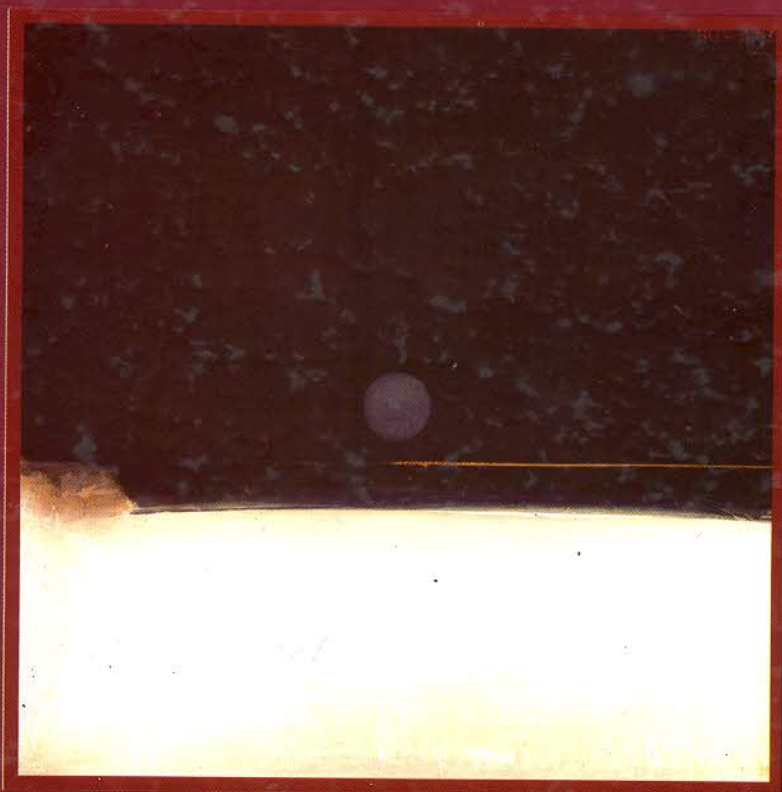


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A SHORT REVIEW ON THE CURRENT GEOGRAPHICAL INDICATIONS PROTECTION IN INDONESIA

OLEH

MIRANDA RISANG AYU, S.H., LL.M., PH.D. CAN.¹

1. Geographical Indications in The Republic of Indonesian Trade Marks Law Number 15 Year 2001

According to Article 56 (1) of Law Number 15 Year 2001:

*'Geographical Indications shall be protected as a sign which indicates the place of origin of a good, which due to its geographical environment factors, including natural, human and the combination of both factors, gives a specific characteristic and quality on a good produced therein.'*²

The background of regulating Geographical Indication is because of the ratification of the Agreement Establishing WTO/TRIPS and not because of the Lisbon Agreement, 1958.

In Indonesian Trade Marks Law Number 15, 2001, there are notions of Geographical Indications' protections as follows:

1. there are two explicit regulated subject matters: Geographical Indication and Source of Origin (Indication of Source)
2. there are no provisions in accordance with TRIPS additional protection, similar with Controlled Appellation of Origins, in respect to wines and spirits.

The absence of the second level protection or additional protection is a problem for the same reason as the lack of reputation requirement in the Indonesian Trade Marks Law definition. Being a predominantly Islamic country, some people may argue that providing protection for wines and spirits could be regarded as contrary to the public morality in Indonesia³. However, this argument

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² Law Number 15, 2001 of the Republic of Indonesia concerning Trade Marks, art 56 (1) in the original text, *'...Indikasi Geografis dilindungi sebagai suatu tanda yang menunjukkan daerah asal suatu barang, yang karena faktor lingkungan geografis termasuk faktor alam, faktor manusia, atau kombinasi dari kedua faktor tersebut, memberi ciri dan kualitas tertentu pada barang yang dihasilkan ...'*

³ In respect to the compulsory registration, Article 56(4) regulates grounds for refusal of registration if the 'sign' concerned: