

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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ROADMAPS OF G.I TAGS IN INDIA: LEGAL IMPLICATIONS AND POSITIONING

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ABSTRACT

Geographical Indications (GI tags) are signs used on products that have a specific geographical origin and possess distinctive qualities, reputation, or characteristics attributable to that place of origin. These tags play a crucial role in promoting and safeguarding the unique products and traditional knowledge of various regions, contributing to rural development, preserving cultural heritage, and enhancing the marketability of Indian products in the global market. This paper focuses on need and process of registration of GI tags in India. The paper also highlights the importance of these tags which cannot be undermined as it proves to be a guardian of heritage and growth. The government initiatives and schemes play a crucial role in preserving traditional knowledge and traditional college expressions. This makes India represent itself globally and UK, USA, UAE, Italy and South Korea are the leading export destinations for GI products of India.

Keywords: *Geographical Indication, Tag, Intellectual property right, TRIPS*

INTRODUCTION

Geographical Indications (GI) is a form of Intellectual Property right that identifies goods originating from a specific geographical location and having distinct nature, quality and characteristics linked to that location.

Article 22 of the TRIPS Agreements define a geographical indication as “signs that originate in a member or identify a good location in an area or locality where a given quality, reputation, or specialty is assigned to its geographical location Is given Is essentially acceptable”.

Often rooted in traditional knowledge system and community-based practice, GIs serve as tool not only for legal protection but also for rural economic development and cultural preservation.

The product becomes synonymous with the place and as such it is essential to harmony a mark/indication to these products. GIs signify the link between the quality, reputation, and characteristics of a product with its geographical origin.

The GI products are generally agricultural or natural or manufactured items like handicrafts etc. It is an indication or symbol to identify a particular product.

GIs play an important role in creating local employment, creating a regional brand, preserving traditional knowledge and traditional cultural expressions, conserving bio-diversity.

GI tags are issued as per the Geographical Indications of Goods (Registration and Protection) Act, 1999(GI Act).

EVOLUTION OF GI TAG

GI was introduced by the World Trade Organization in 1994, but have its roots in ancient times, when place names were used to identify the origin and quality of products. For example, as early as the 5th century BCE, wine produced in the Greek island of Chios was one of the most prized wines and considered an expensive luxury product. It is thought to be the first red wine though it was called black wine back then.

India has been one of the first few middle-income countries which has legislated on protecting GIs.

India's adherence to the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement of the World Trade Organization (WTO) necessitates the protection of geographical indications (GIs).

The Geographical Indications of Goods (Registration and Protection) Act, 1999:

This is the principal Indian legislation that was passed by Parliament in December 1999 and became effective in September 2003.

OBJECTIVES OF RESEARCH PAPER

- To study the need and process of GI tag registration.
- To study the roadmap of GI tags in India i.e. from evolution to legal aspects and finally challenges faced.
- To study case studies in relevance to GI tags.

BENEFITS OF GI

The Object of the Geographical Indications Of Goods (Registration And Protection) Act, 1999 is three fold,

- Protection to Producers: specific law governing the geographical indications of goods in the country which could adequately protect the interest of producers of such goods,
- Excluding unauthorized persons: from misusing geographical indications and to protect consumers from deception and
- Promotion of Exports: goods bearing Indian, geographical indications have more demand in the export market.
- Protection of unique characteristics that ensures that their quality is associated with their region.
- Reverse Urban Migration: The hyper-localised nature of GI offers solutions to reverse urban migration and conserve India's ancient crafts, culture and food.

Examples of Indian Geographical Indications

Darjeeling Tea, Kanchipuram Silk Saree, Alphonso Mango, Nagpur Orange, Kolhapuri Chappal, Bikaneri Bhujia, Agra Petha etc.

GI protection has broader positive effects, especially for local communities. It particularly helps preserve biodiversity, local knowledge, and natural resources. It will turn talent into entrepreneurship with gig workers. It will create a "passion" economy, which means a new way for people to make money from their skills and grow their businesses rapidly.

PERSONS ELIGIBLE FOR OBTAINING GI TAG

1. Producers

According to GI, producers refer to those people who are processing, producing, or making the products.

It includes agriculture producers, artisans and handicraft makers and Industrial producers

2. Association of producers

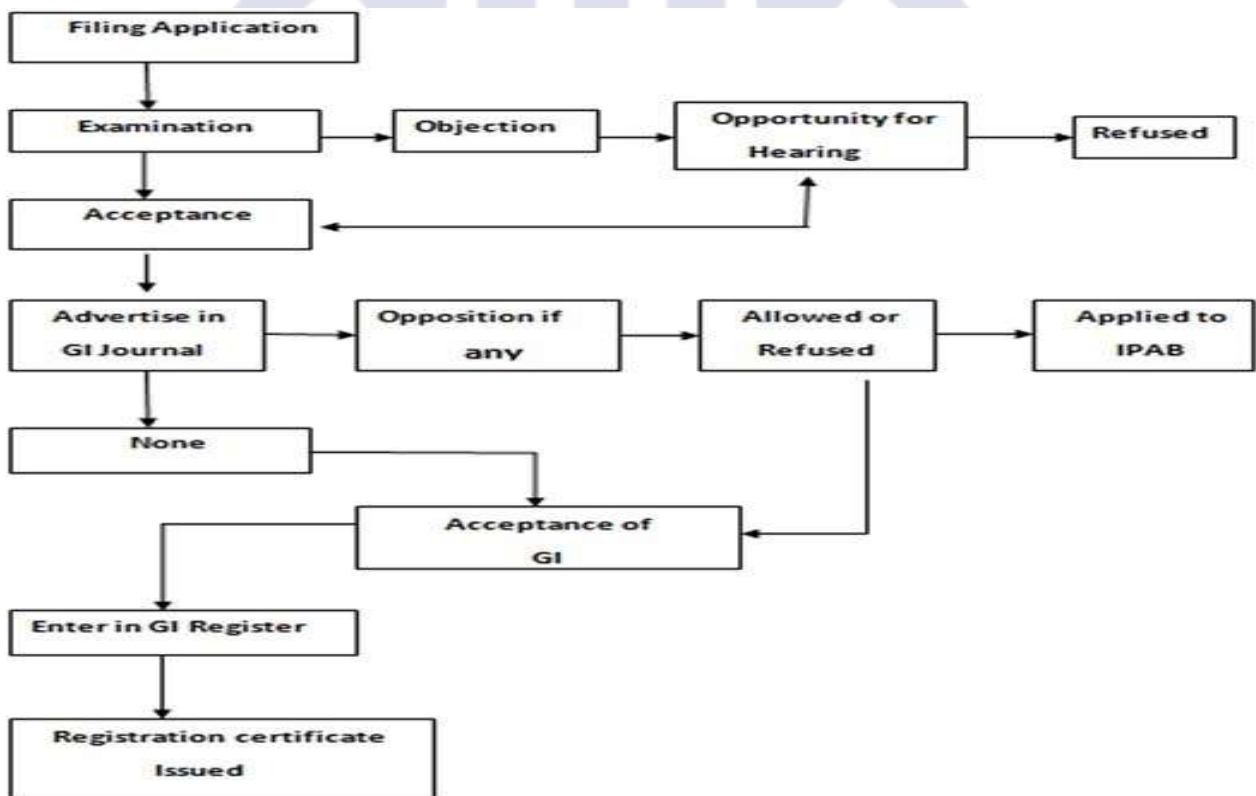
Associations of producers or groups representing the interests of those producing a particular good are the most frequent applicants for GIs.

These groups often organize in a bid to collectively conserve the heritage and market value of their product. For instance, the Tea Board of India filed GI for Darjeeling Tea.

3. Government Agencies

Government authorities or statutory bodies may make applications for GI registration when they deem that the product of national importance requires this kind of protection. As such, a state department can apply for GI protection for a traditional craft or food item.

REGISTRATION PROCESS OF GI TAG



- Step 1 Application filing

The association of individuals or producers or any association or authority should represent the interest of the producers of the goods concerned and file an affidavit. The Application must be signed by the Applicant or their agent. It must include a

description of the case. Include three certified copies of GI-related field maps. Also, provide a description of the inspection structure if there is an area for regulating the use of G.I. List the details of all applicants, including their addresses.

- Step 2 and 3 Preliminary scrutiny and examination

The examiner will review the Application for deficiencies. The Applicant is to address the deficiencies within one month of communication. The advisory group of subject experts evaluates the content of the case description. After that, an examination report will be issued.

- Step 4 Show Cause Notice

If the Registrar has any objection to the application, he will communicate such objection. The applicant must respond within two months or apply for a hearing. The decision will be duly communicated. If the applicant wishes to appeal, he may within one month make a request. The Registrar is also empowered to withdraw an application, if it is accepted in error, after giving an opportunity of being heard.

- Step 5: Publication in the Geographical Indications Journal

Every application, within three months of acceptance shall be published in the Geographical Indications Journal.

- Step 6: Opposition to Registration

Any person can file a notice of opposition within three months (extendable by another month on request which must be filed before three months) opposing the GI application published in the Journal. The registrar shall serve a copy of the notice on the applicant. Within two months the applicant shall send a copy of the counter statement. If he does not do this shall be deemed to have abandoned his application.

- Step 7: Registration

Where an application for a GI has been accepted, the registrar shall register the geographical indication. If registered the date of filing of the application shall be deemed to be the date of registration. The registrar shall issue to the applicant a certificate with the seal of the Geographical indications' registry.

- Step 8: Renewal

A registered GI shall be valid for 10 years and can be renewed on payment of renewal fee.

- Step 9: Additional Protection to Notified Goods Additional protection for notified goods is provided in the Act.

- Step 10: Appeal Any person aggrieved by an order or decision may prefer an appeal.

DURATION OF REGISTRATION

Section 18 of the Act deals with duration, renewal, removal, and restoration of registration of Geographical Indication.

- The registration of a geographical indication shall be for a period of ten years but may be renewed from time to time in accordance with the provisions of this section.
- The registration of an authorised user shall be for a period of 10 years or for the period till the date on which the registration of the geographical indication in respect of which the authorised user is registered expires, whichever is earlier.

SUBJECT MATTERS WHO ARE NOT ELIGIBLE UNDER GEOGRAPHICAL INDICATION

Section 9 of the Act prohibits registration of certain geographical indications.

- the use of which would be likely to deceive or cause confusion; or
- the use of which would be contrary to any law for the time being in force; or
- which comprises or contains scandalous or obscene matter; or
- which comprises or contains any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India; or
- which would otherwise be disentitled to protection in a court; or
- which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which
- have fallen into disuse in that country
- which, although literally true as to the territory, region or locality in which the
- Goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be;

Infringement of Registered Geographical Indications

According to section 22, a person who is not an authorized user of a registered geographical indication and uses such a geographical indication by any means in the designations or presentation of goods that indicates or suggests that such goods come from a geographical area different from the true place of origin of such goods in a way that goods; or which does not provide accurate information about the geographical origin of such goods; or employs any geographical indication in a manner that is an act of unfair competition, including the passing

off, with respect to the registered geographical indication is such a person who commits the infringement of a registered south geographical area is a new way of describing what is already known, i.e. that "act of unfair competition" means any act of competition which is done against the spirit of fair play in industrial or commercial matters practice.

CASES FOR BETTER UNDERSTANDING OF GI



1. Tea Board, India v. ITC Limited

FACTS

India Tea Board owns the famous GI “Darjeeling” and the logo of the woman holding the tea leaves, as well as the trademark “Darjeeling” under the Trademarks Act, regarding “tea”. The Tea Board had previously filed a lawsuit against the ITC for using the name Darjeeling in their lounge. The case focused on issues of GI violations and TMs certificates, as well as transit and clearing.

CONCLUSION

It seems from this scenario that a registered GI symbol is the one that gives authority to a GI tag holder to take necessary actions against any person or a body using a mark which is either identical or deceptively similar to the registered mark or is a product with the registered name that is not similar to the registered product. If someone is using the service by the registered name or logo of GI, it will still not be considered under the Geographical Indications of Goods (Registration and Protection) Act, 1999. If we compare the definition of GI given in the TRIPS and section 2(e) of the domestic GI act, we find that it refers to "good/s" and nowhere is the word service mentioned and GI is for a product with special characteristics due to the environment, climate, and human intervention of a specific region. Hence, on these grounds rejected the plaintiff's appeal.



2. Darjeeling Tea v. Divine Darjeeling

FACTS

The Tea Board of India, which administers the GI “Darjeeling” for tea, opposed the registration of the mark “Divine Darjeeling.” The opposition was filed under the Geographical Indications of Goods (Registration and Protection) Act, 1999.

The Tea Board argued that the term “Darjeeling” has a unique geographical significance and is exclusively associated with tea grown in the Darjeeling region of West Bengal. Use of “Darjeeling” for any other product, or even as part of a brand name like “Divine Darjeeling,” could mislead consumers and dilute the reputation of the GI.

CONCLUSION

Darjeeling Tea v. Divine Darjeeling is a case known as a landmark in Indian GI law because it demonstrates how tightly Indian officials keep their registered GIs. The verdict maintained the purity and international status of Darjeeling tea, enabling it from being utilized by unscrupulous trade in anaemic ways. This is an example of GI rights as they do not just stop from hijacking but also from dilution, falsification, and helping consumers to correctly identify the product.

3. Feta Cheese Case – Commission of the European Communities v. Germany & Denmark (2005, ECJ)



FACTS

Germany and Denmark were producing and marketing white cheese made from cow’s milk under the name “Feta.” They argued that “Feta” had become a generic term in many EU countries (like “cheddar” or “mozzarella”), referring broadly to white brined cheese, not just Greek cheese. They claimed the name “Feta” should not be restricted only to Greek producers.

CONCLUSION

The Commission registered the name 'feta' as a protected designation of origin (PDO) for a white cheese soaked in brine, originating in Greece.

In the Commission's view, those conditions are fulfilled. The name 'feta' has not become the common name for an agricultural product or a foodstuff.

Thus, the Commission could lawfully decide that the term 'feta' had not become generic.

INTERNATIONAL FRAMEWORKS

The Paris Convention

Originally signed by 11 countries, now has 171 contracting member countries, which makes it one of the most widely adopted treaties worldwide. This treaty was the first multilateral agreement, which provided protection for indications of source and appellations of origin in signatory states, in accordance with their national procedure (Article 2 of TRIPS). Protection against false indications and unfair competition is one of the principal features of the Paris Convention. It provides remedies such as seizure of the product upon importation, or prohibition of importation, or seizure within the country for unlawfully bearing an indication of source. This provision provides the base for the protection against misleading indications of source, though it does not provide any remedies in case of its violation.

The Madrid Agreement

The Madrid Agreement contains provisions for the protection of indication of source based on the national law of the country in which the protection applies. Article 1 of the Agreement protects indications of source against vague wording and references, which could be misleading. Seizure shall be affected in the country where the false or deceptive indication has been applied or into which the goods bearing that false indication have been imported. The Agreement also established rules on how seizure should take place and defined the competent authority for the enforcement of these kinds of measures.

TRIPS Agreement

The most important effect of the TRIPS, in relation to GIs is that it became the first international treaty, with a large number of members, bound not only to protect geographical indications through substantive provisions but also to enforce its application according to minimum standards. It specifies that the quality, reputation or any other feature of a product may serve as the basis of a geographical indication if it is essentially due to the geographic origin of the product. It harmonized national laws and helped countries like India protect traditional products

globally.

GOVERNMENT POLICIES AND INITIATIVES FOR PROMOTION OF GI TAGS

APEDA (Agricultural and Processed Food Products Export Development Authority) has taken initiative to promote products having registered geographical indications (GI) in India by organizing Virtual Buyer Seller Meets on Agricultural and Food products GI with UAE, USA and Qatar in association with the Indian Missions

APEDA enabled the export of geographically indicated (GI) products to various places. Some of the top shipments of GI products were

- Naga Mircha (King Chilli) from Nagaland to the UK, Black Rice from Manipur to the United Kingdom,
- Assam Lemon to the United Kingdom and Italy
- Mango (Fazli, Khirsapati, and Laxmanbhog) from West Bengal and
- GI variety of Mango (Zardalu) from Bihar to Bahrain and Qatar.

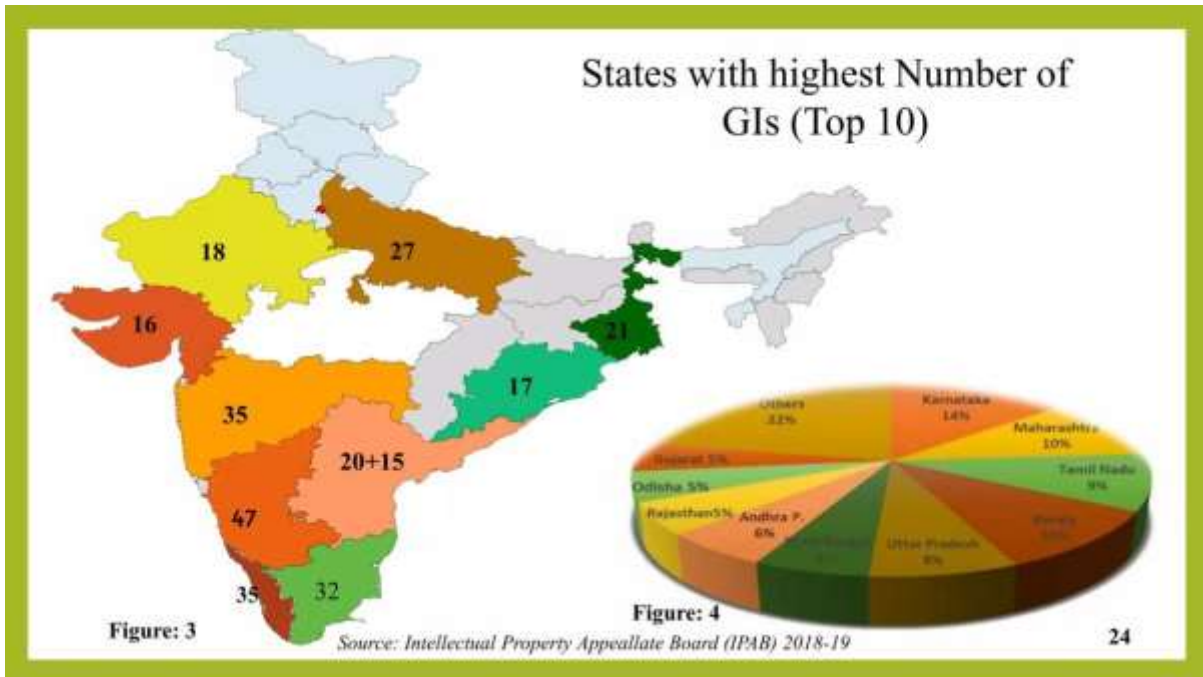
DPIIT (Department for Promotion of Industry and Internal Trade) organized the “India Geographical Indications (GI) Fair 2022” from 26th - 28th August, 2022 through Export Promotion Council for Handicrafts (EPCH) at India Expo Centre & Mart, Greater Noida, to promote GI products in India and abroad.

- DPIIT organized various GI Promotion Programmes/Exhibitions/ Conferences/ Buyer Seller Meets/ Workshops with focus on GI Products to boost its sale in India as well abroad.
- One District One Product (ODOP): Promotes one key product per district. Products are identified under Districts as Export Hubs (DEH), and GI-tagged products.
- ODOP works with artisans and producers to upgrade their skills and expand their capacity. For products with Geographical Indications (GI), ODOP is creating a brand identity that will be used across a variety of platforms, including social media postings and creatives.

CHALLENGES AHEAD

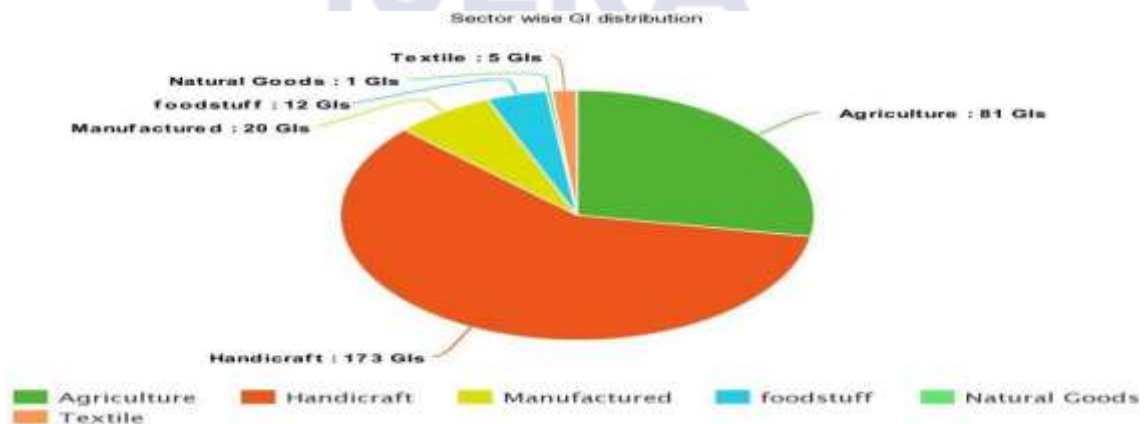
a. Disparity among different states in registering GIs

As per the current list of registered GIs, it has seen that every state and union territories has owned registered GIs for their respective product/ products. However, there is greater disparity among different states in registering GIs. Some states are the proud recipient of multiple registered GIs whereas other states are far lagging behind with just one or two registered GIs.



b. Disparity in the percentage of GI Categories

It has also found that majority of GIs are registered for handicraft and Agricultural goods. Whereas, the rest GIs are registered in other domains namely, foodstuff, manufactured and natural goods. The other categories should equally uprise by educating and motivating the producers and artisans by providing the raw material at the subsidies rate by the government.



Source: Geographical Indication Registry office

c. Problem of genericide

Another major legal barrier is the provision laid down under Section 9 of the Act in compliance

with TRIPS provision that solely leaves it up to the country to determine whether or not a specific geographical name has transformed into a generic term.

d. Economical and Technical Challenges

To keep Geographical Indication (GI) sustainable, a country like India would require the money and technical support to boost their product in the global market. The main issue with India is that the traders take away the largest share of the economic or financial benefits arising from the GI as compared to the producer who is the one

e. Social Challenges

The primary social challenge is the lack of awareness about GI Laws in India. Despite the fact that the legislature of India has enacted the GI Act in the year 1999 but, still many rural producer and common artisan have no knowledge that their skilled goods or produce is worth for getting protection.

SUGGESTION

1. To surpass the marketing and monitoring costs, the poor producers and artisans need to get export subsidies from the government to be able compete on the international market. This measure will safeguard not only their GIs but also allow them to the economic players. Non-Profit Organizations would welcome monetary help with the branding of the GI after registration.
2. The State Government has tried to grab this opportunity on numerous occasions by bringing the marketing of the GI products and the department of tourism together. To reach the maximum number of people, these programmes must be expanded because they are still limited to areas where the local societies are informed and aware.
3. To solve the technical difficulties in monitoring the instances of infringement, introduction of strong GI mechanism is the need of an hour at domestic and international level. It is necessary to alter the present Geographical Indications Act to incorporate stronger punitive measures for violators.
4. There have been cases of two adjacent regions laying claims to the origin of a single product. For instance, in the past, both West Bengal and Odisha claimed the GI tag for the sweet, rasgulla, with both states bagging GI tags for variants of the same sweet. There needs to be a mechanism to address such disputes.

CONCLUSION

It is right to say that the Geographical Indication Act, 1999 is as yet advancing and still has to go a long way to safeguard its encroachment. India is home to 605 GI tagged products across the categories. Out of which primarily is handicraft (342), followed by (197) agriculture products. India shows a wide diversity Uttar Pradesh is the leading GI state with 74 GI-tagged products and Tamil Nadu leads second with 69 GI-tagged products followed by Karnataka and Maharashtra. GIs have benefited sustainable rural development in India, but there are still difficulties that need to be addressed, such as a lack of knowledge regarding GI implementation in rural areas. Another key problem is the lack of follow-up after registration. Many products see a chronic decline in market share due to production methods becoming obsolete, resulting from a lack of financial or technical assistance. The overall impact of adopting geographical indications transcends mere branding; it encompasses a holistic approach to safeguarding cultural identity, promoting sustainable agricultural practices, and driving economic growth within rural communities.

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