


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 FEB 13 P 3:46

SENATE
S. B. No. 1868

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

AN ACT
PROVIDING FOR PROTECTED GEOGRAPHICAL INDICATIONS OF LOCALLY PRODUCED AGRICULTURAL OR NATURAL (UNPROCESSED OR WILD) PRODUCTS, PROCESSED PRODUCTS, OR ANY PRODUCTS OF HANDICRAFT OR INDUSTRY

EXPLANATORY NOTE

Our country prides itself on goods and products that are uniquely characterized to be part of our Filipino culture and heritage. In the international marketplace, these products should ideally represent our people's creativity and innovativeness; it should hallmark the Filipino brand of quality to its global and local consumers. Nonetheless, this framework finds difficulty in application largely because of our country's weak regulation and lack of protection of our product's identity or geographical indication.

Similar to House Bill No. 531 introduced by Representative Geraldine B. Roman, these guidelines aim to protect our products' geographical indication by preventing its use by individuals and entities who do not subscribe to the standards set forth in this Act.

Ultimately, this proposed bill would not only safeguard our local producers' superior quality of manufacturing and craftsmanship, but would also protect consumers from disingenuous and substandard products that pose to be truly "Filipino-made."

In that sense, this measure cleaves closely to our long-held advocacy of supporting "Tatak Pinoy" or Proudly Filipino industries and entrepreneurs. Through this measure, not only do we want to ensure that products sold in the market were indeed produced, grown, or manufactured in the places they were said to have been produced, grown, or manufactured. We also want to ensure that products that bear

any mark of having come from anywhere in the Philippines, are in fact things that all Filipinos can be proud of and showcase around the world.

Approval of the bill is thus earnestly requested.

A handwritten signature in dark ink, appearing to read 'SONNY ANGARA', with a long, sweeping horizontal stroke extending to the right.

SONNY ANGARA

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Article I

General Provisions

1
2
3 Section 1. *Short Title.* – This Act shall be known as the "*Protected Geographical*
4 *Indications Act.*"

5 Section 2. *Declaration of Policies.* – The State recognizes the importance of
6 geographical indications in agricultural, economic, and cultural development. It
7 increases the competitive advantage of agricultural and industrial products with
8 unique quality, reputation or characteristics that are essentially attributable to their
9 geographical origin, thereby facilitating local and foreign market access and
10 recognition. Further, rural socio-economic development is bolstered by the consequent
11 creation of job opportunities from production, processing, and distribution.

12 Towards this end, the State shall endeavor to protect and promote these
13 industries by helping producers communicate the product characteristics and their
14 attributes to buyers and consumers to ensure:

- 15 a) Fair competition of producers;
16 b) Availability of reliable information to consumers;

1 c) Respect for intellectual property rights; and

2 d) Integrity of the market.

3 Section 3. *Definition of Terms.* – For purposes of this Act, the following terms
4 are hereunder defined accordingly:

5 a) *Bureau* refers to the Bureau of Trademarks;

6 b) *Controls* refers to the verification of the compliance of goods with the Manual
7 of Specifications, either by internal or external authorities or system;

8 c) *Director General* refers to the Director General of the Intellectual Property
9 Office of the Philippines (IPOP HL);

10 d) *E-Gazette* refers to the IPOP HL's own publication where all matters required to
11 be published under the IP Code shall be published;

12 e) *Evocation of a geographical indication* refers to a term, sign, or other labelling
13 or packaging device that presents a direct and clear link with the product
14 covered by a protected geographical indication in the mind of the reasonably
15 intelligent consumer, thereby exploiting, weakening, diluting or being
16 detrimental to the reputation of the registered name;

17 f) *Fees* refer to costs imposed on direct recipients of public goods and services
18 provided and performed by the IPOP HL in the exercise of its functions; they
19 also include charges and other costs;

20 g) *Geographical indication (GI)* refers to indications which identify a good or
21 product as originating in a territory, region, or locality, where a given quality,
22 reputation, or other characteristic of the good is essentially attributable to its
23 geographical origin and/or human factors;

24 h) *Goods/Products* refer to any agricultural or natural (unprocessed or wild)
25 products, processed products, or any products of handicraft or industry;

26 i) *Homonymous geographical indication* means a geographical indication that, in
27 part or in whole, has the same spelling as, or sounds alike as, another
28 geographical indication but identifies goods having a different geographical
29 origin;

30 j) *Indigenous Cultural Communities/Indigenous Peoples (ICC/IPs)* refers to a
31 group of people or homogenous societies identified as self-ascription and
32 ascription by others, who have continuously lived as organized communities on

1 communally bounded and defined territories, and who have, under claims of
2 ownership since time immemorial, occupied, possessed and utilized such
3 territories, sharing common bonds of language, customs, traditions and other
4 distinctive cultural traits, or who have, through resistance to political, social and
5 cultural inroads of colonization, non-indigenous religions and cultures, became
6 historically differentiated from the majority of Filipinos. ICC/IPs shall likewise
7 include peoples who are regarded as indigenous on account of their descent
8 from the populations which inhabited the country, at the time of conquest or
9 colonization, or at the time of inroads of non-indigenous religions and cultures,
10 or the establishment of present state boundaries, who retain some or all of
11 their own social, economic, cultural and political institutions, but who may have
12 been displaced from their traditional domains or who may have resettled
13 outside their ancestral domains;

14 k) *Indication* refers to a name of a territory, region or locality; or under exceptional
15 circumstances, the name of a country;

16 l) *IP Code* refers to Republic Act No. 8293 otherwise known as the Intellectual
17 Property Code of the Philippines;

18 m) *Manual of Specifications* means a document that contains the name to be
19 protected as a geographical indication, description of the goods, the delimited
20 geographical area where the goods are produced, and an explanation of the
21 link between the said area and its quality, reputation, or characteristics;
22 description of its production processes; quality control process and standards
23 and labeling rules, among others;

24 n) *Office* refers to the Intellectual Property Office of the Philippines (IPOPHL);

25 o) *Paris Convention* means the Convention for the Protection of Industrial Property
26 signed at Paris on 20th March 1883, and any revision or amendment thereto
27 which has become into force in the Philippines;

28 p) *Person* refers to any juridical person, organization, association or duly
29 constituted government unit, body, or agency;

30 q) *Producer* refers to:

31 i. any producer of agricultural product or natural products;

32 ii. any processor of natural or agricultural or agri-food products;

1 Section 6. *Names, Symbols, and Indications.* – Protected geographical
2 indications may be used by any operator marketing a product which conforms to its
3 corresponding specifications.

4 A national logo designed to publicize protected geographical indications shall
5 be established. The Bureau shall constitute a National Logo to certify all registered
6 geographical indication goods in the Philippines.

7 Section 7. *Acquisition of Rights.* – The enhanced protection afforded under this
8 Act to any indication constituting a geographical indication shall be obtained through
9 valid registration and a certificate issued to that effect by the Bureau.

10 Section 8. *Rights of Registrants.* – Registered Geographical Indications shall
11 be protected against:

- 12 a) Any direct or indirect commercial use of a registered name with respect to
13 products not covered by the registration where those products are comparable
14 to the products registered or where using the name exploits the reputation of
15 the protected name, including when those products are used as an ingredient;
- 16 b) Any misuse, imitation, or evocation, even if the true origin of the products or
17 services is indicated or if the protected name is translated or accompanied by
18 an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or
19 similar, including when those products are used as an ingredient;
- 20 c) Any other false or misleading indication as to the provenance, origin, nature,
21 or essential qualities of the product that is used on the inner or outer packaging,
22 advertising material, or documents relating to the product concerned, and the
23 packing of the product in a container tending to convey a false impression as
24 to its origin;
- 25 d) Any use of a geographical indication which constitutes an act of unfair
26 competition within the meaning of Article 10^{bis} of the Paris Convention;
- 27 e) Any other practice that tends to mislead the consumer as to the true origin of
28 the product.

29 Where a protected geographical indication contains within it the name of a
30 product which is considered to be generic, the use of that generic name shall not be
31 considered to be contrary to sub-paragraphs (a) and (b) of the preceding paragraph.

32 Protected geographical indications shall not become generic.

1 **Article III**

2 **Registration Authority**

3 Section 9. *Geographical Indications Registrar.* - The Director of the Bureau of
4 Trademarks shall act as the Registrar of Geographical Indications who has the
5 authority to examine and register applications for the registration of geographical
6 indications, and implement the provisions of this Act.

7 Section 10. *Register of protected Geographical Indications.* – The Registrar
8 shall keep and maintain a register to be known as the Register of Protected
9 Geographical Indications which shall contain all the recorded particulars as the
10 Registrar deems appropriate.

11 The Register shall be open to the inspection of the public during business hours,
12 and accessible/searchable online, subject to certain conditions as the Registrar may
13 prescribe. A certified true copy or extract of any entry in the Register shall be provided
14 to any person requiring the copy or extract upon payment of the prescribed fee.

15 The Registrar, as soon as practicable, shall make applications for registration
16 available and allow for the filing of observation or objections online or in electronic
17 form.

18 **Article IV**

19 **Registration**

20 Section 11. *Applicants*– The following may make an application to the Registrar
21 for the registration of a geographical indication:

- 22 a) Producers referred in Section 3(q) or producers' organization or association
23 representing stakeholders directly involved in the extraction, production or
24 manufacture of the goods covered by the geographical indication;
- 25 b) Government agencies or local government units having area of responsibility
26 covering the geographical origin of the goods, as well as representatives of
27 foreign governments, relative to the geographical indication of its nationals,
28 whose laws afford the same rights and protection to Philippine nationals; and
- 29 c) Organizations or associations or indigenous cultural communications/indigenous
30 peoples which are specifically entrusted with the task of regulating and/or
31 protecting geographical indication by paragraphs (a) or (b).

1 Section 12. *Representation; Address for Service.* - If the applicant is not
2 domiciled nor has no real and effective commercial establishment in the Philippines,
3 it shall designate by a written document filed in the Office, the name and address of
4 a Philippine resident or representative from the Embassy, Consulate or Chamber of
5 Commerce in the Philippines of the country where the goods originated, who may be
6 served notices or process in proceedings affecting the geographical indication. Such
7 notices or services may be served upon the person so designated by leaving a copy
8 thereof at the address specified in the last designation filed. If the person so
9 designated cannot be found at the address given in the last designation, such notice
10 or process may be served upon the Registrar.

11 Section 13. *Additional Qualifications for Non-Filipino Applicants.* - The applicant
12 who is neither a domestic corporation or organization/association nor a local
13 government unit, body or agency and intends to apply for registration of a
14 geographical indication of a foreign country must also have any of the following
15 qualifications:

- 16 a) a juridical entity incorporated or organized in a country which is a party to the
17 World Trade Organization Agreement on Trade-Related Aspects of Intellectual
18 Property Right or to other international convention or agreement concerning the
19 protection of geographical indication, to which the Philippines is also a party; or
20 b) domiciled or has a real and effective industrial or commercial establishment in
21 the Philippines or in a country which is a party to an international convention or
22 agreement concerning the protection of geographical indications, to which
23 Philippines is also a party;

24 Section 14. *Requirements of Application.* - The application for the registration
25 of the geographical indication shall be in the prescribed form, may be in Filipino or in
26 English and shall be filed before the Registrar, containing the following details:

- 27 a) name and address of the applicant;
28 b) name of the State of which the applicant is a juridical entity or the law under
29 which it is organized and existing; or name of the State in which the
30 applicant has domicile or has a real and effective industrial or commercial
31 establishment;
32 c) name of the geographical indication sought to be registered;

- 1 d) the goods to which the geographical indication applies;
- 2 e) description of the geographical area to which the geographical indication
- 3 applies, including its territorial limitations or boundaries;
- 4 f) description of the specific quality, reputation or other characteristic of the
- 5 goods and how that quality, reputation or other characteristic, as the case
- 6 may be, is essentially attributable to the geographical origin and/or human
- 7 factors;
- 8 g) copy of the Manual of Specifications duly formulated and adopted by the
- 9 stakeholders or its governing board or council;
- 10 h) certification from the concerned government agency or equivalent
- 11 independent body:
- 12 i. validating the causal link between specific quality, reputation or
- 13 other characteristic of the goods and the geographical area where
- 14 it originated or produced as described in paragraph f; and
- 15 ii. the technical information pertaining to the product specifications in
- 16 the Manual of Specifications;

17 The Registrar may require the submission of other details as may be necessary.

18 Section 15. *Proof of GI Protection from Foreign Authorities.* - Foreign applicants

19 shall also submit within a reasonable period as may be determined by the Office, proof

20 issued by competent agency of the government or any private certifying entity,

21 showing that the subject of the application is a registered or protected geographical

22 indication. Other analogous legal documents or proof may also be accepted.

23 Section 16. *Filing Date.* - The filing date of an application shall be the date on

24 which the Registrar received a fully accomplished application form, containing all the

25 details set forth under Section 14 of this Act together with the proof of payment of

26 the required fee.

27 **Article V**

28 **Examination**

29 Section 17. *Examination; Deficiencies.* - The Registrar shall examine the

30 applications for registration of geographical indication in accordance with this Act.

31 Should there be any deficiency in the application, the applicant shall be notified by

32 the Registrar to remedy the same, and if deemed necessary, shall be requested to

1 submit additional information or documents within two (2) months from mailing date
2 of the notice. The period to respond may be extended upon written request by the
3 applicant and payment of the required fee for an additional period of one (1) month
4 each but not to exceed the total of four (4) months from mailing date of the official
5 action. Any request for such extension must be filed on or before the day on which
6 the response of the applicant is due.

7 In case the deficiencies are not remedied or if the applicant failed to submit
8 the additional information or documents within the prescribed period, the application
9 shall be considered withdrawn without prejudice to the right of the applicant to re-file
10 the same application subject to the requirements set forth under this Act.

11 Section 18. *Disclaimer.* - A generic or customary term or common name
12 component of a geographical indication should be disclaimed. In general, a name or
13 term is considered generic, customary or common if it is understood by the general
14 public in the Philippines or the relevant consumers of the goods covered by the
15 geographical indication to be the product itself or the name and denomination used
16 to refer to the goods themselves.

17 Section 19. *Withdrawal of Application.* - The application may be withdrawn at
18 any time by filing with the Registrar a written declaration of withdrawal signed by the
19 applicant or its authorized representative or agent and upon payment of the
20 prescribed fee.

21 **Article VI**

22 **Homonymous Geographical Indications**

23 Section 20. *Protection for Homonymous Geographical Indications.* - In the case
24 of homonymous geographical indications for goods as defined in Section 3(i), the
25 protection shall be accorded to each indication.

26 Section 21. *Differentiation of Homonymous Geographical Indications.* - The
27 Registrar, in cases of bona fide concurrent use of homonymous geographical
28 indications, shall determine the practical conditions under which the homonymous
29 geographical indications in question will be differentiated from each other, taking into
30 account the need to ensure equitable treatment of the producers concerned and that
31 the public are not misled.

32

1 **Article VII**

2 **Refusal of the Application**

3 Section 22. *Grounds for Refusal.* - The following names shall not be registered
4 as geographical indication and shall be refused:

- 5 a) Those which are contrary to laws and regulations, public order, public policy or
6 morality;
- 7 b) Geographical indications of foreign country which are not or have ceased to be
8 protected in their country or territory of origin;
- 9 c) Those which mislead or deceive the public as to the characteristic, nature, quality,
10 place of origin, production process of the good and/or its use;
- 11 d) Those which consist exclusively of, or identical with, a generic, common or
12 customary name of the goods in the Philippines and the geographical indication
13 sought to be registered will be applied for the same goods;
- 14 e) Those which are identical with or confusingly similar to the name of a plant variety
15 or animal breed and is likely to mislead the consumer as to the true origin of the
16 goods;
- 17 f) Those which do not fall within the prescribed definition of geographical indication;
18 and
- 19 g) Those which are identical with, or confusingly similar to, or an evocation of, an
20 earlier filed or registered geographical indication in the Philippines or in a treaty
21 or international agreement of which the Philippines is a member in respect of the
22 same goods or closely related goods as to cause confusion.

23 Section 23. *Order of Refusal.* - Upon proper notification, an Order of Refusal
24 shall be issued by the Registrar to the applicant who may appeal the same to the
25 Director General in accordance with the Uniform Rules on Appeal. No motion for
26 reconsideration of the Registrar's decision is allowed.

27 **Article VIII**

28 **Publication**

29 Section 24. *Publication.* - When the Registrar finds that the requirements
30 prescribed by this Act are satisfied, it shall, upon payment of the prescribed fee,
31 forthwith cause the application to be published in the e-Gazette for a period of three
32 (3) months. The publication shall include the following:

- 1 a) Application number;
- 2 b) Filing date;
- 3 c) All the details set forth under Section 14; and
- 4 d) Other matters which the Registrar may deem necessary.

5 **Article IX**

6 **Opposition to the Registration of Geographical Indication**

7 Section 25. *Opposition.* – a) Within one (1) month from the publication of the
8 application of the geographical indication and upon payment of the prescribed fee,
9 any interested person who may be damaged by its registration may file before the
10 Bureau of Legal Affairs (BLA) of the IPOPHL, a notice to oppose the registrability of
11 the geographical indication.

12 b) Within one (1) month from receipt by the BLA of such notice, a verified and
13 written opposition, including supporting documents, must also be submitted, without
14 need of any notification from the BLA. Failure to comply within the prescribed period
15 will result to the dismissal of the Opposition.

16 (c) A copy of the opposition shall be furnished by the BLA to the applicant who
17 may comment on it within one (1) month from receipt of the order. The opposition
18 will be taken into consideration by the BLA in deciding whether to grant or refuse
19 protection to the geographical indication being applied for.

20 The period to file the opposition may be extended for another one (1) month
21 upon written request of the interested person for good and sufficient cause and upon
22 payment of the required fee.

23 **Article X**

24 **Term of Protection**

25 Section 26. *Finality of Decision; Registration and Term of Protection.* - If no
26 opposition is filed within the prescribed period, the geographical indication shall be
27 granted protection on the day immediately after the last day of publication and
28 entered in the Register of Protected Geographical Indications. In case there is an
29 opposition, the protection shall be reckoned from the finality of the decision that the
30 geographical indication is entitled to registration and protection. The registered
31 geographical indication is protected for an unlimited term until or unless revoked with
32 finality.

1 **Article XI**
2 **Amendment**

3 Section 27. *Amendment of an Application or Registration* – The application for
4 registration or the registration of a geographical indication may be amended, at the
5 request of the applicant or registrant to correct the formalities in the application or
6 registration and the details in the Manual of Specifications.

7 **Article XII**
8 **Cancellation of Registration**

9 Section 28. *Cancellation of Registration.* – At any time, upon payment of the
10 prescribed fee and upon a verified petition by any interested person that the protection
11 of geographical indication accorded under Section 7 is no longer warranted, due notice
12 and opportunity to be heard shall be given to the registrant. If the same petition is
13 found to be meritorious, the BLA shall cancel the registration based on any of the
14 following grounds:

- 15 a) The conditions for protection specified under Section 3(g) have not been fulfilled;
16 b) There has been a change in the geographical origin of the goods including the
17 natural and human factors, which are determinative of the quality, reputation or
18 characteristics of the goods bearing a geographical indication and such change
19 results to the disqualification;
20 c) Based on the ruling or decision of the court or tribunal, the applicant-registrant
21 referred to under Section 11 has no effective control over the use of the
22 geographical indication, standards of production of the goods and other product
23 specifications;
24 d) The registration of the geographical indication was obtained through false
25 statements and documents during the course of the application; and
26 e) The registered or protected geographical indication has been proven to be generic
27 for, or a common or customary name of the goods covered thereby in the
28 Philippines prior to the grant of protection.

29 Section 29. *Notice of Verified Petition.* The BLA shall notify and furnish a copy
30 of the verified petition to the concerned registrant of the geographical indication who
31 may comment to it within one (1) month from receipt of the order.

1 The period to file the comment may be extended for another one (1) month
2 upon written request of the registrant for good and sufficient cause and upon payment
3 of the required fee. Thereafter, the petition shall be submitted for decision of the
4 Director of the BLA.

5 Section 30. *Appeal.* – Any party who is aggrieved by the decision of the Director
6 of the BLA may appeal to the Director General in accordance with the Uniform Rules
7 on Appeal. No motion for reconsideration of the BLA Director’s decision is allowed.

8 **Article XIII**

9 **Exceptions**

10 Section 31. *Prior Users of Geographical Indications and Trademarks.* –

11 1) Nothing in this Act shall prevent the continued or similar use of a particular
12 geographical indication of another country identifying goods in connection with goods
13 or services by any national or domiciliary of Philippines or any national with real or
14 effective commercial establishment in, or doing business in the Philippines, who have
15 used said geographical indication in a continuous manner with regard to the same or
16 related goods or services in the Philippines either -

17 a) For at least 10 years before April 15, 1994; or

18 b) In good faith before April 15, 1994.

19 2) Where the trademark has been applied for or registered in good faith, or
20 where rights to a trademark have been acquired through use in good faith either –

21 a) Before the effectivity of this Act; or

22 b) Before the geographical indication is protected in its country of origin.

23 Measures adopted to implement this Act shall not prejudice the eligibility for or
24 the validity of the registration of the trademark, or the right to use a trademark, on
25 the basis that such trademark is identical with or similar to, a geographical indication.

26 **Article XIV**

27 **Indigenous Cultural Communities/Indigenous Peoples**

28 Section 32. *Additional mechanism.* Considering the rights accorded to the
29 indigenous cultural communities/indigenous peoples under the pertinent laws and
30 international instruments, this Act shall serve as an additional mechanism towards
31 recognition of the full ownership and control and protection of their cultural and
32 intellectual rights.

1 Section 33. *Filing and compliance assistance.* Recognizing the importance and
2 benefits of protecting, promoting and preserving traditional knowledge and traditional
3 cultural expressions through geographical indications, the Office shall endeavor to
4 capacitate and assist the indigenous cultural communities/indigenous peoples in the
5 filing of their applications and compliance of the prescribed requirements.

6 Section 34. *Waiver of fees.* The Director General is authorized to grant partial
7 or total waiver of fees for applications filed by recognized indigenous cultural
8 communities/indigenous peoples prescribed by the Bureau relevant to the GI
9 registration.

10 Section 35. *Non-diminution of rights.* – Nothing in this Act may be construed
11 as diminishing or extinguishing the rights that indigenous cultural
12 communities/indigenous peoples have or may acquire in the future.

13 **Article XV**

14 **Infringement of Geographical Indications,** 15 **Sanctions and Penalties**

16 Section 36. *Infringement of Geographical Indications.* - Any willful use of
17 registered geographical indications in a manner prescribed under Section 8 without
18 the consent or authorization from the registrant is considered as an infringement and
19 offense against the economic interest of the State. The State can motu proprio take
20 administrative or legal measures to enforce protection of geographical indication
21 against the geographical indications' infringers.

22 Section 37. *Penalties.* - Independent of the civil and administrative sanctions
23 imposed by law, a criminal penalty of imprisonment from two (2) years to five (5)
24 years and a fine ranging from five hundred thousand pesos (P500,000.00) to one
25 million pesos (P1,000,000.00), shall be imposed on any person who is found guilty of
26 committing infringement of geographical indications.

27 **Article XVI**

28 **Final Provisions**

29 Section 38. *Implementing Rules and Regulations.* Within ninety days (90) after
30 the effectivity of this Act, the Office, in consultation with the relevant stakeholders,
31 shall formulate the implementing rules and regulations (IRR) necessary to carry out
32 the provisions of this Act.

1 Section 39. *Transitory Provision.* – Geographical indications registered by the
2 Intellectual Property Office of the Philippines under Republic Act No. 8293 and its
3 regulations prior to the effectivity of this Act shall remain valid and effective. They
4 shall automatically be transferred to, and form part of, the register created under this
5 Act.

6 Section 40. *Repealing Clause.* – All laws, acts, presidential decrees or
7 proclamations, issuances, executive orders, letters of instruction, administrative
8 orders, rules and regulations, or parts thereof inconsistent with any of the provisions
9 of this Act are hereby repealed, amended, or modified accordingly.

10 Section 41. *Separability Clause.* – If any provision of this Act is declared
11 unconstitutional, the remainder of this Act or any provision not affected thereby shall
12 remain in full force and effect.

13 Section 42. *Effectivity.* – This Act shall take effect fifteen (15) days after its
14 publication in the *Official Gazette* or in a newspaper of general circulation.

15

Approved,