



Australian  
National  
University

# GIs in East Asian Countries

Wenting Cheng

Visiting Fellow

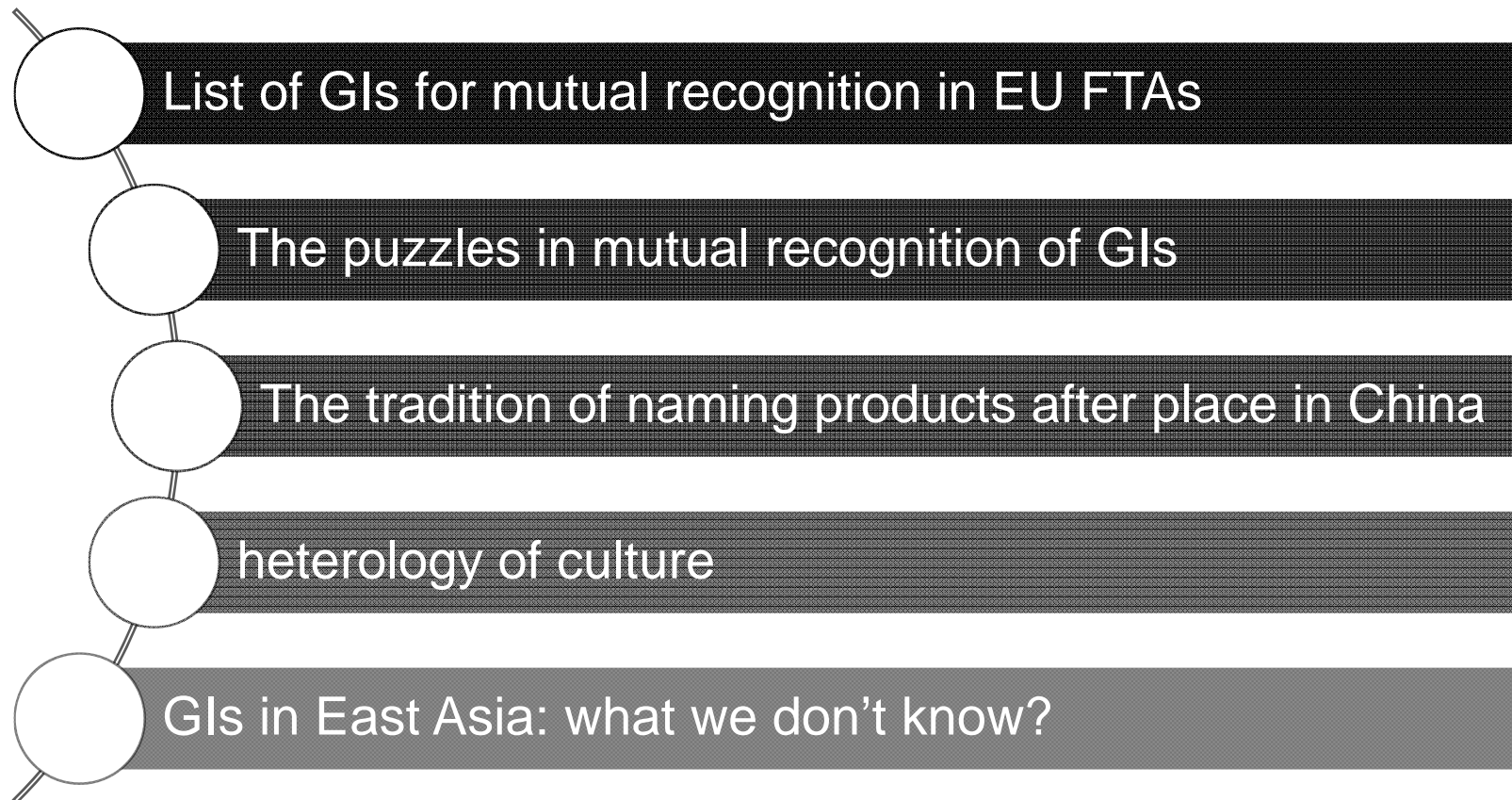
ANU Center for European Studies

Jean Monnet Project on Understanding Geographical Indications

Email: [wenting.cheng@anu.edu.au](mailto:wenting.cheng@anu.edu.au)



# Outline



## Mutual recognition of GIs in EU FTAs

Mutual recognition and protection of GIs between GI and its trading partner is a standard practice for the EU in its recent FTAs (Engelhardt 2015).

These lists sometimes cause controversies

- some countries do not have a list
- some of the lists were controversial because names listed were considered as generic names by the other party

But, there is no such controversy in EU FTAs with East Asian (EA) countries. Why?

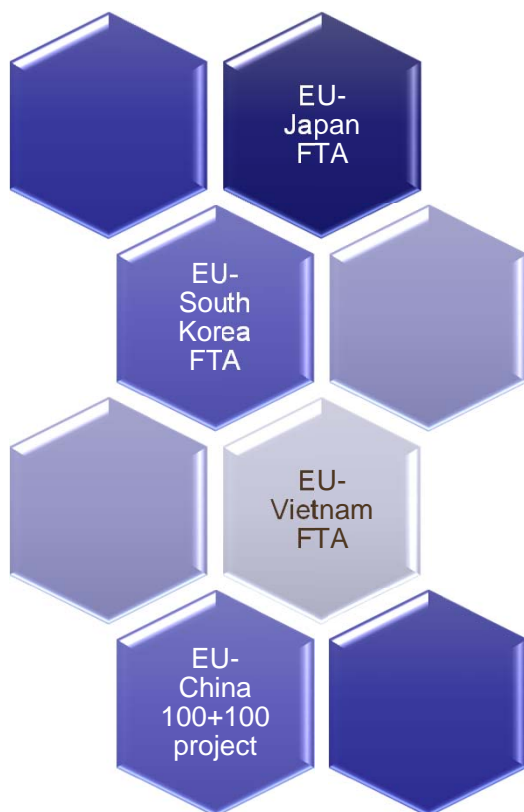


## GI list in CETA

- 171 EU GIs to be protected in Canada
- 0 Canadian GIs to be protected in EU
- <http://data.consilium.europa.eu/doc/document/ST-10973-2016-ADD-5/en/pdf#page=13>



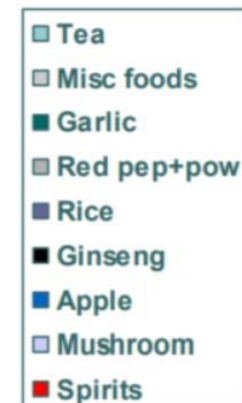
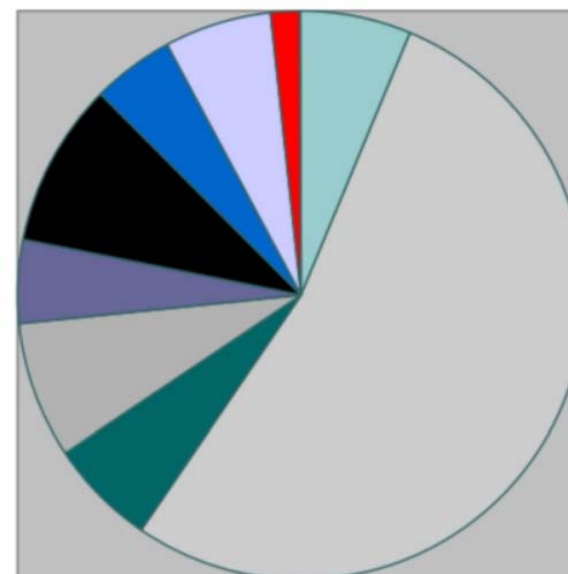
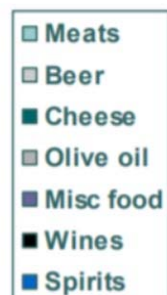
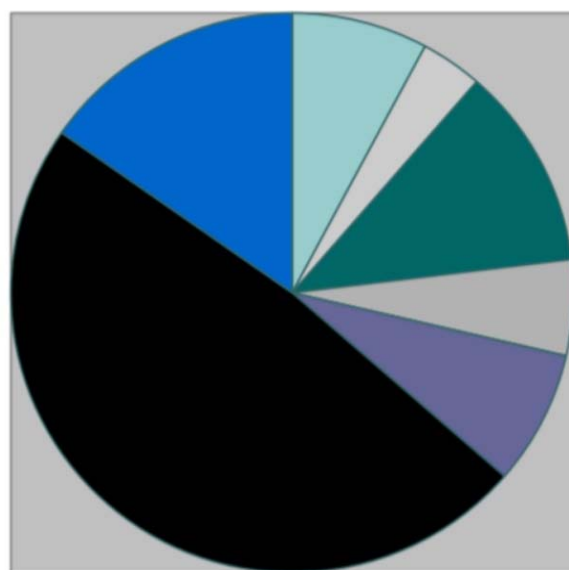
## Numbers of GIs listed in EU FTAs with East Asian countries



EU GIs	trade partner's GIs
210	48 foodstuffs 1 wine 7 spirits
146 61 food stuffs 80 wines 25 spirits	64 food stuffs 1 spirit
171	39
100 (pending)	100 (pending)

# What types of products are listed?

## The example of EU-Korea FTA



The mysterious miscellaneous food



Source:

[http://www.eeas.europa.eu/archives/delegations/south\\_korea/documents/eu\\_south\\_korea/presenter\\_1\\_agriculture\\_110620\\_dg\\_agri\\_en.pdf](http://www.eeas.europa.eu/archives/delegations/south_korea/documents/eu_south_korea/presenter_1_agriculture_110620_dg_agri_en.pdf)





WIKIPEDIA  
The Free Encyclopedia

Main page  
Contents  
Featured content  
Current events  
Random article  
Donate to Wikipedia  
Wikipedia store

Interaction

Help  
About Wikipedia  
Community portal  
Recent changes  
Contact page

Tools

What links here  
Related changes  
Upload file  
Special pages  
Permanent link  
Page information  
Wikidata item  
Cite this page

Print/export

Create a book  
Download as PDF

Article Talk

Read Edit View history

Search Wikipedia



## Dried persimmon

From Wikipedia, the free encyclopedia

*"Hoshigaki" redirects here. For the Naruto character Kisame Hoshigaki, see List of Naruto characters § Kisame Hoshigaki.*

**Dried persimmon** is a type of [traditional dried fruit](#).<sup>[1]</sup> Known as *shibōng* (柿餅) in Chinese, *hoshigaki* (干し柿) in Japanese, and *gotgam* (곶감) in Korean, it is traditionally made in the winter, by air drying [Oriental persimmon](#). It is a popular snack food in [East Asia](#), and is also used to make wine, and in creating other desserts.

### Contents [hide]

- Production
  - China
  - Japan
  - Korea
- Nutrition
- Culinary use
- In popular culture
- Gallery
- See also
- References

## Homology of food culture

### No issues concerning GI labelling as least in this case

- Sancheong Gotgam
- Sangju Gotgam

- Ichida Gaki
- Noto Shika Korogaki
- Dojo Hachiya Gaki

### Production [edit]

Dried persimmons are made from various varieties of [Oriental persimmon](#). Persimmons, when fully ripe, are thin-skinned, soft and sweet. Persimmons used to create dried persimmons are harvested when they are under-ripe, firm, [astringent](#), and bitter.<sup>[2]</sup>

### China [edit]

In China, the persimmon fruit are peeled and dried on wooden trays after harvesting.

### Dried persimmon



Dried persimmons

<b>Alternative names</b>	Dried persimmon
<b>Type</b>	Dried fruit
<b>Region or state</b>	East Asia
<b>Main ingredients</b>	Oriental persimmon

Cookbook: Dried persimmon Media: Dried persimmon



# The puzzle and proposed arguments

What makes the mutual recognition of GIs between the EU and EA Countries possible?

Why the EA countries can propose a list of GIs?

- The tradition of tributary system
- local specialties

Why there is little controversy between the EU and EA countries in GIs provisions?

- The heterology of culture
- The non-competitiveness of products in the GI lists



# Local specialties submitted as tributes to the emperors

## The tributary system

- Lasted for over 3,000 years
  - Sustained by the Confucius philosophy
  - Legitimacy “all under heaven” and the middle kingdom
  - Trust and submissive because of benevolent governance
- Two dimensions: domestic regulation and international relation
- International: trade and political
  - Tributaries benefited from trade
  - Tributaries got legitimacy of governing
  - Collapsed in late 19th century
- Domestic: complementary to tax
- Local specialties as tributes: elephant in the room



Source: Fairbank, John K., and Ssu-yu Teng. "On the Ch'ing tributary system." *Harvard Journal of Asiatic Studies* 6.2 (1941): 135-246.



# What products were submitted as tributes?

## In Tang dynasty (618—907)

- Principles to submit a tribute
  - Submit every year
  - Locally produced
  - Value of the tributes from one county should not exceed 50 scrolls of silk (approx. 590 kilogram of grain)
- Categories of tributes
  - Food
  - Textile (silk)
  - Chinese herbal medicine
  - Daily life supplies
  - Crafts
  - Rare birds and animals (Zhang 1992)
- Same local products submitted as tributes were also distributed among government officials as gifts

## The example of Longjing (Tea)

- Tribute since Song Dynasty (960-1279)
- Endorsement by Emperor Qianlong (1711-1799)
- GI products since 2001
- Certificate marks since 2011



# Local specialties recorded in local journals

- Local Journals
  - Over 8000 remain after 13 century
  - Drafted by the local government
  - Record natural, societal, political, economic and cultural, ethnological conditions of a local area in a specific period, including local specialties
- E.g: Longjing Tea

Longjing Tea in Qiantang Xianzhi in Ming Dynasty (1368-1644)  
《钱塘县志》

  - “茶出龙井者，作豆花香，色清味甘，与他山异”  
“The tea coming from Longjing has a smell of Fabaceae. The water has a clear colour and tasted a bit sweet. Longjing Tea is different from those coming from other mountains.”



# China in the model contestation over GIs

The State Administration of Industry and Commerce (SAIC) modelled the US trademark mechanism

- Trademark protection modelled the US
- Established in 1994, providing TRIPS Article 22 equivalent protection
- Updated in 2000, complying with TRIPS through

The General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) modelled the EU *sui generis* mechanism

- *Sui generis* protection modelled the EU
- Established in 2005, providing protection for “GI protected products” (地理标志保护产品)

Ministry of Agriculture (MOA) modelled the EU *sui generis* mechanism on agricultural products

- *Sui generis* protection modelled the EU
- Established in 2007, providing protection for “GIs for agricultural products” (农产品地理标志)

China as a regulatory importer

- All three mechanisms provide protection at a level equivalent to the TRIPS Agreement.



# Three parallel systems on GIs Protection

- GIs in China are identified as a national interest to boost agriculture
- Three parallel systems (till March 2018)



SAIC  
(modelling the US)



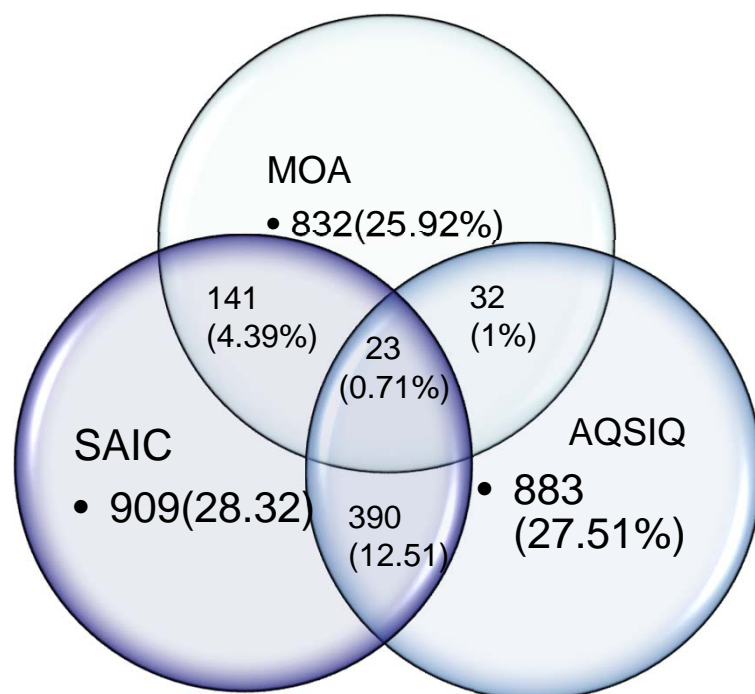
AQSIQ  
(modeling the EU)



MOA  
(modeling the EU)



# GI registration in China (as of 2013): re-discover the tradition



Over 3000  
registrations in  
over a decade  
can not come  
from nothing.



Products/GIs'  
reputation can not  
be newly created.



The concept of GIs are  
integrated by China to  
connect this specific type  
of IP to its tradition of  
local specialty to boost  
agriculture, enhance rural  
development and  
increase farmers' income.

Data source: China Geographical Indications Research Report (2013, Third Edition)



## GIs in China's bilateral trade negotiations

### EU-China mutual recognition of GIs

- “10+10” finalized in 2012
- “100+100” in progress



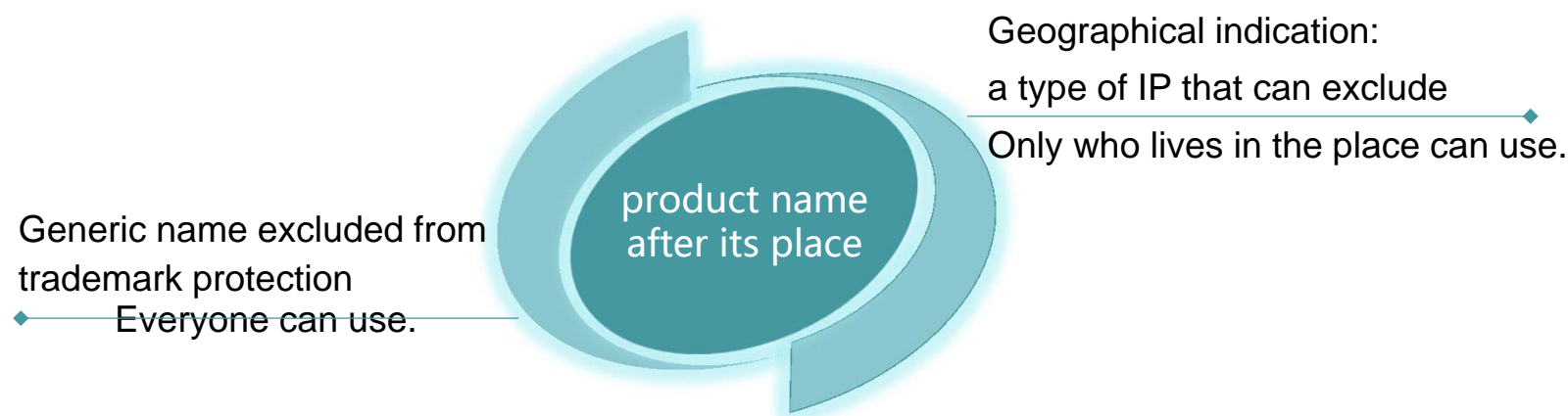
### China as a model exporter: GIs mentioned in Chinese FTAs

- Article 10 in the *China-Chile FTA (2005)*: 2 Chinese GIs and 1 Chile GI
- Article 146 of the *Peru-China FTA (2009)*: 22 Chinese GIs and 4 Peru GIs
- Article 116 of the *Costa Rica -China FTA (2010)*: 10 Costa-Rica GIs, Chinese GIs to be confirmed

# Cultural differences and non-competitiveness of products

The Old-world and New-world disputes over GIs

- Model competition trademarks vs GIs



- Same name, similar/same products, and same segment of consumers
- Competing in a globalized market

In EU FTAs with East Asia countries, the products and place names are different which makes mutual recognitions possible.



## Conclusion

- There is a long history of reputation accumulation for local specialties through the tributary system in EA countries
- This history was rediscovered when the EU overtured to these countries with a geographical indication system.
- History of local specialties and cultural heterology make the mutual recognition of GI lists between EU and EA countries possible.

# GI lists in the EU FTAs with EA countries

## -- what we don't know

- Market size of East Asian (EA) GI labeled products in the EU?  
And EU products in EA?
- Market size of non-GI labeled competing products in relevant market?
- Any change of the market structure after the mutual recognition of GIs?
- Who is buying these EA GI-labeled products in the EU? And who is buying EU GI-labelled products in EA? (segment of consumers)
- Recognition of EA GI labeled products by the EU consumers, and vice versa? (effect of cultural projection carried by GIs)
- Third country impact of the GI mutual recognition in these FTAs?

# GI lists in the EU FTAs with EA countries -- what we don't know



*Thinking ahead for Europe*

ABOUT CEPS

RESEARCH AREAS

STAFF

PUBLICATIONS

EVENTS

CEPS ACADEMY

MEMBERSHIP



## Reciprocity and Mutual Benefits: EU-China cooperation on and protection of geographical indications

Friday, 22 June 2018

CEPS  
Research  
Reports

Regulation

Geographical indications are a distinctive type of intellectual property rights, protected by the TRIPS Agreement. The EU and China started to negotiate the Agreement on the Cooperation on, and Protection of, Geographical Indications in March 2011. It has recently been revealed that one or two more rounds of negotiations may be necessary to conclude the Agreement. Recall that in July 2017, as a major step forward in the negotiations, the EU and China each published a list of 100 GI products that may be granted protection under the other's jurisdiction.



- Thank you!

Wenting.cheng@anu.edu.au