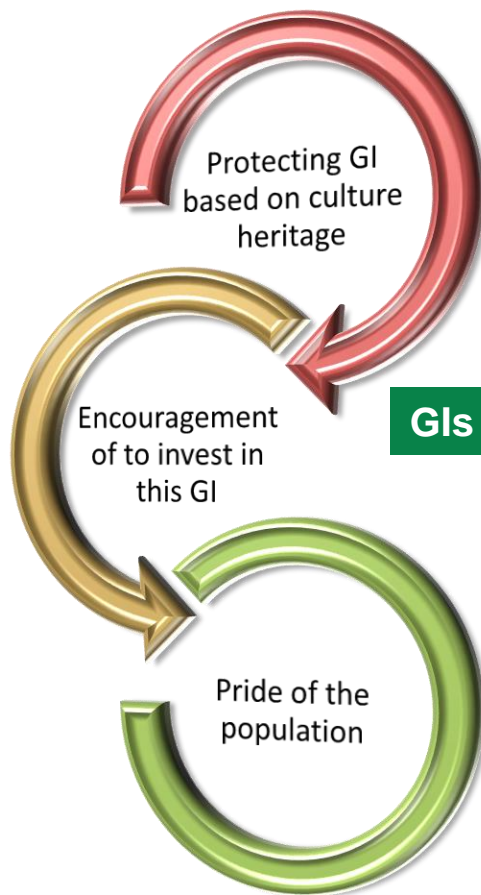
**Baoule cloth**



**Kente**



**Taita Baskets**



**GIs allow preserving the cultural heritage**

**More economic benefits**



## Preserving cultural heritage is a constant battle

- **Frequent misconception on the subject matter of GI protection**
  - a name and not the product itself
  - Need to protect name and know-how sometimes including through mechanisms of intellectual property or maybe through the mechanism of TK, where existing



## Action taken to mitigate the identified challenges



# ASSETS

- Immense **pool of traditional** products with important economic, social and environmental contributions
- Common growing middle class in Africa
- Common **growing demand for local products**
- Common diplomatic positions at the WTO
- Common interest from international donors on GIs (EU, France) since 10-15 years

# CHALLENGES

- Historical background regarding the **“non-protection” of traditional know-how and names associated**
- Contemporary **misappropriation or genericity of names**
- Continental public policies to fight poverty, rural exodus and to foster competition based on quality of products

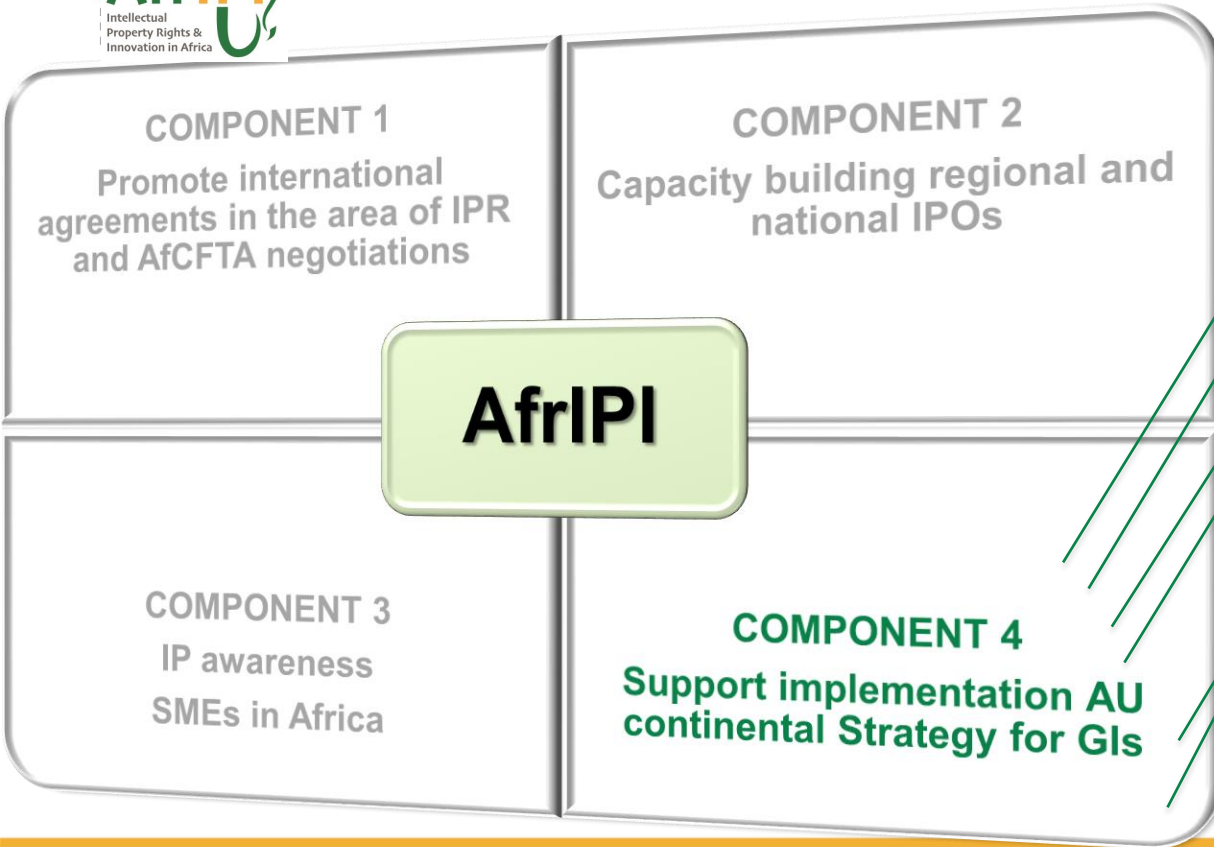
# The adoption of a continental strategy



**To account for the multidisciplinary  
nature of GIs (outcomes)**

Streamline the efforts of states and technical partners to implement GIs in  
Africa

## GIs in the AfrIPI project



1. An African vision on GIs is developed and shared

2. Legal and institutional frameworks are enabled at the national and regional levels

3. The registration of pilots is supported

4. The development of the marketing of product is supported

5. Research, training and dissemination is encouraged

6. Awareness-raising of the population at large

### High level sui generis system:

Algeria, Benin, Botswana, Burkina Faso, Cabo Verde, Cameroon, Central Africa, Chad, Comoros, Congo, Cote d'Ivoire, Djibouti, Equatorial Guinea, Gabon, Ghana, Guinea, Guinea Bissau, Malawi, Mali, Mauritania, Morocco, Mozambique, Niger, Niger, Sao Tome and Principe, Senegal, South Africa, Togo, Tunisia, Uganda

### Low level sui generis system:

Burundi, Democratic Republic of Congo, Egypt, Mauritius, Rwanda, Seychelles, Zimbabwe, Zambia

### Collective trademark system of registration OR certification system:

Ethiopia, Gambia, Lesotho, Madagascar, Sierra Leone, Liberia, Nigeria

### Collective and certification trademarks system of registration:

Kenya, Namibia

### Countries where there is no registration system for GIs:

Angola, Eritrea, Eswatini, Libya, Sahara Democratic Republic, Somalia, Sudan, South Sudan, Tanzania





# The members of the consultative committee and of the GI TWG



Food and Agriculture  
Organization of the  
United Nations



WIPO



**IGE | IPI**



- **GIs a new subject of attention which is consistent with other public policies on poverty and economic development**
- **GIs have many benefits. Not a magic tool. Efforts from states, producers, partners.**
- **The continental strategy comes in support as a roadmap to give guidance on the efforts that states need to implement to do better with their GIs**



**THANK YOU**



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