

India's Accession to the Geneva Act of the Lisbon Agreement: Legal Compatibility, Costs and Benefits, and a Strategic Framework for International GI Protection

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Abstract:

India has over 800 registered geographical indications (GIs), but legal protection for just about all of them is limited to the national border. The paper examines whether the Lisbon Agreement (Geneva Act of 2015) can be incorporated into Indian law and if accession would benefit the Indian producers. A doctrinal and comparative approach investigates the Geneva Act, the TRIPS Agreement, the Paris Convention, the Geographical Indications of Goods (Registration and Protection) Act, 1999, constitutional provisions in relation to the implementation of the treaties, judicial decisions and official data as of October 2026. The study reveals a general compatibility. Indian legislation already has a sui generis register, identifies convention countries and prohibits generic names. Three frictions surfaces: scope of protection is broad; there is a strong rule against genericide; and there is no protection for services. Benefits are one filing to 29 Contracting Parties (up to 62 countries), costs are mostly in examining capacity and with domestic users of foreign names. Statutory changes and the flexibilities provided in Article 7(4) and 29(4) followed by accession, is a viable option for India's international GI protection.

1. Introduction

A Banarasi saree holds centuries of weaving wisdom. Outside, it matters nigh nothing legally. That space is at the heart of this paper. Pursuant to its obligations under the TRIPS Agreement, India has enacted the Geographical Indications of Goods (Registration and Protection) Act, 1999 (hereinafter referred to as 'GI Act') with effect from 15 September 2003.¹ Procedural detail is to be found in the Rules of 2002.² Registration has since rapidly increased. As of January 2024, a peer-reviewed study of the Registry's records counted 547 registered GIs from 1,181 applications an overall grant rate of approximately 46per cent.³ The totals are reached by official 2026 statistics of

¹ The Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India) (brought into force on 15 September 2003)

² The Geographical Indications of Goods (Registration and Protection) Rules, 2002 (India)

³ "Two Decades of the Geographical Indications of Goods (Registration and Protection) Act, 1999: A Review of 547 Registered Geographical Indications", *Journal of Intellectual Property Rights* (CSIR-NIScPR, New Delhi).

over 800 with 607 since the introduction in 2014, with a rise from just over through to an estimated 29k complaining users (as of January 2025).⁴ The register is dominated by crafts: in 2020, handicrafts made up 57.9 per cent of registered GIs, and agricultural goods 30.2 per cent.⁵

But a registration in Chennai ties no court in Lyon or Lima. While GIs are defined and minimum standards set in TRIPS⁶, there is a further protection from any obligation to protect any GI that is not protected at origin under Article 24(9).⁷ Even older, the Paris Convention included appellations of origin as industrial property without setting up a machinery for registration.⁸ Consequently, Indian producers seeking protection in foreign countries must file country-by-country, depend on passing off, or wait for bilateral agreements. On 27 January 2026, the India–EU Free Trade Agreement (FTA) was concluded as an umbrella covering several areas, leaving GIs subject to a separate agreement that still remains under negotiation.⁹ Bilateralism is by nature slow and one-sided.

Another route is provided by the Geneva Act of the Lisbon Agreement. It was adopted on 20 May 2015 and extends the Lisbon system to all GIs (not just appellations of origin) while also permitting membership to intergovernmental organisations.¹⁰ (Council Decision (EU) 2019/1754¹¹; SAV only with supportive Regulation (EU) 2019/1753¹²; the Act entered into force on 26 February 2020.) The Act applies to thirty Contracting Parties covering up to sixty-two countries as of 21 October 2026, following the accession of Serbia on 21 July 2026. India is not a signatory of the 1958 Agreement, nor the Geneva Act.¹³

Should that change? It has come up in comment but few have probed clause by clause against the Indian statute; or weighed real costs against real benefits. This paper does both, before recommending a sequenced accession framework.

2. Objectives

1. To assess the legal compatibility of the Geneva Act with the Constitution of India and the GI Act, 1999.
2. To weigh the costs and benefits of accession and propose a strategic framework for international GI protection.

⁴ Press Information Bureau, Ministry of Commerce & Industry, Government of India, release on Geographical Indications (August 2026).

⁵ Latha Nair, "Should India Join the Geneva Act of the Lisbon Agreement, 2015?", *SpicyIP* (12 March 2020), <https://spicyip.com/2020/03/should-india-join-the-geneva-act-of-the-lisbon-agreement-2015.html>

⁶ Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, art. 22(1).

⁷ *Id.*, art. 24(9).

⁸ Paris Convention for the Protection of Industrial Property, 20 March 1883, as revised at Stockholm, 14 July 1967, art. 1(2).

⁹ European Commission, Directorate-General for Trade, "EU–India Agreements", <https://policy.trade.ec.europa.eu> (negotiations relaunched 17 June 2022; FTA concluded 27 January 2026).

¹⁰ Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, 20 May 2015, art. 2(1).

¹¹ Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, OJ L 271, 24.10.2019

¹² Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019 on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, OJ L 271, 24.10.2019.

¹³ WIPO, "Serbia Joins the Geneva Act of the Lisbon Agreement", *Lisbon System News* (2026), <https://www.wipo.int/web/lisbon-system>

3. Research Methodology

The study adopts a doctrinal method. The Geneva Act, original Lisbon Agreement, TRIPS Agreement, Paris Convention, GI Act and Rules, the provisions in the Constitution of India as well as case-laws from the Supreme Court & Delhi High Courts form part of primary sources. The comparative layer relies on the EU, as one of the biggest members of the system and Djibouti, a developing country that made use of flexibilities contained in the Act. At registration, data was obtained from official releases and peer-reviewed analysis. Limits exist. It does not involve any empirical survey of producer groups and there are still not very many reliable price-premium estimates for Indian GIs abroad, so the cost-benefit analysis is qualitative rather than econometric.

4. The Lisbon System and the Geneva Act: Legal Architecture

Only appellations of origin names that identify a product whose quality and characteristics are "given by the geographical environment exclusively or essentially" are protected under the Lisbon Agreement, which was signed on 31 October 1958.¹⁴ Few countries joined. It was a much more narrowly defined subject matter than suited wine in countries such as France, Italy and Portugal whose GI laws were based on the looser regime of TRIPS. WIPO Reform started in 2009 and finished with a Diplomatic Conference in Geneva on May 2015. Four changes matter for India.

Subject matter widened. The draft of Article 2 extended the current coverage to include geographic indications in addition to appellations of origin, which more easily permits a TRIPS-style GI (e.g., Kanchipuram Silk), without requiring an adherence to proof of an exclusive environmental link. The legal form of domestic protection became open. Under Article 10(1), each Contracting Party may implement its obligations through any type of legislation, *sui generis* or otherwise, provided the substantive requirements are met.¹⁵

Procedure gained flexibility. A Contracting Party shall have one year to refuse effect to an international registration, and can also give third parties transitional periods for the disuse of previous use.¹⁶ Article 7(4) allows the taking of an individual fee for substantive examination.¹⁷ Under Article 29(4) a State can extend the refusal period and transitional periods for a further year.¹⁸ In its declarations, Djibouti, which acceded on 13 February 2024, invoked both provisions.¹⁹

Protection grew stronger. Article 11 protects a registered name from use on non-origin goods of the same kind, as well as from use on dissimilar goods or services where such use creates a likelihood of confusion with regard to an economic link or unfairly exploits reputation. The shield even applies to where the actual mark is present (where

¹⁴ Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 31 October 1958, art. 2(1).

¹⁵ Geneva Act, *supra* note 10, art. 10(1).

¹⁶ *Id.*, arts. 15(1), 17

¹⁷ *Id.*, art. 7(4).

¹⁸ *Id.*, art. 29(4).

¹⁹ WIPO-Administered Treaties, Contracting Parties: Djibouti, Geneva Act (accession 13 February 2024; entry into force 13 May 2024); Lisbon Notification No. 61.

the name is next to words like "style", "kind", "type" or "imitation").²⁰ Article 12 prevents the designation of a registered name from being deemed generic and Article 13 protects existing trademark rights.²¹

The first structural thing of great relevance I think we should look at; An international registration will continue to be protected in the country of origin without any need for periodic renewal (as exists under Section 18 of the GI Act, which provides for a renewable ten-year term).²² The gap is no small thing if it is a producer co-operative of Bhadohi or Kutch.

5. Legal Compatibility with Indian Law

5.1 The Constitutional Route

Thus, treaty-making falls within the domain of the Union executive under Article 73, as read with Entry 14 of List I; and Article 253 empowers Parliament to make a law for implementation of any treaty.²³ The Supreme Court in *Maganbhai Ishwarbhai Patel*, has ruled that a treaty affecting private rights can only be brought into operation within the territory of India by legislation.²⁴ *Jolly George Varghese* observed that, in the absence of such legislation, municipal law is supreme over an un-incorporated treaty obligation.²⁵ The Geneva Act obviously impacts private rights, those of the trademark owners, traders and importers, which is why accession requires an amending statute rather than simply a deposited instrument in Geneva. Courts would then interpret that statute consistently with *Vishaka*.²⁶ There is no embargo on eligibility: Article 28(1) opens the Act to any State party to the Paris Convention, which included India when we acceded in 1998.²⁷

5.2 Subject Matter and the Register

A GI under Article 2(1)(e), as it presently stands, is defined in terms tracking Article 22(1) of TRIPS, the same standard that the Geneva Act adopts.²⁸ More detailed reflection on India's sui generis system is clearly outside the scope of Article 10(1). Perhaps even more famously, Section 84(1) has long permitted the Central Government in furtherance of a treaty to declare any country, or group of countries, or intergovernmental organisation to be a convention country; and Section 85 provides for reciprocity.²⁹ The statute, likely inadvertently, provided a pathway to an international GI agreement.

5.3 Scope of Protection

This is where the strain begins. Indian law grants enhanced, Article 23-type protection—protection even against "kind", "style" or "imitation" usage only to goods the Central Government notifies under Section 22(2) and

²⁰ Geneva Act, *supra* note 10, art. 11

²¹ *Id.*, arts. 12, 13

²² *Id.*, art. 8; GI Act, *supra* note 1, s. 18

²³ INDIA CONST. arts. 51(c), 73, 253; Seventh Schedule, List I, Entry 14

²⁴ *Maganbhai Ishwarbhai Patel v. Union of India*, (1970) 3 SCC 400

²⁵ *Jolly George Varghese v. Bank of Cochin*, (1980) 2 SCC 360

²⁶ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241

²⁷ Geneva Act, *supra* note 10, art. 28(1)

²⁸ GI Act, *supra* note 1, s. 2(1)(e)

²⁹ *Id.*, ss. 84(1), 85

(3).³⁰ Everything else receives the ordinary misleading-use test of Section 22(1). The Geneva Act extends the stronger shield to every registered name, without notification. India would need either to amend Section 22 or to create a parallel provision for internationally registered names.

Services raise a second difficulty. The GI Act protects "goods" within the meaning of Section 2(1)(f) which are agricultural, natural or manmade goods, handicrafts and foodstuffs.³¹ Article 11 of the Geneva Act extends use "on services" where a connection with the GI is implied. An eatery or hotel with a well-known tea-growing name would slip outside the Indian law but not the treaty. Hence, compliance needs to expand the infringement provision as such.

5.4 Genericness and Prior Trademarks

Section 9(f) says names found to be generic cannot be registered, and Explanation 2 tells the decision-maker to look at the area of consumption.³² What this means is that an international name may be deemed generic to the Indian market, as opposed to being considered unique. And the very fact that an internationally registered name would not benefit the averting of that consequence is what Article 12 prohibits. This is realistic rather than hyperbolic tension: the one-year refusal window at least gives India a chance to object upfront to names that are already used widely in trade domestically.

On prior marks, Sections 25 and 26 already bar the registration of GIs as trademarks while protecting good-faith marks registered or used before the relevant date, and Section 84(2) mirrors the TRIPS grandfather clause for wines and spirits used for ten years before 15 April 1994.³³ These are generally consistent with Article 13. Further, Indian courts have an established record of protecting foreign GIs by way of passing off, like the Delhi High Court did for Scotch whisky.³⁴ The doctrinal basis is not something new to us.

6. Costs and Benefits

Costs

Three costs stand out. The first is administrative. All new international registrations must go to the GI Registry for inspection within one year. The Registry already has a burden to carry, with under half the applications making it into registration by 2024.³⁵ An Article 7(4) fee may be used to commission examiners, but expertise does not grow in a day by throwing money at it. The second cost is commercial. Firms producing cheese, wine, spirits or processed foods using names of European origin in India would be phased out at some point. Transitional

³⁰ *Id.*, ss. 2(1)(f), 22(1)–(3)

³¹ *Id.*, ss. 2(1)(f), 22(1)–(3)

³² *Id.*, s. 9(f), Explanations 1 and 2

³³ *Id.*, ss. 25, 26, 84(2)

³⁴ *Scotch Whisky Association v. Golden Bottling Ltd.*, 2006 (32) PTC 656 (Del).

³⁵ "Two Decades of the Geographical Indications of Goods (Registration and Protection) Act, 1999: A Review of 547 Registered Geographical Indications", *Journal of Intellectual Property Rights* (CSIR–NIScPR, New Delhi).

arrangements under article 17, extended by article 29(4), would mitigate against this reality without eliminating it. The third is diplomatic, and more subtle. The Lisbon system has a long history of serving the interests of agriculture in Europe, and some significant agricultural exporters are not part of it. India's position at the WTO co-signatory to 2008 draft modalities that sought an extension of Article 23-level protection for all products nestles easily with Geneva.³⁶ Trade partners in the Americas may be less kind when reading accession. The friction should be on the ledger.

Benefits

The central benefit is reach. Through a single application, protection is obtained in each and every Contracting Party as well as at the level of the entire EU or all members having benefited from the African Intellectual Property Organization.³⁷ For producer associations that send out dozens of foreign filings, however the economic situation turns on its head. Protection also hardens. Overseas, a registered "Pochampally Ikat" could not sell an overview of the fabric as "Pochampally-style," nor can a name drift into genericness on an overseas market. Article 5(4) even provides for a joint application for a trans-border area; this is may be relevant one day for products with an origin in more than just their national borders. Accession would also discipline the domestic system. India's entry into the Madrid Protocol in 2013, enabled by Chapter IVA of the Trade Marks Act, 1999, pushed the Trade Marks Registry towards digitization and tighter timelines.³⁸ A comparable effect could follow for GIs, particularly on inspection and quality control, widely regarded as the statute's weakest part.

7. A Strategic Framework for Accession

It is not about accession and membership but instead about the law. Should be third.

- **Stage one—statutory repair.** Parliament is requested to add a non-genericide clause to Section 22(3) of the GI Act to protect internationally registered names, provide protection for use of internationally registered names in service where there is a suggestion of connection and add a procedure to the treaty window for receipt and consideration and rejection of internationally registered names. A tougher inspection regime will help Indian GIs to be more defensible in foreign countries.
- **Stage two—institutional preparation.** GI Registry must have an international examination unit. A pre accession audit should contain foreign names already in common Indian commercial use for which it is undesirable to refuse and should then be provided with a transition programme to steer clear of ad hoc methods of refusal.

³⁶ World Trade Organization, *Draft Modalities for TRIPS Related Issues*, TN/C/W/52 (19 July 2008).

³⁷ WIPO, "Serbia Joins the Geneva Act of the Lisbon Agreement", *Lisbon System News* (2026), <https://www.wipo.int/web/lisbon-system>

³⁸ The Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999 (India), Chapter IVA (ss. 36A–36G), inserted by the Trade Marks (Amendment) Act, 2010

- **In the third stage – accession with declarations.** India can follow the Djibouti model³⁹ (Articles 7(4) and 29(4)) and deposit its instrument with declarations, which will be followed by a notification under Section 84(1).
- **Stage 4 – Select outbound filing.** It is not possible to protect all Indian GIs globally down the lane. Names of goods, such as tea and textiles, spices which have export value and are likely to be imitated should be given highest priority for protection against infringement overseas, where the infringement has measurable impact. Bilateral cooperation with the EU should be carried on throughout. The Geneva Act is not competing with a bilateral GI agreement, the treaty will provide breadth, the bilateral effort will provide depth and enforcement detail.

8. Results and Discussion

Four findings emerge. The Geneva Act in architecture can be translated into Indian statute: there's already the concept of sui generis registration, there's the concept of recognition by the Convention country, there's the concept of genericness and there are already trademark safeguards. Incompatibility is of degree not of type namely in terms of the scope of protection under Article 11, the non-genericide rule of Article 12, and the lack of protection for services. Costs are focused and upfront, charged at the entry point of the Registry and on a limited number of domestic, foreign names users. The benefits are diffuse and tend to occur long-term and spread out amongst thousands of rural producers and authorised users. That lack of symmetry is one of the reasons for policy lag, those who gain do not discover the impact of the policy for several years, while those who lose know now. A caution remains. but membership does NOT ensure market value. This premium is achieved only if their buyers recognise it and producers adhere to quality. International inspection without inspection systems, and branding, runs the danger of becoming a paper right.

9. Conclusion

In the time span of only two decades, India has developed one of the world's largest GI registers, but hasn't constructed a path for the names it has to follow. That is the Geneva Act, and the GI Act (via Sections 84 and 85, which are sui generis and whose copyright protection features) already seems to point towards it. The analysis reveals that the difference between the two regimes is at most of degree, rather than of kind degree of scope of protection, degree on genericide, and degree on services. So, despite this, accession is, at least in the legal sense, technically possible, but requires an Act of amendment carefully drafted to use Article 253, a Registry sufficiently resourced and the care and attention needed to make maximum use of the flexibility granted under Articles 7(4) and 29(4) to adapt the Convention's procedures. Costs are 'real' but 'bounded'. If coupled situationally reliable quality control, the advantages can extend beyond the gum trade door to the weavers, growers and artisans whose rights are currently

³⁹ WIPO-Administered Treaties, Contracting Parties: Djibouti, Geneva Act (accession 13 February 2024; entry into force 13 May 2024); Lisbon Notification No. 61.

prevented from being extended past the gum trade door via the customs. The question is not one of whether India should join the accession list, but how carefully prepared to join India is before signing up.

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