

The definition, legal means of protection and nature of policy on geographical indications (GI) in South Africa has evolved over the last four decades. South Africa's path to GI protection has followed what can be considered a product-based approach to protect origin-linked products. Consisting of a variety of legal regimes – trademark laws, consumer protection laws and sui generis legislation for specific products – what has emerged is a unique hybrid system. The Agricultural Products Standards Act 119 of 1990 and the Liquor Products Act 60 of 1989, are examples of product specific legislation for origin-linked products, while the Merchandise Marks Act 17 of 1941 is a consumer protection law and the Trade Marks Act 194 of 1993 is the governing trademark law. These pieces of legislation prohibit the use of false or misleading descriptions of products, including misleading as to the origin of the product and prohibit the use of any misleading marks or words in the course of trade. South Africa's oldest origin-linked product scheme is for wines and spirits, where the country has been an active and major player. The Wines of Origin System established in terms of the Liquor Products Act essentially provides GI-specific protection similar to that of the European Union. The Wine of Origin System is a certification scheme designed to regulate and protect the geographical origin, variety, vintage, and quality of South African wines. Established in 1973 and administered by the South African Wine and Spirit Board, the system ensures that wines labelled under specific names meet strict criteria, guaranteeing authenticity and adherence to regional characteristics. Prior to 2019, there was no GI-specific legislation for non-alcoholic products in South Africa, that is legislation that mirrors the wording in art. 22(1) of the TRIPS Agreement. Recently, the Regulations Relating to the Protection of Geographical Indications used on Agricultural Products intended for Sale in the Republic of South Africa (GI Regulations of 2019), were enacted in terms of the Agricultural Products Standards Act. The GI Regulations of 2019 introduced legal provisions for the registration and protection of foreign GI and local GI for all agricultural products. This paper examines the trajectory of GI legislation in South Africa – the definition of GI, the legal means of protection and the nature of policy on GI in South Africa. It explores the development of GI-specific legislation in South Africa, focusing on the progression from the Wine of Origin System to the GI Regulations of 2019, which have ushered in a new legal measure for origin-linked products in South Africa. The paper also highlights the impact of these developments on the protection of unique South African agricultural products and compares the new GI-specific legislation with existing consumer protection laws and the trademark regime.