

# **On Tangail Saree-GI by India**

## ***What Happened and What Can be Done?***

*Presentation by*

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**Dhaka: 10 February 2024**

# Acknowledgement

**Ms Naima Jahan Trisha**

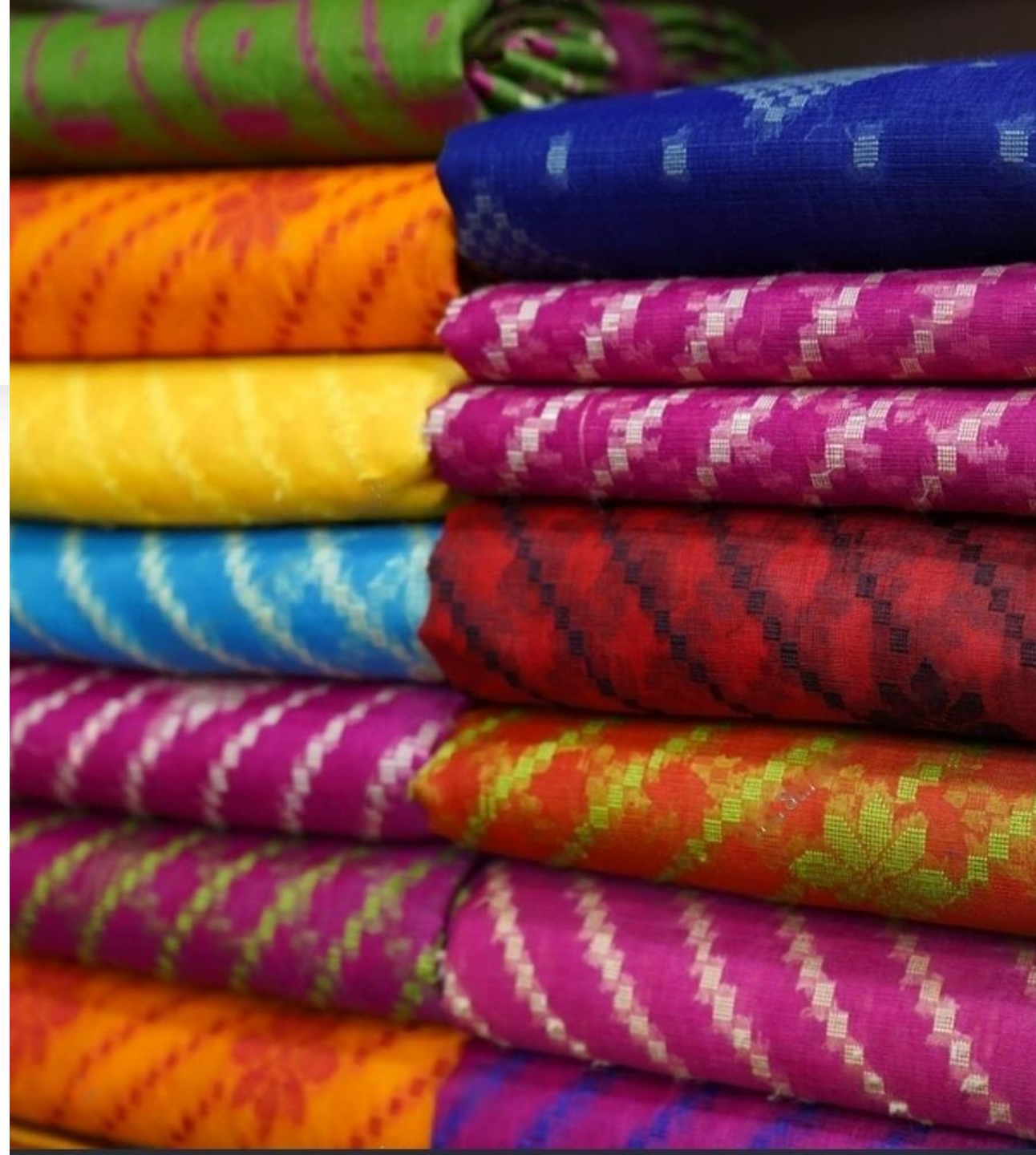
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Inputs received from the officials of  
the **World Intellectual Property Organization (WIPO)** is also recognised.

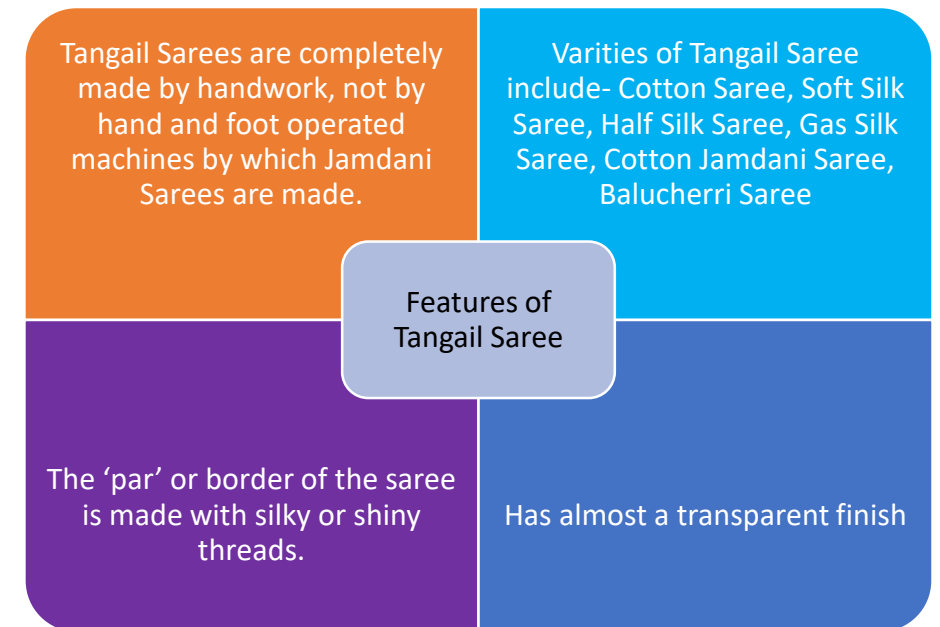
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# 1. What is the issue?

- On 4 January 2024, the Tangail Saree was officially registered as a Geographic Indication of India under the title '*Tangail Saree of Bengal*.'
- *Based on application from the West Bengal State Handloom Weavers Co - Operative Society Limited in 2020*
- India was accorded priority country status for Tangail Saree under the geographical jurisdiction of West Bengal.
- The Tangail Saree is a longstanding cottage industry in Bangladesh, tracing back to the British era. Tangail's Zamindars patronized Dhaka Jamdani weavers during British colonial period. Over time, these weavers innovated various motifs, shaping the Tangail Saree as we know it today.
- By no means, India can justify West Bengal as the origin of Tangail Saree. Therefore, *legal remedies* within proper jurisdictions have to be found against this misappropriation of Bangladesh's intellectual property.

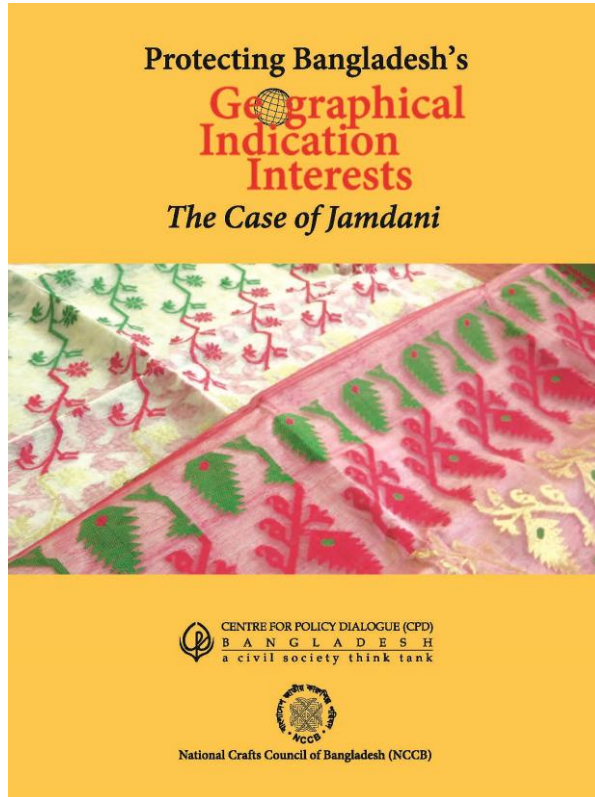


## 2. Why are we interested?

- The Centre for Policy Dialogue (CPD) and the National Crafts Council of Bangladesh (NCCB) had an initiative to protect Bangladesh's Geographical Indications (GIs) and a paper was published titled ***'Protecting Bangladesh's Geographical Indication Interests The Case of Jamdani'*** in October 2014. A team of experts led a study that helped the Bangladesh government use the GI Act (2013) to protect Jamdani as a product of Bangladesh and register other GI products.
- CPD has been always vocal regarding harnessing Intellectual Property in Bangladesh. A conversation with the media titled, ***'WTO decision on extension of TRIPS transition period for LDCs: Implications for graduating Bangladesh'*** asserted the necessity for Bangladesh to actively embed Intellectual Property issues in its LDC transition strategy – looking beyond TRIPS pharma waiver.
- CPD has been relentless in representing Bangladesh's IP interest to the international community. A paper titled ***'Integrating intellectual property inputs in the smooth transition strategies of LDCs'*** was presented in an Expert Group Meeting (EGM) in Geneva organized by UNDESA, South Centre and UNCTAD in Geneva on 14 December 2023.
- CPD also hosts the Secretariat of the Citizen's Platform for SDGs, Bangladesh. This platform helps stakeholders work for poor, marginalized and disadvantaged groups, local artisans and weavers who are part of the LNOB group.



## 2. Why are we interested? *(contd.)*



### **A conversation with media on WTO decision on extension of TRIPS transition period for LDCs: Implications for graduating Bangladesh**

with

**Dr Debapriya Bhattacharya**

Former Bangladesh Ambassador to WTO  
Member, UN Committee for Development Policy (CDP)  
and  
Distinguished Fellow, Centre for Policy Dialogue (CPD)

**Dhaka: 10 July 2021**

### **Integrating Intellectual Property (IP) Inputs in the Smooth Transition Strategies of LDCs**

Presentation by

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*at the Expert Group Meeting on*  
**Innovation Ecosystems for Development, Structural Change and Equity**

Organised by  
*United Nations Department of Economic and Social Affairs (UNDESA)*  
in substantive collaboration with  
*The South Centre*

**Geneva, 15 December 2023**



### 3. What is Geographic Indication?

- A Geographical Indication (GI) is a form of intellectual property right used on products that *originate from a distinct geographical location* and *embody characteristics attributable to that particular origin*. World Intellectual Property Organization (WIPO) distinguishes between three terminology of geographic indications-

**Indications of source:** The product for which an indication of source is used only requires that the product originates in a certain geographical area.

**Geographic Indication:** The product for which a geographic indication is used must possess a given quality, reputation or other characteristic of the good essentially attributable to its geographical origin.

**Appellation of origin:** The product for which an appellation of origin is used is already protected under national law and must have a quality and characteristics which are due exclusively or essentially to its geographical environment including natural and human factor (higher standard of protection than GI).

### 3. What is Geographic Indication? *(contd.)*

The scope of protection for geographical indications falls under the **multilateral treaties** of-

1. The *Paris Convention for the Protection of Industrial Property (1883)*,
2. *The Madrid Agreement on Indications of Source (1891)*
3. *The Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958)*
4. *The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS) (1994)*



### 3. What is Geographic Indication? *(contd.)*

- **Articles 1(2) and 10 of the Paris Convention and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of 1891** mention the term *“indication of source”*.
  - ❑ The common feature of Articles 9, 10 and 10bis of the Paris Convention and Articles 1 and 2 of the Madrid Agreement on Indications of Source is that protection is provided against the use of false indications of source that would be misleading.
- **Article 2 of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, of 1958** contains the definition of *“appellation of origin”*.
  - ❑ The country of origin is the country whose name, or the country in which is situated the region or locality whose name, constitutes the appellation of origin which gives the product its reputation.
- **Part II, Section 3 of the TRIPS Agreement** is dedicated to *“geographical indications”*.
  - ❑ Article 22.2 mentions that members need to provide legal means against the pretense of the origin of a good and acts of unfair competition.
  - ❑ Article 22.3 deals specifically with the registration of trademarks that misleads regarding the true place of origin.
  - ❑ Article 22.4 is stipulated with respect to the use of deceptive geographical indications.

### 3. What is Geographic Indication? (contd.)

There are three main modalities of protection for GIs

- *Sui generis* system, which apply specifically and exclusively to GI (such as in Bangladesh and India )
- Collective marks and certification marks (e.g. United States)
- Modalities focusing on business practices such as laws relating to the repression of unfair competition or to consumer protection).

#### National and Regional routes (To address domestic conflicts regarding GI)

- *Appellations of origin protected under Article 1(2) of the Paris Convention*
- *Geographical indications protected under Article 7bis of the Paris Convention*
- *Protection under trademark law*
- *Unfair competition or passing off protected under Article 10bis of the Paris Convention*  
*One has to apply to the competent authority of each country or region in which you are seeking protection for your geographical indication.*

#### International route( To address international conflicts regarding GI)

- *Bilateral Agreements: Some countries recognize and protect GIs of another country based on bilateral agreements between them (e.g. Kampot pepper from Cambodia is a certified GI product in Cambodia (since 2010) and in European Union (since 2016))*
- *Lisbon System: Offers streamlined international registration for GIs. (Bangladesh and India are not members)*

## 4. Why is GI important?

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**Protects producers:** GIs prevent unauthorized use of the indication by others, ensuring only qualified producers benefit from its reputation.

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**Product differentiation:** Consumers associate GIs with specific qualities and origins, differentiating them from similar products.

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**Collective branding:** GIs help develop collective brands for products with shared geographical characteristics, building stronger market presence.

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**Combats "free-riders":** GIs prevent others from exploiting the established reputation of the geographical area for their own gain.

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**Anti-dilution:** GIs prevent unauthorized registration as trademarks and becoming generic terms, preserving their unique value.

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**Preserving traditional knowledge:** GI can protect local heritage and strengthen local traditions.

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**Economic benefits:** GIs can lead to competitive advantages, premium prices for higher product value, increased export opportunities, stronger brand image, and higher export prices.

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## 4. Why is GI important? (contd.)

- Putting the face of the character *Juan Valdez* to represent the archetypal Colombian coffee grower in the logo and registering for an 'Origin of Appellation' has brought a worldwide reputation to once plummeting "Café de Colombia."
- Falsely marketed powerloom imitations of esteemed "Banarsi" handlooms in India cost only one-tenth of the original sarees. In the absence of GI, this would threaten the sustainability of authentic handloom production due to the lower price and competition they posed.
- **By registering a GI for Tangail Saree, India has demonstrated an inclination to 'free ride' which may lead to unfair competition for Bangladeshi producer of Tangail Saree. A question regarding the ethical integrity of the measure may also be raised.**
- **The market for Tangail Sarees of Bangladesh is worldwide, spanning Europe, North America, Middle East, Japan, and several Indian states. Bangladesh exports about 50,000 sarees to India every week. India now has the opportunity to capitalize on the heritage brand of Bangladeshi Tangail Saree, which was built over 250 years.**



## 5. What is the process that India followed to register the GI in question?

Date	Actions	Observations
8 September 2020	An application was filed by the Director of Textiles, Handlooms, Spinning Mills, Silk Weaving & Handloom based Handicraft Division, Government of West Bengal under the name 'Tangail Saree of West Bengal' to obtain GI for Tangail Saree.	<p>The section 'History of Tangail Saree of West Bengal' in the application says-</p> <ul style="list-style-type: none"> <li>▪ The Tangail Saree's weaving was exclusive to '<b><i>a specific Hindu weaver community in East Bengal</i></b>', now Bangladesh.</li> <li>▪ A trader in West Bengal '<b><i>introduced a Jamdani-like saree sample from Dhaka with extra-weft motifs all woven on the alternate pick</i></b>', which was replicated to manufacture Tangail Saree in West Bengal. No time period was specified regarding the appearance of the trader.</li> <li>▪ The atmosphere of West Bengal was claimed to be conducive to the production of Tangail Saree. To quote, '<b><i>The type of paddy grown and the mineral content of water used are vital to the consistency and quality of the Khoi starch. The paddy grown and the water used in it is the attributes of the local environment, soil and water of those region.</i></b>' But this directly contradicts their claim to Tangail Saree on grounds of the human factor of migrated weavers' skill. If the quality of their saree is due to natural factor there is no reason to use 'Tangail' in the title of the GI.</li> </ul>



## 5. What is the process that India followed register the GI in question? (contd.)

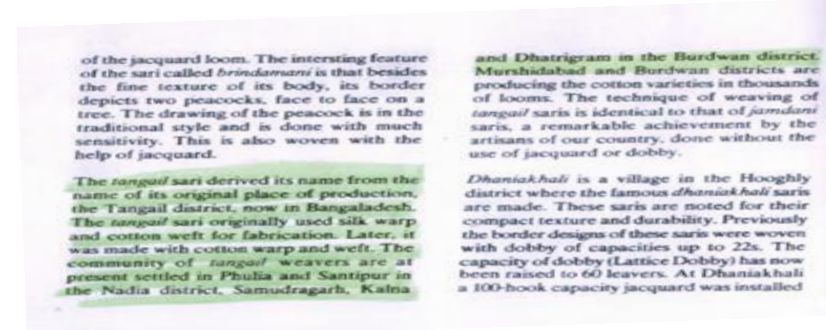
Date	Actions	Observations
11 September 2020	Publication of an initial formality check report disqualifying the GI for Tangail Saree.	<p>During the formality check report the product was disqualified as GI on several grounds including</p> <ul style="list-style-type: none"><li>▪ The violation of Section 2(e) of GI Act, 1999 of India- <b><i>‘A GI cannot be coined or created, nor it is brand (Trade mark) created by an Individual or a body.’</i></b></li><li>▪ An issue was raised <b><i>regarding ‘the discrepancies’ found in name of GI product, “Tangail Saree of West Bengal”, “Fulia Tangail Saree”, “Tangail Jamdani” and Tangail Saree (Indian Variety).’</i></b></li><li>▪ Documentary evidence relating to proof of origin (historical proof) of product along with usage of Name of GI - <b>“Tangail Saree of West Bengal”</b> was to be provided .</li></ul>
21 January 2021	A reply to formality check report was submitted.	<ul style="list-style-type: none"><li>▪ The documentary evidence submitted nowhere had the mention of ‘Tangail Saree of West Bengal’ rather two <b>of their submitted documents referred to Tangail of Bangladesh as the place of origin.</b></li></ul>

## 5. What is the process that India followed register the GI in question? (contd.)

Tangail Sarees, also have its origin at Tangail now in Bangladesh are now being woven in Nadia district of West Bengal with concentration around Phulia mostly by the weavers both from Phulia as well as those migrated from Tangail. These sarees are also woven around Kalna in Bardhaman. These sarees are much more colourful with various geometrical designs. However its anchal has comparatively less designs than those of Jamdanis.

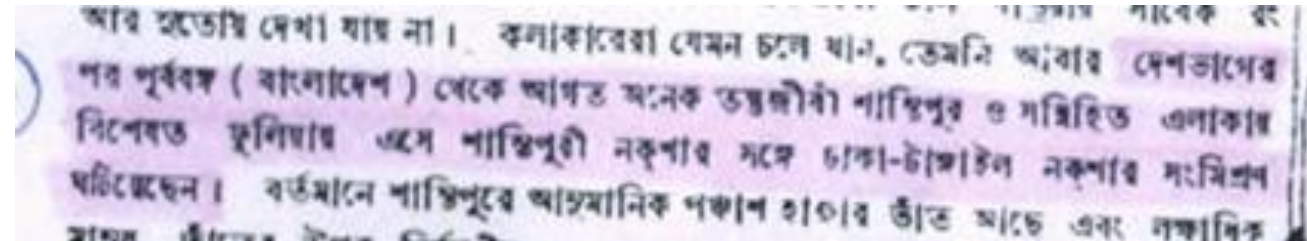
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(Source: Reply to Formality Check Report, Annexure B.IV)



'The Tangail Saree derived its name from the name of its original place of production, the Tangail district now in Bangladesh.' The Tangail Saree originally used silk warp and cotton weft for fabrication. Later, it was made with cotton warp and weft. The community of Tangail weavers are at present settled in Phulia and Santipur in the Nadia district, Samudragarh, Kalna and Dhatrigrum in the Burdwan districts

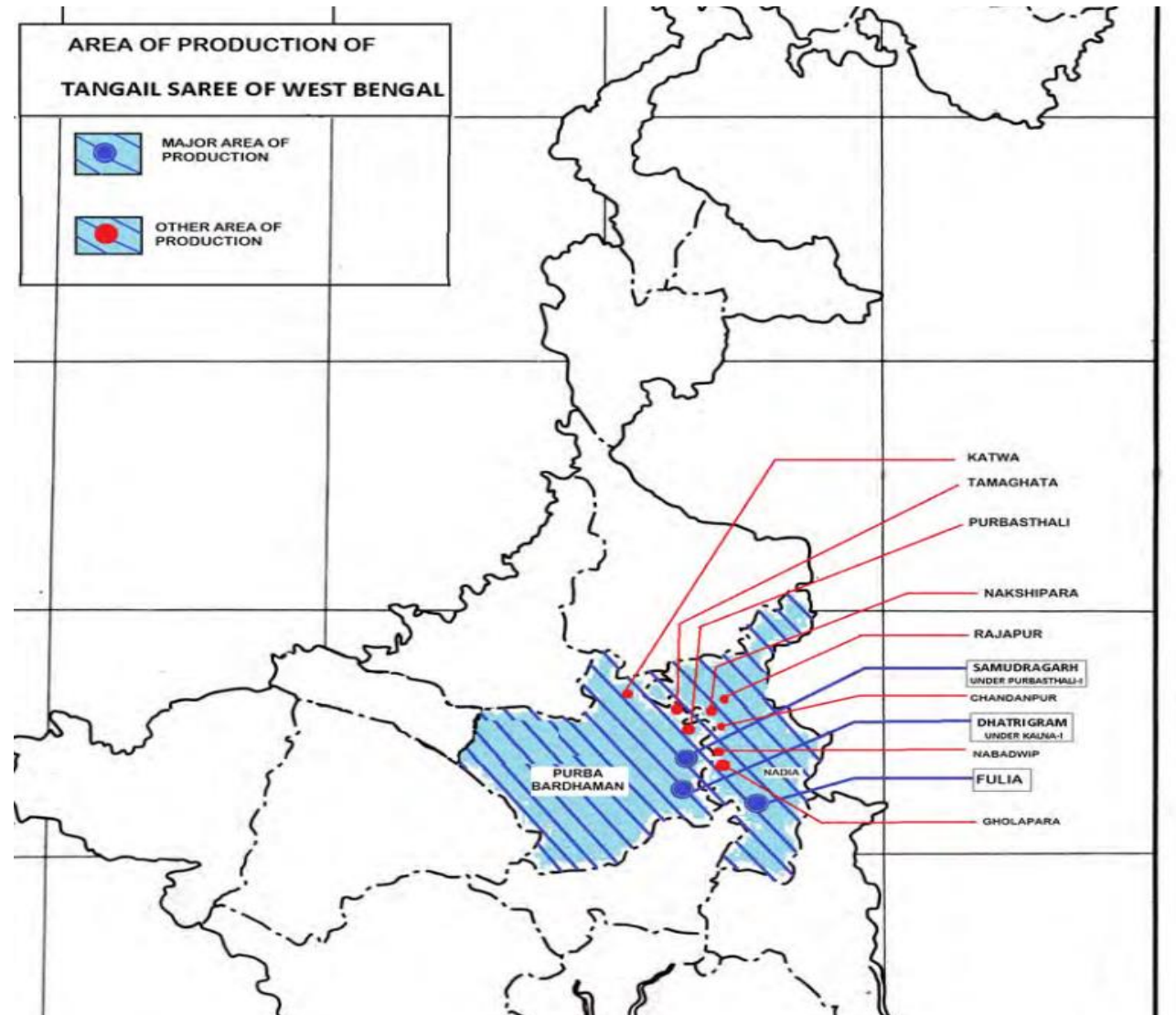
(Source: Reply to Formality Check Report, Annexure B.I)



'দেশভাগের পর পূর্ববঙ্গ (বাংলাদেশ) থেকে আগত অনেক তন্তুজীবী শান্তিপুর ও সন্নিহিত এলাকার বিশেষত ফুলিয়ার এসে শান্তিপুরী নকশার সঙ্গে ঢাকা-টাঙ্গাইল নকশার সংমিশ্রণ ঘটিয়েছেন।'

(Source: Reply to Formality Check Report, Annexure B.III)

## 5. What is the process that India followed register the GI in question? *(contd.)*



## 5. What is the process that India followed register the GI in question? *(contd.)*

Date	Actions	Observations
10 November 2022	A meeting of the consultative group was held.	<ul style="list-style-type: none"> <li>The objective of the meeting to ascertain the correctness of particulars of GI application.</li> </ul>
26 December 2022	Publication of the examination report	<ul style="list-style-type: none"> <li>The Consultative Group strongly felt that the name of GI to be amended <b>as per historical reference / as per the local reputation/usage.</b></li> </ul>
30 March 2023	A reply to the examination report was submitted.	<ul style="list-style-type: none"> <li>Following the Consultative Group's suggestion, <b>the name of the GI was changed from 'Tangail Saree of West Bengal' to 'Tangail Saree of Bengal'.</b></li> <li>The misleading GI title <b>'Tangail Saree of Bengal'</b> infers to a much broader area beyond the geographic demarcation of West Bengal and is most likely to create confusion in terms of distinguishing the true 'Tangail Saree of Tangail' from the Tangail Saree of West Bengal.</li> </ul>
31 August 2023	GI Journal copy was published by <b>Intellectual Property India Patents Designs Trademarks Geographical Indication</b>	<ul style="list-style-type: none"> <li>Once a GI is advertised in the journal, <b>objection must be raised within three months</b> of its publication.</li> </ul>
2 January 2024	GI was registered for "Tangail Saree of Bengal."	<ul style="list-style-type: none"> <li><b>Neither Bangladesh nor any Bangladeshi filed any notice of opposition</b> against the application and eventually "Tangail Saree of Bengal" was registered.</li> </ul>

## 6. What Did Bangladesh Do?

So far there have been 21 products registered as GI of Bangladesh-



### Accredited GIs of Bangladesh

- Jamdani
- Hilsha fish
- Khirsapati mango
- Dhakai Muslin
- Rajshahi Silk
- Shatranji from Rangpur
- Kataribhog Rice of Dinajpur
- Sadamti or White Clay of Netrakona
- Kalijira Rice
- Bagda Shrimp or Tiger prawn
- Fazli Mango of Rajshahi
- Yogurt of Bogra
- Tulsimala paddy of Sherpur
- Langra mango of Chapainawabganj
- Ashwina mango of Chapainawabganj
- Shitalpati of Sylhet
- Natore's Kachagolla
- Chamcham of Tangail
- Rasmalai of Comilla
- Khaja of Kushtia Sesame
- Black Bengal goat of Bangladesh.

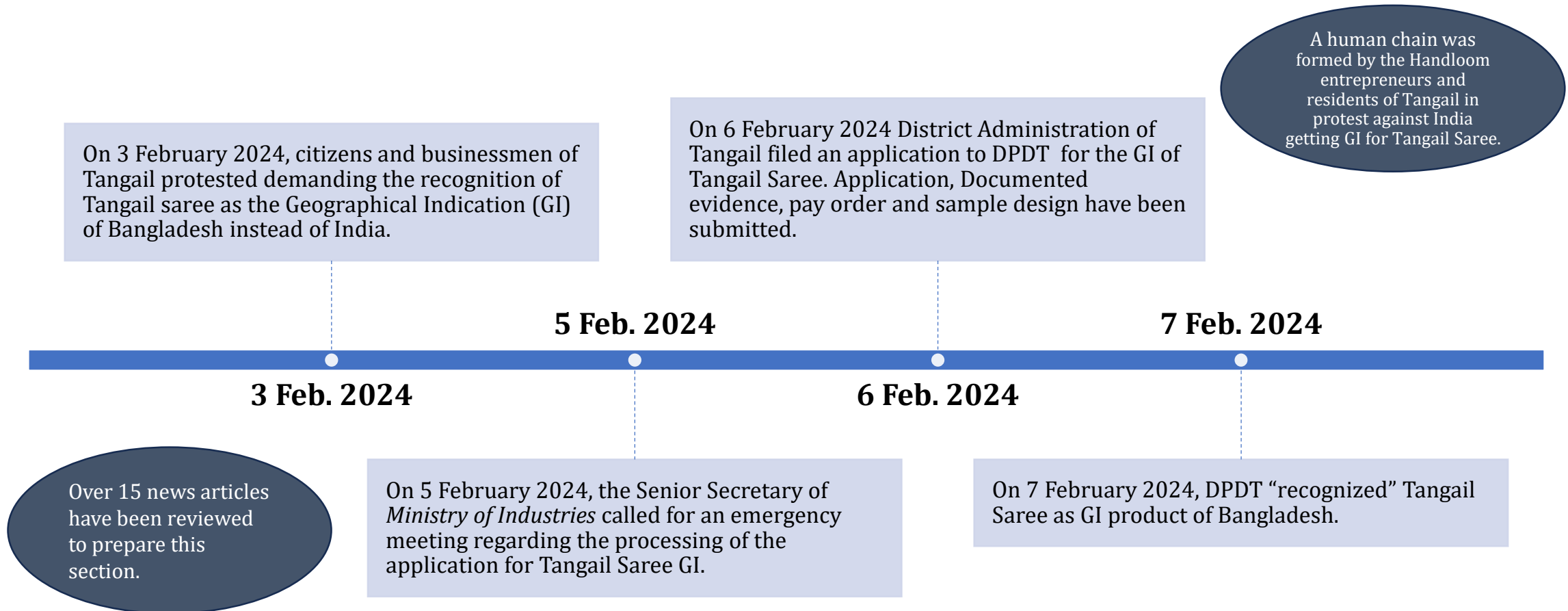


## 6. What Did Bangladesh Do? *(contd.)*

### How did we come to know of the Tangail Saree GI of India?

- The Journal copy of the GI ‘Tangail Saree of Bengal’ was published on 31 August 2023 by Intellectual Property India Patents|Designs|Trademarks Geographical Indication.
- For five months the advertising of GI remained out of the radar of the relevant agencies.
- In particular, the Department of Patents, Designs and Trademarks (DPDT), Ministry of Industries, Government of Bangladesh and/or Bangladesh High Commission in India(Kolkata/Delhi) didn’t take note of it.
- The Indian side also didn’t alert, giving us an opportunity to scrutinize.
- The public became aware of the matter on February 1, 2024, following an announcement made via the official Facebook page of India’s Ministry of Culture which was removed later. But the *GI registration* remains.

## 6. What Did Bangladesh Do? *(contd.)*



## 6. What Did Bangladesh Do? *(contd.)*

The Department of Patents, Designs and Trademarks (DPDT) has not made it explicit that we are still in the process of registering the GI under the Geographical Indication of Goods (Registration and Protection) Act, 2013 of Bangladesh-

- Under *Section 12 of Chapter IV*, if the Registrar determines that an application for the registration of a geographical indication of goods meets all requirements, the application will be published as advertisement.
- *Section 13 of Chapter IV* stipulates that any person, authority or institution concerned can object the registration within two months after the publication of the notification.
- Within three days of application by the District Administration of Tangail, DPDT approved the application for Tangail Saree.
- Given India already holds the GI for Tangail Saree the country may very much raise objection against the application of Bangladesh.
- The GI of Tangail Saree is not confirmed yet.

# 7. What Can be Done Now?

## Similar Issues in the Past

- India has taken off a number of GI on products which belong to Bangladesh as well

GI Title	Goods	Geographical Area	Priority Country	Status
Malda Fazli Mango	Agriculture	West Bengal	India	Registered
Malda Laxman Bhog Mango	Agriculture	West Bengal	India	Registered
Malda Khirsapati (Himsagar Mango)	Agriculture	West Bengal	India	Registered
Nakshi Kantha	Handicraft	West Bengal	India	Registered
Banglar Rasgolla	Food Stuffs	West Bengal	India	Registered
Uppada Jamdani	Handicraft	Andhra Pradesh	India	Registered
Gorod Saree	Textile	West Bengal	India	Registered
Sundarban Honey	Foodstuffs	West Bengal	India	Registered
<b>Bengal Muslin</b>	<b>Textiles</b>	<b>West Bengal</b>	<b>India</b>	<b>Advertised on 31 October 2023</b>

## 7. What Can be Done Now? *(contd.)*

### 7.1 Domestic legal recourse in the current context

- The DPDT must act to register the GI of Tangail Saree following fully and faithfully, the laid out process.
- Bangladesh High Commission may be asked to consult competent lawyers in India and the Bangladesh Permanent Mission in Geneva may talk to WIPO officials to explore options regarding appellation against 'Tangail Saree of Bengal.'
- Constant monitoring of the GI Journal of other countries, particularly regarding the shared resources with India, has to be done.



# 7. What Can be Done Now? *(contd.)*

## 7.2 Legal Recourse in India

### Is the time to contest against India's "Tangail Saree of Bengal" GI gone?

- **May be not.** On the official website of Intellectual Property India Patents|Designs|Trademarks Geographical Indication, it is suggested to appeal to the Intellectual property appellate board (IPAB) if any person is aggrieved by an order or decision **within three months**.
- However, in 2021, the Intellectual Property Appellate Board (IPAB) in India was abolished. Since then, two Indian High Courts have established their own IP divisions- the Delhi High Court and the Madras High Court
- Conforming to the current legal practice of India an appeal can be made under the ***Tribunals Reforms (Rationalization and Conditions Of Service) Ordinance 2021*** of India to the Registrar of Geographical Indications and the High Court of India.
- The Registrar or the High Court may, upon receiving an application in the prescribed manner from any aggrieved person-
  - *Make an order for cancelling or varying the registration of a Geographical Indication.*
- This order can be made on the grounds of-
  - *Any contravention or failure to observe a condition entered on the register in relation to the Geographical Indication.*

# 7. What Can be Done Now? *(contd.)*

## What legal basis can be leveraged for remedy?

- **WIPO's Stance**
  - A Geographical Indication (GI) may be refused protection if its use would be potentially misleading to consumers due to the existence of another homonymous indication.
- **Article 22.3, Protection of Geographical Indications - TRIPS Agreement**
  - Deals with the registration of trademarks containing or consisting of a GI for goods not originating in the indicated territory.
  - If the use of such trademarks would be misleading as to the true place of origin, the remedy is refusal or invalidation of the trademark registration.
  - Actions can be taken ex officio or at the request of an interested party.
- **Article 22.4, Protection of Geographical Indications - TRIPS Agreement**
  - Addresses the use of deceptive GIs that are literally true but falsely represent to the public that the goods on which they are used originate in a different territory.
- **Bangladesh has a strong case as the Indian GI refers to 'Tangail Saree' which is a specific geographic location in Bangladesh.**
- **The argument of migration of skills and knowledge during partition is not strong as GIs must be linked to products produced in a specific territory.**

## 7. What Can be Done Now? *(contd.)*

### 7.3 A Task Force

- The government may set up a multi-disciplinary Task Force to advise the relevant domestic parties including the producers and trade bodies to pursue the matter on different fronts.
- The proposed Task Force could recommend measures so that such a situation does not arise in the future (under the Ministry of Industries).

### Other actions

- The regulators of intellectual property rights of Bangladesh need to have clear national understanding that simply registering GI is not enough.
- The concerned body need to ensure that GIs are leveraged as part of broader value addition, marketing, exporting strategies – there should be concrete benefits of using GIs for the producers.
- Impact assessment studies ought to be carried out for all the registered GIs to understand the impact of identification of good on production and producer community.
- To safeguard GIs internationally, possibility of accession to Lisbon Treaty in WIPO has to be explored.

## 7. What Can be Done Now? *(contd.)*

### Other actions

- National legislation and TRIPS agreement have to be incorporated to protect the traditional knowledge (TK) of the country.
  - Traditional knowledge is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community (e.g. Lalon song)
  - If we are not mindful, similar incidents may happen in case of TK as we have shared culture with the neighboring countries.

# Thank You