

# Creating Value from IPRs - Geographical Indications: Scope and Potential for States

Training of Trainers Programme on  
WTO and International Trade: Strengthening State-Centre Linkages

Thursday, 23 August 2012

(22<sup>nd</sup> and 23<sup>rd</sup> August 2012)

IIFT

Madhukar Limba

Professor

Centre for WTO Studies

# Why GI Protection in India

Mandatory for new  
WTO  
Requirements

Promotion and  
Protection of GI  
production in  
International market

To help consumer  
to identify right  
product

Improving the  
prosperity of  
Indian GI owners

# GI History in India

GI rules came in 2002

25 August 2001 GI office started in Chennai

The first GI came in 2004

To date 178 GI registered

# What is a Geographical Indication

It is an indication

it originates from a definite geographical territory.

It is used to identify agricultural, natural or manufactured goods

The manufactured goods should be produced or processed or prepared in that territory.

It should have a special quality or reputation or other characteristics

# *What is a Geographical Indication*

*Appellations of Origin*

*A qualitative link with the place of origin*

*Indications of source*

*Factual link of manufacture in the place and may be supported with reputation*

## *What is the benefit of registration of geographical indications?*

*It confers legal protection to Geographical Indications in India*

*Prevents unauthorized use of a Registered Geographical Indication by others*

*It provides legal protection to Indian Geographical Indications which in turn may boost exports.*

*It seeks to promote economic prosperity of producers of goods produced in a geographical territory*

*Who can apply for the registration of a geographical indication?*

*Any association of persons, producers, organisation or authority established by or under the law can apply;*

*The applicant must represent the interest of the producers*

*The application should be in writing in the prescribed form*

*The application should be addressed to the Registrar of Geographical Indications along with prescribed fee*

*Who is a registered proprietor of a geographical indication?*

*Any association of persons, producers, organisation or authority established by or under the law can be a registered proprietor.*

*Their name should be entered in the Register of Geographical Indication as registered proprietor for the Geographical Indication applied for*



*Who is an authorised user?*

*A producer of goods can apply for registration as an authorised user*

*It must be in respect of a registered geographical indication*

*He should apply in writing in the prescribed form along with  
prescribed fee*

## Who is a producer in relation to a Geographical Indication?

The persons dealing with three categories of goods are covered under the term  
Producers:

Agricultural Goods includes the production, processing, trading or dealing

Natural Goods includes exploiting, trading or dealing

Handicrafts or industrial goods includes making, manufacturing, trading or dealing.

Is a registration of a geographical indication compulsory and how does it help the applicant?

*Registration is not compulsory*

*Registration affords better legal protection to facilitate an action for infringement*

*The registered proprietor and authorised users can initiate infringement actions*

*The authorised users can exercise the exclusive right to use the geographical indication.*

*How long the registration of Geographical Indication is valid?*

*The registration of a geographical indication is valid for a period of 10 years*

*It can be renewed from time to time for further period of 10 years each.*

*If a registered geographical indication is not renewed it is liable to be removed from the register*

*When is a registered Geographical Indication said to be infringed?*

*When an unauthorised user uses a geographical indication that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which mislead the public as to the geographical origin of such goods*

*When the use of geographical indication result in an unfair competition including passing off in respect of registered geographical indication*

*When is a registered Geographical Indication said to be infringed?*

*It shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement*

*However, when an authorised user dies, his right devolves on his successor in title*

*When the use of another geographical indication results in false representation to the public that goods originate in a territory to which a registered geographical indication relates*

# *Registration Process*

## STEP 1: Filing of application

The association of persons or producers or any organization or authority should represent the interest of producers of the concerned goods and should file an affidavit how the applicant claims to represent their interest.

Application must be made in triplicate.

The application shall be signed by the applicant or his agent and must be accompanied by a statement of case.

Details of the special characteristics and how those standards are maintained.



## STEP 1: Filing of application

Three certified copies of the map of the region to which the GI relates,

Details of the inspection structure if any to regulate the use of the GI in the territory to which it relates,

Give details of all the applicant together with address. If there is a large number of producers a collective reference to all the producers of the goods may be made in the application and the GI, if registered will be indicated accordingly in the register.

## *STEP 2 and 3: Preliminary scrutiny and examination*

*The applicant should within one month of the communication in this regard, remedy the same*

*The content of statement of case is assessed by a consultative group of experts well versed on the subject*

*The Examiner will scrutinize the application for any deficiencies*

*He will ascertain the correctness of particulars furnished*

*Thereafter an Examination Report would 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&6:

### Publication in the geographical indications Journal and Objections

Any person can file a notice of opposition within three months (extendable by another month on request which has to 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 counterstatement

## STEP 5&6:

### Publication in the geographical indications Journal and Objections

If he does not do this he shall be deemed to have abandoned his application. Where the counter-statement has been filed, the registrar shall serve a copy on the person giving the notice of opposition.

Thereafter, both sides will lead their respective evidences by way of affidavit and supporting documents.

A date for hearing of the case will be fixed thereafter.

## 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.

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



Filing of application

Preliminary scrutiny and examination

Show Cause Notice

Publication in the geographical indications Journal  
Objections

Registration

# Contents of Application

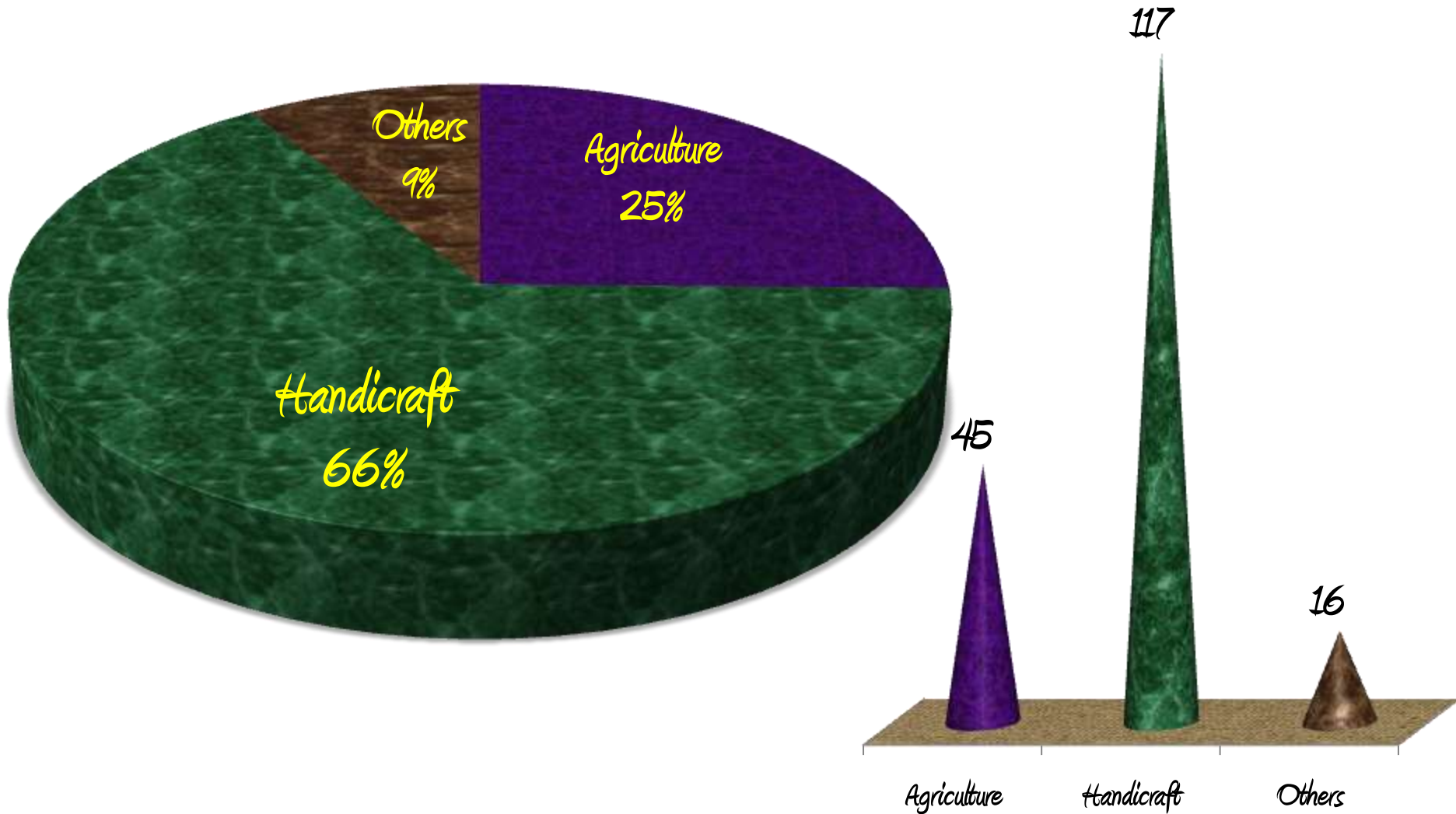
| Sr. | PARTICULARS   | PG. NO. |
|-----|---|---------|
| 01  | APPLICATION FOR REGISTRATION OF MATHESHWAR<br>"FABRIC" GEOGRAPHICAL INDICATION ALONG WITH AFFIDANT (GI-1) |         |
| 02  | ANNEXURE A: Detailed List of persons involved in the production and trading                               |         |
| 03  | ANNEXURE B: List of various kind of products of along with its specifications & uniqueness                |         |
| 04  | ANNEXURE C: Certified copies of the maps along with a copy of the Imperial Gazetteer<br>of India          |         |
| 05  | ANNEXURE D: Copy of the relevant extract of the Gazetteer   |         |



# Contents of Application

| Sr. | PARTICULARS   | PG. NO. |
|-----|---|---------|
| 06  | ANNEXURE E: photographs of the process of production and manufacturing  |         |
| 07  | ANNEXURE F: Copy of the relevant Rules of testing and certification   |         |
| 08  | ANNEXURE-G: Copy of the Memorandum and Article of Association of the legal body   |         |
| 09  | ANNEXURE-H: Photographs of the product and other related raw material   |         |
| 10  | ANNEXURE-I: Various certificates issued by the government authorities recognizing the existence and its significance of the product |         |
| 11  | Letter of Authorisation (G-10)  |         |

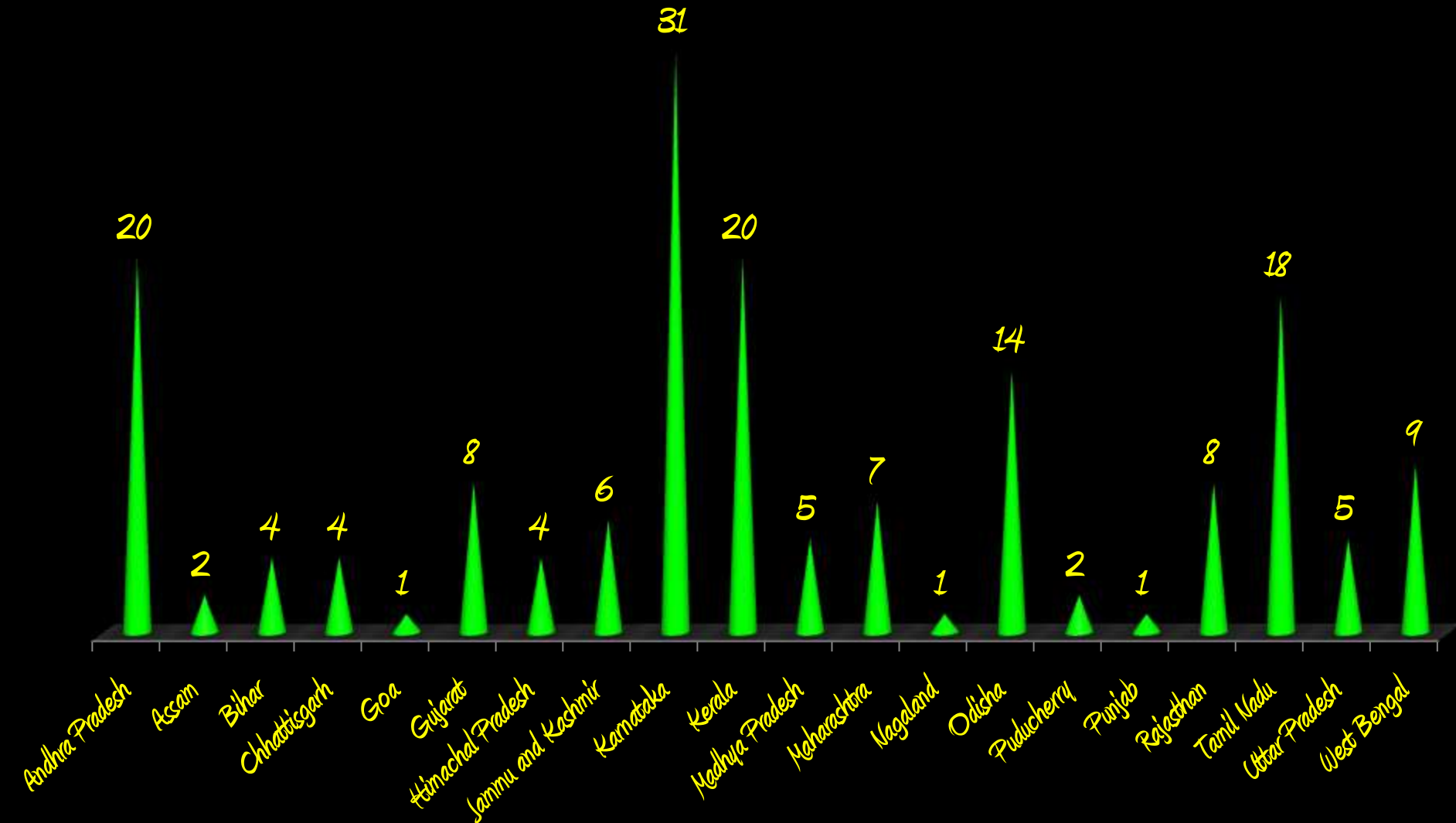
# GI Registration till 22 August 2012



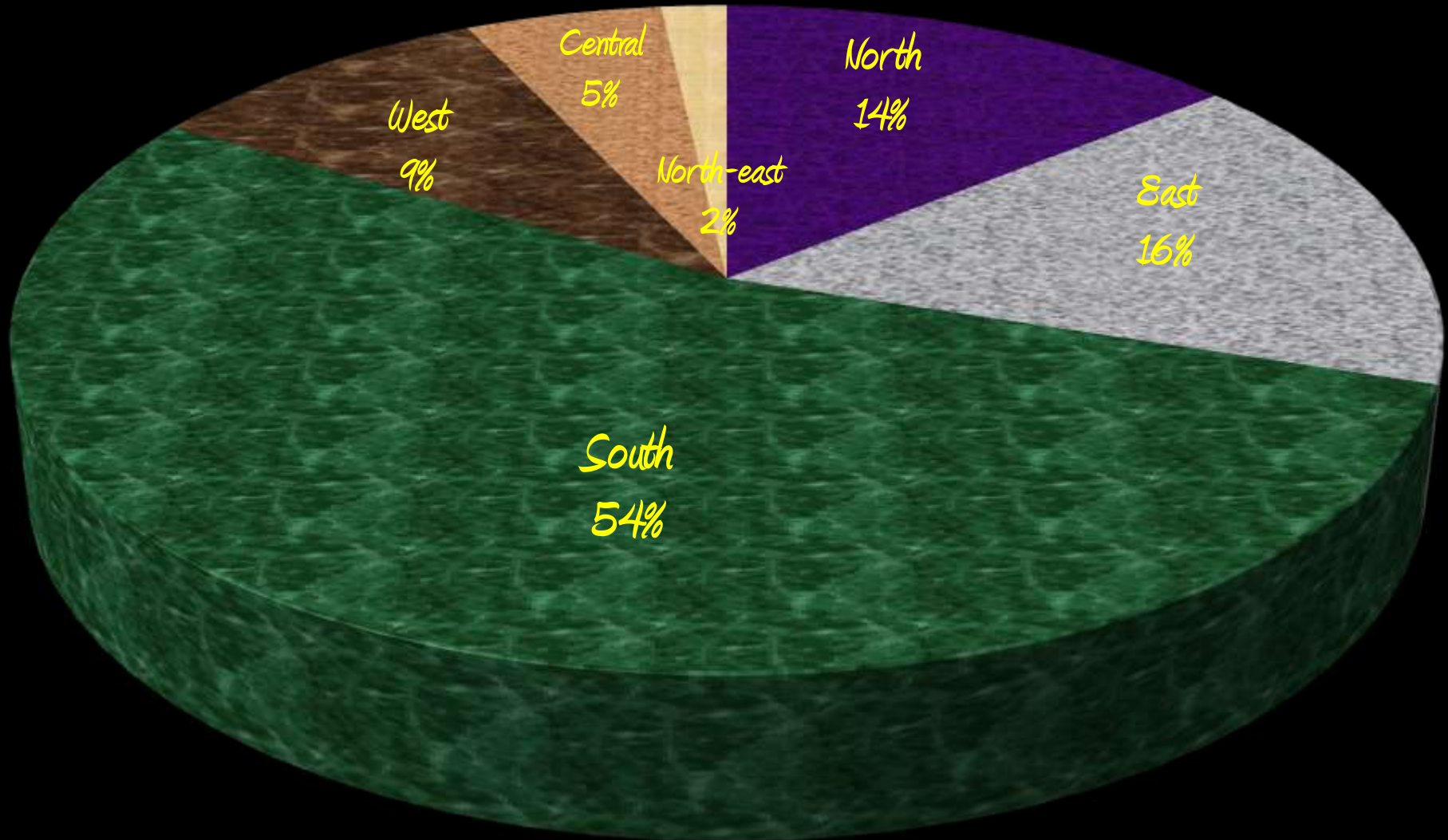
# GI Registration till 22 August 2012



# GI Registration till 22 August 2012



# GI Registration till 22 August 2012



Thank you

Madhukar Limka