

GEOGRAPHICAL INDICATIONS JAMAICA

- In 2008 there was a Jamaica-Switzerland GI project and as a result of that project, several products were deemed eligible for GI protection. These were

BLUE MOUNTAIN COFFEE



JAMAICAN RUM



JAMAICA JERK



JAMAICA SCOTCH BONNET PEPPER



GEOGRAPHICAL INDICATIONS JAMAICA

- On June 8, 2009 the Geographical Indications Act came into effect in Jamaica and its subsidiary regulations were promulgated on September 9, 2009.
- The Act defines a Geographical Indication (GI) as “ an indication which identifies a good as originating in the territory of a country or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin”

GEOGRAPHICAL INDICATIONS JAMAICA

- The need for Jamaica to provide this unique legislation arose from it being a member of the World Trade Organisation (WTO) and as a result complying with the WTO Agreement's trade related aspects of Intellectual Property Rights (TRIPS).



GI PROTECTION UNDER THE ACT

- The Act states that any interested party may apply to the Court to prevent misleading use of geographical indications.
- That is the use of any means in the designation to mislead buyers as to the true origin of the product. E.g. “Jamaican style” or “Jamaican- type”.
- The Act affords additional protection to wines and spirits where they do not originate from the place indicated by the GI or true origin is stated but the GI is used in conjunction with expression like “comparable to champagne” or “champagne made in Jamaica”
- In the event of an infraction under the Act, a court may grant awards and/or injunctions or any remedy it deems appropriate.



GI PROTECTION UNDER THE ACT

- GI's are protected whether or not they are registered in Jamaica
- There is protection for homonymous GI's for goods such as wines where immigrants carry their place names with them to a new country of residence. This is not the case for services.
- GI's that are mere signs or that are contrary to public order or morality are not protected.



GI PROTECTION UNDER THE ACT

- Where a GI is used in a trademark and is misleading as to the true place of origin or the trademark identifies wines or spirits as being the place of origin denoted by the GI and this is not the case, then the GI may be subject to revocation or refusal of registration.
- However, if the trademark has been registered or applied for in good faith before TRIPS became applicable in Jamaica then the validity of the trademark will not be jeopardized by the Geographic Indications Act



GI PROTECTION UNDER THE ACT

- Under the Act there is a 5 year limitation period on the remedy of revocation or refusal of a mark.
- There are exceptions to the prior use and good faith use e.g. A person has the right to use their own name in trade or the name of a person's predecessor in business

REMEDIES AND PENALTIES

- Both Civil and Criminal remedies are available under the Act
- Civil Remedies include injunctions and damages against false, misleading or wrongful uses of GI's
- Criminal Remedies include imprisonment for a period of 1 to 5 years and /or fines not exceeding 1 million JMD = USD \$7,750.00 in addition to any pecuniary penalties that the court may determine to be equivalent to the total value of the benefit gained by the infringing party.



PROTECTION OF GI's

- The Act affords protection to both registered and unregistered GI's
- Only producers, group of producers or competent authorities as defined by the Act may apply to register a GI.
- The application process is similar to that of a trademark registration. Applications are submitted at Jamaica Intellectual Property Office and all registrations are published in the Jamaica Gazette or the Geographic Indications Journal.



CANCELLATION

- Any interested person as defined by the Act may apply to the Registrar for the cancellation of a GI on the grounds that the goods do not qualify or no longer qualifies for protection based on the requirements of the Act.
- This is subject to public notification in a daily newspaper and a hearing of all interested parties before the Registrar.



REVOCATION

- A person may also request that the Registrar revoke or refuse the registration of a trademark that is misleading as to the origin of goods or which inaccurately identifies the origin of wines or spirits.
- Any revocation shall be published in the Jamaica Gazette or a daily newspaper. The Registrar's decision is subject to appeal to a judge in chambers within two months of the decision



DEFICIENCIES IN THE ACT

- Various interest groups have stated that the Act offers more robust protection to Wine and Spirits, however this is not the case with other products.
- Another criticism of the Act is that protection only extends to goods and not services

GI AMENDMENT BILL of 2017

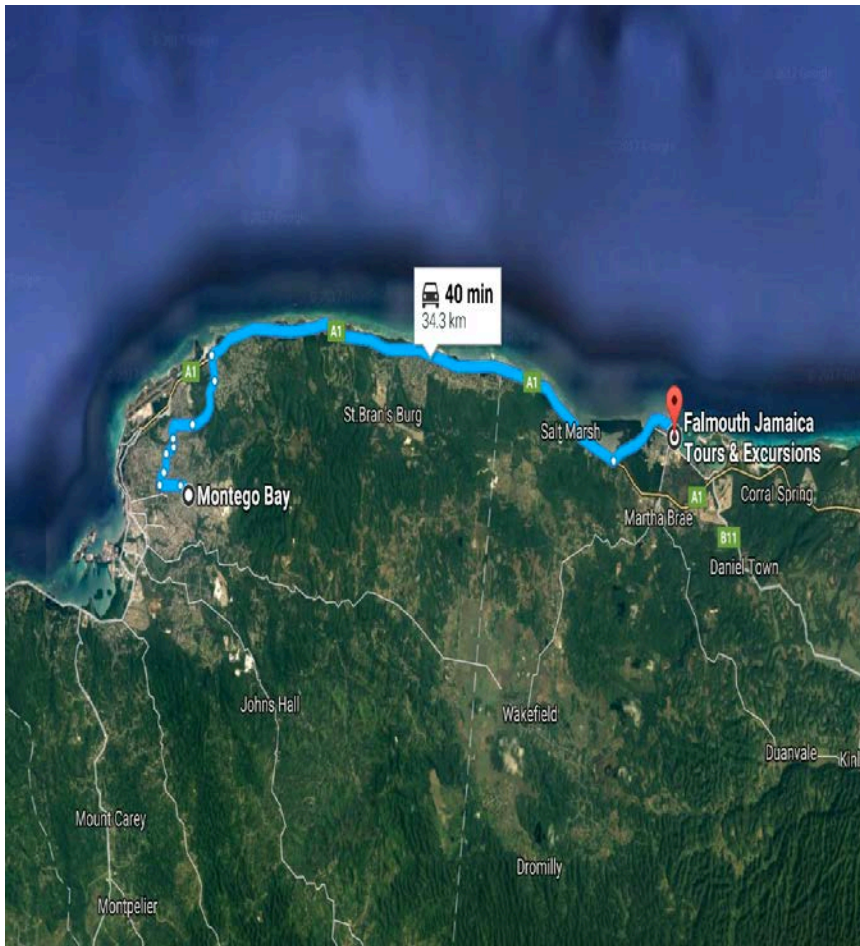
- There is presently a bill that will address the perceived preferential treatment that wines and spirits enjoy as compared to other goods that are eligible for protection under the Act.
- This amendment may become law as early as June 2018.



G I's JAMAICA

- There are currently two products that are registered as G.I's under the act
- Jamaica:
 - Rum
 - Jerk
- Blue Mountain coffee is registered as a certification mark.

POTENTIAL GI ?



POTENTIAL GI ?





POTENTIAL GI ?

- This is a lagoon located in Falmouth, Jamaica
- When disturbed, the microscopic organisms in the water glow and creates, glistening blue light.
- This phenomenon is said to only occur in only 3 places in the world.



POTENTIAL GI ?

- Currently, there is a debate among various interest groups in Jamaica, concerning the issue as to whether services should be protected under the Act.
- The Jamaica Government would like to have the lagoon protected under the Act.