

# **The Potential of Distinctive Signs to Promote Inclusive and Sustainable Economic Development**

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## Setting the scene

- The goal: inclusive and sustainable economic development
- The means: use of distinctive signs to create consumer demand
  - Trademarks
  - Certification marks
  - Collective marks
  - *Sui generis* (geographical indications, GIs)

## Setting the scene: GIs

- Link to a geographical area for quality, reputation, or other characteristic of the identified good (Art. 22 TRIPS)
- Production, processing, and/or preparation in that area (different national standards)
- Product characteristics may include considerations of biodiversity, environmental management, traditional or biological production methods
- Essential role of technical standards/specifications
- Tool to promote niche markets and geographical areas

## Setting the scene: Certification marks

- Certify quality and nature of a product/process
- Certification of broader considerations possible, e.g. fair trade, labor standards, etc.
- Technical standards matter
- No need for a geographical link
- Trademark owner (often government agency) does not itself use the mark

## Setting the scene: Collective marks

- Link to specific group and its standards
- No need for a geographical link
- No need for technical standards: only need to identify the producers
- Members of the collective use the mark

# Sustainable and inclusive economic development

- Benefits should be larger than the costs
  - For the users of distinctive signs
  - For society at large
    - Economic integration, jobs
    - Conservation of biodiversity
- All parts of society
  - Including small holders and traditional communities

## Pro-active promotion of biodiversity

- Direct purpose of distinctive signs is NOT the protection of biodiversity
- Indirect result of technical standards:
  - Biodiversity
    - *Comté* cheese: geographic area covers 30-65 botanical species that impact the quality of the milk and cheese
  - Artisanal methods as opposed to industrial production
    - Avoiding monocultures
    - Finding a niche in the market to achieve prime prices

# Integrating environmental & TK considerations into product specifications along the value chain

- Territory
  - Maintenance of genetic diversity
- Knowledge & practices
  - Codification
- Production
  - Transfer of TK into production methods
- Packaging & labeling
  - Traditional or recycable materials
- Marketing & distribution
  - Link origin to territory and communities



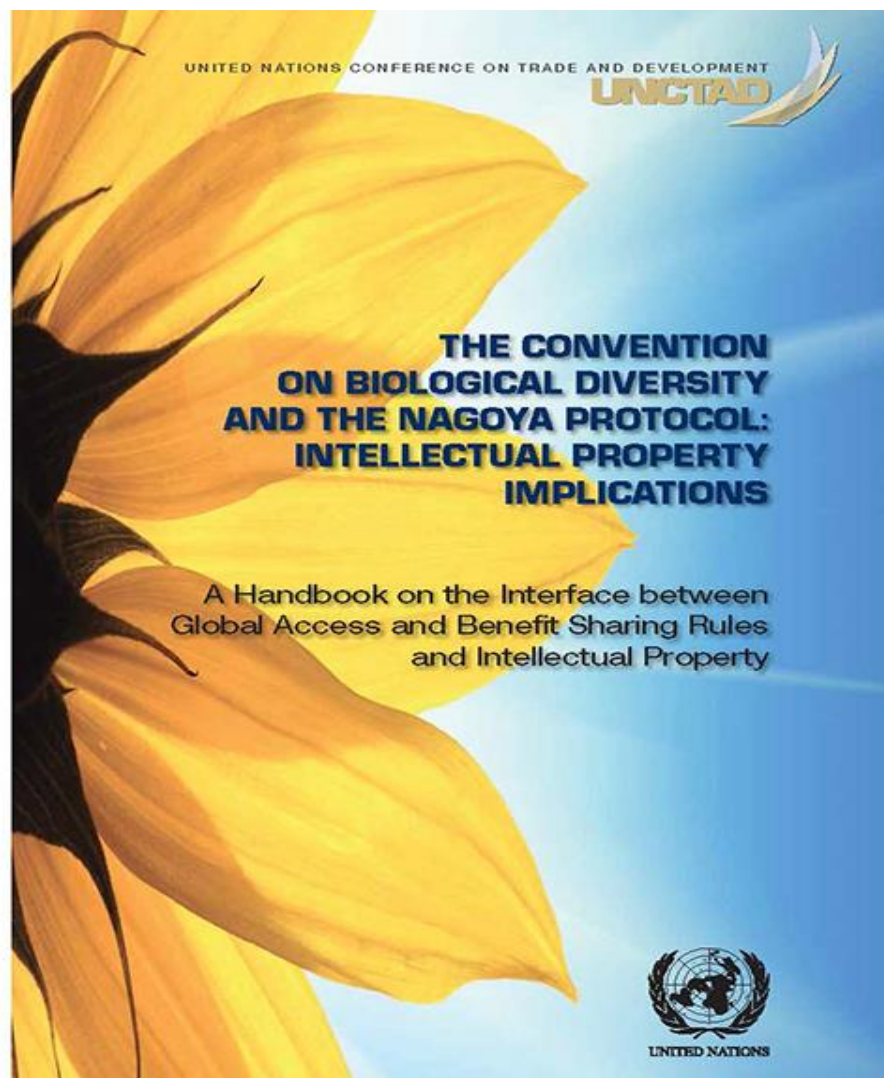
## Need for strong producer associations

- Define standards, harmonize production process
  - Treatment of the raw material
  - Designate territory (in case of GIs and certain TMs)
- Quality and verification controls
- Joint labeling & marketing strategies
- Informal sector in developing countries
  - Atomized production
  - Directly sold to consumer
  - Lack of cooperative governance structures

## Defensive protection against misappropriation of traditional knowledge or genetic resources

- Patenting of R&D processes & results that contain TK or GRs, without consent from providers
  - Attempts to patent forms of *quinoa*
- Distinctive signs cannot directly prevent this:
  - Protected is use of the sign
  - Not the content / knowledge *per se*
- But codification of TK/GRs in trademark/GI specifications impacts prior art analysis

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# Thank You

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