The Role of the State for Geographical Indications of Coffee: Case Studies from Colombia and Kenya

DOMINIQUE BARJOLLE a, Xiomara F. QUINONES-RUIZ b, MONIQUE BAGAL c and HERMANN COMOÉ a,∗

a ETH Zurich, Switzerland
b University of Natural Resources and Life Sciences, Vienna, Austria
c Université Jean Moulin, Lyon, France

Summary. — In the context of de-regulation of the coffee sector, the registration of some Geographical Indications (GIs) has recently been implemented. This paper aims at answering to the following research question: how does GIs’ process (protection and management) help to rationalize the role of the state in the coffee sector? In Colombia, the National Coffee Growers Federation took all initiatives for the registration and implementation of Café de Colombia as a GI both in Colombia and in European Union and manages also the GI use. In Kenya, the Coffee Directorate registered the certification trademark “Coffee Kenya, So Rich So Kenyan” and acts as public body in charge of managing the coffee sector. Although both countries conceived different approaches, there is a common strategic line, which consists in attempting to secure downstream value of the long lasting origin coffee branding and in strengthening the quality management system. This paper shows that discrepancies in public intervention in the coffee industry depend on the empowerment of producers in this industry irrespective of the legal tool to protect GIs.

Key words — Geographical Indications, state, coffee, Colombia, Kenya

1. INTRODUCTION

This paper examines the role of the state in implementing Geographical Indications (GIs) as a mean of securing Intellectual Property Rights (IPRs) in the coffee sector. Considering that green coffee is frequently traded blended, the implementation of GIs on coffee is peculiar. There are factors in the coffee sector that contrast with “old” GIs and present obstacles to achieving the virtuous circle of GIs, as described by Vandecandelaere, Arfini, Belletti, and Marescotti (2009). The virtuous circle starts from the long-standing reputation of specific qualities attributed to the origin (emblematic examples are Champagne, Parmigiano Reggiano, or Tequila). This reputation for quality enhances consumers’ willingness to pay for the product (Fotopoulos & Krystallis, 2001; Menapace, Colson, Grebitus, & Facendola, 2011; Seetisarn & Chiaravutthi, 2011); consumers pay more for the product compared to substitute products under certain conditions (Barjolle, 2015; Barjolle & Sylvander, 2002); finally, this economic return may allow value chain actors to maintain local, fair, and traditional farming and trading practices.

In particular, we explore how the role of the state in the GI system varies from one context to another, namely for two coffee producing countries of interest, Colombia and Kenya. Understanding the role of the State proves to be important as GI implementation calls for new means of interventionism that may affect the classical management of the coffee sector. Previous studies have shown the indisputable influence that public institutions have on the commercial performance of GIs (Barjolle & Sylvander, 2002; Barjolle, Sylvander, & Thévenod-Mottet, 2011; Belletti & Marescotti, 2008; Biénabe & Marie-Vivien, 2017; Marie-Vivien, 2010). They have shown that key points of public administration (registration of GIs, promotion, and fraud fighting) depend strongly on task sharing between the institutions in charge and on the type of these institutions (public, private, or private with delegation from the state) (Barjolle, Lehmann, Chappuis, & Dufour, 1997).

It is deemed necessary to assess how these facts interact in the context of fragmented fields.

This paper aims at answering to the following research question: how does GIs’ process (protection and management) help to rationalize the role of the state in the coffee sector? This paper shows that discrepancies in public intervention in the coffee industry depend on the empowerment of producers in this industry irrespective of the legal tool to protect GIs.

We truly thank in Colombia Luis Fernando Samper, Marcela Uruen?a, Karen Yepes and Oscar Bernal for the comments provided in earlier versions of this paper; as well as the coffee growers, associations, the state and municipal coffee committees, Cenicafé and coffee experts (Julian Garcia and Carlos Garcia) for their support and guidance during the field work.

For the Kenyan case, the paper is based on a study financed and supervised by the European Commission although the content of this paper engages only the authors and not the European Commission. The study financed by the European Commission is available on-line (http://ec.europa.eu/agriculture/external-studies/gis-acp-countries_en.htm). This study was held by a consortium of experts working for REDD, IRAM and University of Florence. The authors would like to express their gratitude to the coffee growers in Kenya and other national stakeholders of the coffee value chain who have volunteered their time to contribute to the success of the overall study. We cannot fail to thank the Coffee Directorate for their key technical partnership. Our deepest appreciation goes specifically to Ms Louise Wanjira Njeru (CEO), Ms Isabella Nkonge, Mr Bernard Gichovi, and Mr Benson Apuoyo for their skillful guidance on the field. Thanks are also extended to officials of other public institutions or organizations of the civil society who have contributed to the reflections notably Geoffrey Ramba (KIPi), Njuru Mwangi (the Delegation of the European Commission in Kenya), Fabrice Pinard (CIRAD) and Karugu Macharia (Solidaridad).
The second section reviews the literature about the importance of origin for coffee, presenting some reasons why GIs (registered as TMs or through sui generis systems) have been implemented, despite all challenges faced by coffee growers (e.g., coffee paradox).

The third section explores how the state intervenes in all functions of GI management systems in Colombia and Kenya. Each above-mentioned case has sought protection in a different manner. In effect, although GIs are defined by the TRIPS Agreement, where they are referring to the specific qualities of a good produced according to particular local conditions with geographical and social boundaries (Allaire, Casabianca, & Thévenod-Mottet, 2011; Sautier, Biénabe, & Cerdan, 2011), there is no common regulatory framework for them (Gangjee, 2012; Giovannucci, Josling, Kerr, O’Connor, & Yeung, 2009). Thus, the role of all stakeholders involved in the registration and the implementation varies from one state to another. For instance, the French legal framework is based on a long tradition of protecting the appellation of origin, which tends to give, over time, more responsibility to groups of producers than to the state. The situation in India, for instance, is different; the state and public organizations are very active in filing GI applications, and as “proprietors” grant the use of the name to “authorized users” (Marie-Vivien, 2010).

The fourth section discusses the protection of other GIs for coffee and draws conclusions and challenges. The official registration of a GI for a product through a sui generis regime is a way to protect and claim identity, promote an organization, and add value (Hughes, 2009; Reviron, Thévenod-Mottet, & El-Benni, 2009; Sautier et al., 2011). Although most sui generis GIs were first, and are still mostly, located in developed countries, the developing world is also interested in GIs to differentiate their products from generic competition (van Ittersum, Candel, & Meulenberk, 2003) as a way to re-appropriate the use of usurped names and to obtain premium prices. However, for developing countries, it remains a challenge to obtain all positive effects from the implementation of a GI system, not only since GIs are still very novel but also because the system is grounded in the protection of a GI as an IPR within the context of internationalization (Mengistie, 2012; Sautier et al., 2011).

2. THE IMPORTANCE OF ORIGIN IN THE PARTICULAR CONTEXT OF THE COFFEE SECTOR

The legal aspects of a GI and trade and marketing aspects of using a GI for coffee have already been examined for instance in Kenya (Bagal, Belletti, Marescotti, & Onori, 2013) and Colombia (Quinones-Ruiz, Penker, Vogl, & Samper-Gartner, 2015); as well as for Zima-Macenta in Guinea (Barjolle, Renard, & Bernardoni, 2013); Pico Duarte in Dominican Republic (Galtier, Belletti, & Marescotti, 2013); Kona Coffee in the United States. (Giovannucci, Josling, Kerr, O’Connor, & Yeung, 2009); origin-branded coffees in Ethiopia (Mengistie, 2012; Schüßler, 2009; Teuber, 2010; Watson & Stretefield, 2008); and Blue Mountain Coffee in Jamaica (Hughes, 2009; Teuber, 2010). Unlike the aforementioned researches, which focus on the relevance of a GI on coffee, this paper considers recent experiences of implementing GI registration through trademarks (TMs) or sui generis regimes in the coffee sector.

The coffee sector is shaped by key historical events like the abolishment of the International Coffee Agreement (ICA) in 1989, the growth of the Brazilian coffee supply, Vietnam’s role as new leading producer (Daviron & Ponte, 2005; Muradian & Pelupessy, 2005), and disputes regarding the allocation of quotas (Gilbert, 1996). Therefore, coffee growers consider alternative means of selling their coffee (Acheson-Brown, 2003; Pelupessy, 2001). Major international buyers take advantage of their position to create their brands (Daviron & Ponte, 2005; Ponte, 2002; Talbot, 1997), worsening the position of coffee growers (Muradian & Pelupessy, 2005; Ponte, 2002; Teisl, Roe, & Levy, 1999).

As a response to de-regulation, options like fair trade or organic might better value local resources (Raynolds, 2000; van der Ploeg & Renting, 2004; van der Ploeg et al., 2000). Indeed, as coordination and integration between supply chain actors improve, diverse types of voluntary regulatory systems in the coffee industry have emerged (Muradian & Pelupessy, 2005). All these are supposed to provide more information to consumers (Bacon, 2005; Geiger-Oneto & Arnold, 2011; Gibbon, Bair, & Ponte, 2008; Giovannucci & Ponte, 2005; Marie-Vivien, Garcia, Kushalappa, & Vaast, 2014; Marsden, Banks, & Bristow, 2000; Neilson, 2008; Ponte, 2002, 2004; Potts, 2002; Raynolds, Murray, & Heller, 2007; Rueda & Lambin, 2013; Taylor, 2005; van der Ploeg & Renting, 2004). Yet a major obstacle to economic success for GI coffee is the difficulty of transmitting information about origin to final consumers (Marescotti & Belletti, 2016), as Daviron and Ponte (2005) expose in their “coffee paradox”. Indeed, three large transnational corporations (e.g., Nestlé, Mondelez, DE Master Blenders 1753) and a few big coffee roasters such as Smucker’s, Strauss, Starbucks and Tchibo (Panhuysen & Pierrot, 2014) control the global coffee trade. Moreover, large roasters tend to delay coffee trading companies to obtain their supplies of green coffee.

Given the high competition on coffee market, how viable are these options for smallholder coffee growers in the global South and what could improve their potential? We identify quality management as a major potential driver for GI implementation. Neilson (2007) observes the lack of institutional infrastructure to trace and monitor coffee bean origin. Consequently, international buyers may decide to use their own verification systems to avoid discrepancies in quality assessment. While adequate governance mechanisms are needed as a pre-condition for GI systems (Zhao, Finlay, & Kneafsey, 2014; Zhao, Kneafsey, & Finlay, 2016), they become ever more important when the setting up and implementation of private standards escapes the direct influence of the state.

Although it requires a specific legal regime, a GI works like a voluntary standard and might allow growers in the South coping with the challenges related to market liberalization. But it depends on the GI’s procedural institutions and scope of protection. Therefore, it is helpful to identify the role of the state in every stage of the GI management, as well as the institutional, trade and governance challenges that may impact the legal regime of protection (Belletti, Marescotti, & Touzard, 2017; Biénabe & Marie-Vivien, 2017; Marie-Vivien, 2010).

GIs need to prove a certain quality linked to a geographic origin in order to obtain legal definition and protection. The place of origin, and therefore the protection of the name has turned out to be an important dimension regarding coffee quality and reputation:

- Quality assessment is usually based on physical characteristics (grading) and on organoleptic properties, as well (cupping), as it is for wine (Fertia-Morales, 2002).
- There are significant differences in price depending on the country and/or region of origin (Barjolle et al., 2013).
• It is possible to identify coffee’s origin through chemical traces (Risticevic, Carasek, & Pawliszyn, 2008; Sberveglieri et al., 2011).
• Several coffee names are already registered with a type of GI® or as a TM (Teuber, 2010).

In this paper, we assume that origin really does matter for coffee, affecting several objective and subjective characteristics, and justifying the protection of geographic names as GIs for coffees.

3. CASE STUDY APPROACH

Case studies might be the only option when cross-case data is limited and/or where fieldwork is needed to accrue case-specific insights (Poteete, Janssen, & Ostrom, 2010). A case study approach aims at building theory in an inductive manner, based on data that are collected on the field, and analyzed carefully and systematically (Eisenhardt & Graebner, 2007). Context-specific data were crucial to understand the implementation of GIs.

We chose the cases of Colombia and Kenya because they are emblematic yet contrasting examples of the state’s role in implementing a GI strategy. Colombian and Kenyan coffees are both recognized at global level, have been international price leaders since at least 1997 (Figure 1), and are well-known for authenticated origin. However, they have a contrasted importance on the global market, as Colombia is the third important producing country, and Kenya one of the smallest players (Figure 2).

Moreover, the governance of their value chains is completely different; in Colombia, management is delegated to the Federación Nacional de Cafeteros de Colombia (Federación), a private body in which the state also has a say, while in Kenya, the State is the primary managing body, operating through the Coffee Directorate (CD). Furthermore, the CD achieved GI implementation in Kenya through a certification TM, while Colombia has favored the sui generis option.

The Colombian and Kenyan cases are explored below with a literature survey, secondary data, and the results of primary data collection. Most material is available in the form of reports in the Kenyan case (Bagal et al., 2013; Barjolle et al., 2013), and as articles and conference proceedings in the Colombian case (Quinones-Ruiz, Penker, et al., 2015; Quinones-Ruiz, Nigmann, & Penker, 2015, Quinones-Ruiz et al., 2016). Primary data collection involved qualitative interviews and focus groups to understand the GI registration and management process (e.g., setting up, adoption, use and conformity assessment) as well as the coffee sector respectively. Interviews in the case of Colombia included staff of the Federation in Bogotá (3), coffee cooperatives (3), inspection offices at harbors, Almacafé and Cafecert (3), and Cenicafé (1) and four focus groups with coffee growers in the regions of Nariño and Magdalena; research activities were conducted over a period of two years and field work took place from June through September 2012 and from November to December 2015. In the case of Kenya, research activities were conducted over a period of eight months from January to August 2013, including fieldwork from May to June 2013. A quantitative analysis of secondary data was conducted to analyze the information on volumes and prices for coffees of different origins. The tools and sources utilized include: scientific and gray literature, research reports, statistical data, and interviews with representatives of each stage of the supply chain (farmers’ cooperatives, millers and/or marketing agents, trader organizations, exporter organizations, public institutions, including the EC, and civil society organizations). Twenty-eight direct interviews with companies and institutions (i.e., Coffee Board of Kenya (CBK) which changed name into CD, Kenya Industrial Property Institute (KIP), Coffee Research Foundation (CRF), etc.) were conducted in order to understand the state of GI initiatives and the logic behind them, including with Kenyan

Figure 1. Evolution of the export prices of coffee (green beans) in $/kg (2004–15)—Different origins. Source: COMTRADE 2015.
coffee producers (at individual and collective levels), institutions (relating to the product and relevant to the aspects being analyzed). Two focus groups were organized with representatives of all categories of actors—small/large farmers, traders (Kenya Coffee Traders Association (KCTA)), processors, private and public community organizations or parastatal (e.g. 4C association, SASINI, Kenya Cooperative Coffee Exporters (KCCE), Solidaridad)—in order to discuss the potential use and expected GI recognition effects.

In the interviews, all questions were formulated in a non-directive open-ended manner, starting from simple to more complex questions and from positively to potentially negatively connoted ones. Additional consideration was given to the existence of language barriers for data collection. In Colombia, interviews were made in Spanish and translated into English; in Kenya interviews were conducted in English.

We triangulated the results from the literature review, the document analysis with the context-specific characteristics of the coffee sectors in both countries according to the results of the interviews, focus groups and the revision of documents and literature. Reflective loops were carried out with GI experts in the respective countries to further improve the soundness of the results.

4. COLOMBIA: COFFEE FEDERATION INITIATES SUI GENERIS GI PROTECTION

(a) Introduction to Café de Colombia

Although the Jesuits introduced coffee to Colombia around 1723, growers organized themselves into the Federation in 1927 as a private non-profit organization. Since then, coffee has been a major source of income for the country. Most of the Federation’s founders were educated and wealthy coffee growers who allied themselves with smallholders. Their objective was to protect and defend Colombian coffee for the welfare of their country and to promote the economic and social wellbeing of coffee growers (Jeffery & Peter, 2000). Nowadays, about 90% of the approximately 540,000 coffee growers are small and medium holders. Coffee is produced all over the country (cf. Figure 3).

The Federation has established alliances with private organizations such as Almacafé (quality control), Cafecert (certification body) and cooperatives (coffee purchasing points). The representative system that operates via multiple, nested levels of governance fulfills critical functions such as extension, marketing, commercialization and election of coffee representatives (State Committees, Municipal Committees, Coffee Congress) (Figure 4). Likewise, the Federation has also created commercial relations with national and international roasters and brand owners, not directly involved in the GI initiative and registration process. (Figure 4).

In the 1930s, the Federation started to establish quality standards. In 1959, it created the character of Juan Valdez to position Colombia’s high-quality coffee within international markets and to increase foreign demand. During the 1980s, the Federation started to register TMs and certification marks to certify and protect Colombian coffee abroad (Figure 5).

The Federation is the leading organization in the coffee industry in Colombia, thus representatives from the Ministries of Agriculture, Trade, and Finance together with coffee growers’ representatives and the Federation’s staffs make decisions at the National Coffee Committee. The national government and the Federation manage the National Coffee Fund which is financed by a tax paid by the growers. A contract stipulates basic guidelines for the use of this money, which must be reinvested directly into services (extension, research services) for growers. However, since the abolition of the ICA in 1989, the Fund has been in deficit in most fiscal years. The state provides extra funding to the Coffee Fund, in addition to coffee contributions, brand royalties (e.g., from Federation’s exports and Juan Valdez coffee shops) and international cooperation projects. Nonetheless, it is worth-mentioning that the GI registration and implementation for Café de Colombia was a producer-led effort. The role of the state was confined to the processing the GI registration and deciding on the delegation for its management.

(b) Quality management

According to the Product Specification submitted for the Protected Geographical Indication (PGI) registration, the washed Arabica coffee has “smooth clean taste, of medium/high acidity and body and a full and pronounced aroma” due to the climatic and orographic conditions in the Andean mountain range and its foothills (altitude), production, and picking techniques. The quality can be profiled (e.g., better quality found in higher altitudes). The Federation, backed by its nested organizations, directly oversees quality stan-

Figure 2. Importance of exports in tons in 2014 for some producing countries. Source: COMTRADE 2015.
standards, extension, traceability, monitoring, as well as the daily publication of coffee prices—based on key market variables: C contract (the benchmark for world coffee prices), differential quality (premium) for Colombian coffee, and the exchange rate. Furthermore, according to a purchasing guarantee scheme, growers are able to sell all their (parchment) coffee at market price, depending on the quality provided, and are paid cash. This is favorable to numerous Colombian small coffee growers (farms’ size is 1.6 ha on average), who would otherwise face difficulties to negotiate with a few local buyers. Since its establishment the Federation has created functioning mechanisms to trace and enforce coffee quality through its robust “institucionalidad cafetera”, the Superintendence of Industry of Commerce (SIC) allowed the Federation to manage the GI. This implies that through the already well-established organizations (e.g., Cafeceert, Almacafé) the Federation itself is able to assure the protection and enforcement of the GI.

(c) Issues and challenges regarding the governance of the coffee industry in Colombia

There are latent tensions emerging in Colombia’s coffee industry. Continued social importance of coffee (despite diminishing exports since the 1990s) induced the President of Colombian to order a review in 2013 to understand the coffee industry’s current situation. The Coffee Commission was tasked with the analysis. As main recommendations, it suggests terminating the current agreement between the Federation and the government, i.e., the government would stop both participating in the National Coffee Committee and financing the National Coffee Fund, and deregulating the current quality requirements. It argues that the Federation should not buy and export coffee at the same time, as it is a conflict of interest since it is in charge of the publication of daily coffee prices. If adopted, this measure would weaken the growers’ position in the price negotiation.
This is certainly interesting from a GI perspective: the views of the Coffee Commission and federated coffee growers about the rules of value appropriation differ largely. It is indeed a new expression of the debate of commoditization vs. differentiation, reflecting the interest of traders vs. growers (Galtier et al., 2013; Hughes, 2009; McBride, 2010).

(d) Geographical Indications: their protection and the role of the state

The branding of Colombian coffee started with the creation of the symbol of Juan Valdez in 1959. Since then, multiple strategies have been initiated such as the ingredient brand 100% Café de Colombia and specific branding leveraged by the recognition of Juan Valdez. These strategies have been realized by Procafeol S.A., a holding company partially owned by Colombian coffee growers. All developments favored and paved the route for GIs (Reina, Samper, & Fernández, 2007). GI was perceived as a supplementary tool to existing TMs and certification marks not only with a view to defend Colombian coffee abroad but also to protect its name. Thus, the National Coffee Congress mandated the Federation to start the GI registration process in December 2004 (Figure 5). According to interviews, the early foundation of the Federation in the 1920s brought a considerable advantage for obtaining the PGI in the European Union (EU) due to the long-standing rules for defining coffee quality and substantial experience in traceability, monitoring and processes of
interaction and decision-making between growers and their representatives. The Federation did not elaborate new quality rules for the GI registration (Quinones-Ruiz, Penker, et al., 2015). Interviewees of the Federation stated that the role of public authorities’ responsibility was confined to processing the national registration. This means that the authorities did not provide any guidance, legal advice or mediation along the process as this was substituted by legal and technical consultancy through the recruitment of specialized attorneys (Quinones-Ruiz, Penker, et al., 2015; Quinones-Ruiz et al., 2016).

The current Colombian GI legislation was endorsed by Decision 486 of 2000 of the Andean Community, and nationally through Decree No. 3081 of 2005 (Resolution No. 57530 of 2012). Likewise, the product specification for the GI corresponds to the previously established premium coffee quality and includes coffee areas in all coffee states of a certain altitude (Quinones-Ruiz, Penker, et al., 2015).

The registration of Café de Colombia as a denomination of origin (DO) was achieved in 2005 in Colombia, and its registration as a PGI in the EU was completed in 2007. Furthermore, local geographical names have been nationally registered as “DO” for coffee since 2011.

According to law, GIs are collective rights held by the state. The declaration of the DO is an acknowledgment and recognition of the state’s role in positioning the product with regard to its geographical origin and production techniques that have been maintained and controlled over time. The state delegates the administration of the DO to private or public entities that represent individuals dedicated to the extraction, production, or elaboration of products identified with the DO.

According to the interviews, as international roasters and brand owners were not involved in the PGI registration process, the Federation was able to elaborate rules governing the GI use, later on adopted by these actors. Now, the Federation faces challenges to increase the number of DO and PGI users, specifically those roasters and brand owners who basically pack (i.e., blend) and sell coffee abroad, and do not systematically communicate the origin to consumers. According to interviews at the Federation (until May 2015), a total of 67 roasters have signed agreements framed by the Federation to become authorized GI users. Time has to elapse to see the combined development of price and volume effects for Café de Colombia and their impacts on the value chain; currently, the DO and PGI use is free of charge; however, users face costs because they need to follow the rules specifically governing the GI use (e.g., conformity assessment and monitoring for both the DO and PGI) (Quinones-Ruiz, Penker, et al., 2015). Thus, the state through its institutions (e.g., extension services) could be in a position to support growers at the moment of upgradation to be able to comply with GI rules and therefore to avoid involuntary exclusions (e.g., it would be more difficult for smaller growers to comply with those rules).

5. KENYA: THE STATE AS PROMOTOR OF THE ORIGIN BRANDING STRATEGY

(a) Introduction to coffee from Kenya

French missionaries planted coffee in Kenya in 1893. There was no statutory control of the coffee industry until 1933 when its management was institutionalized through the creation of a public body “Coffee Board of Kenya” (CBK) henceforth known as the Coffee Directorate (CD) since 2013. Later on, Kenya was encouraged by the World Bank to liberalize the sector through the structural adjustments programs to increase free competition. As a consequence, the government removed its regulation and support mechanisms from the coffee sector, thus causing direct and harder exposure of producers to stronger competition on the globalized market. In 2004, the coffee crisis induced some growers to replace their coffee plantations with other crops, which had heavy consequences on the quality and quantity of the Kenyan coffee production. Following liberalization (2001), the key challenge confronting policy design has not been whether to participate in global processes, but how to do so in ways that provide sustainable income growth (Kirumba, 2011). Unlike other countries in Africa, such as Uganda, Kenya’s liberalization reforms were more limited. Government documents outlined a direction toward the liberalization of Kenya’s trade policy; however, in practice few of these changes were actually adopted (Gertz, 2008). Thus, the paternalistic management of coffee converted to a semi-capitalist model of coffee management where public authorities show reluctance to pursue with an open trading regime.

Currently, coffee remains a key industry in the Kenyan economy (Karanja & Gichovi, 2005) and it is estimated that out of 70% of Kenya’s workforce engaged in agriculture, 30% (about six million Kenyans) are employed in the coffee industry (Omondi, Ayiecho, Mwang’ombe, & Hindorf, 2001). Kenyan Coffee is well renown, especially its AA grade coffee. In Kenya, arabica coffee accounts for more than 90% of the country’s production and is considered of high grade all over the world, compared to its overly grown counterpart robusta (Coffea canephora). Coffee is cultivated at altitudes between 1,400 and 2,000 m (Figure 6) which influences the flavor and aroma of coffee. Yet, the common denominator of Kenyan coffee’s quality appears to be high acidity. Based on this national identity, the entire national production (around 43,366 tons in 2012) is likely to be differentiated through a GI.

Considering the crisis in the sector, and the peculiarity of the GI tool, its implementation calls for more public interventionism which is, somehow, contradictory with the context of liberalization in addition to being most controversial from the growers point of view. Thus, the setting-up of a GI strains the capacities of one society to redefine a social contract (Charlery de la Masselière & Mbataru, 2007) in order to achieve two goals: enhance the value of Kenyan coffee on the national and international markets; empower growers in their own organizations. Efforts in quality management are challenged by governance’s issues.

(b) Quality management

A supply in quality and in quantity is the element that determines the strategy of roasters and brokers, especially those who are positioned on specialties’ markets. With a view to win markets, improving the quality of Kenyan coffee becomes a national issue (Charlery de la Masselière & Mbataru, 2007).

Apart from the official quality management system provided by the Coffee Act (2001), private third-party coffee certification schemes were introduced in 2005. However, the ability of roasters to define reference tastes allows them playing on the use of different origins while also adapting to changes in the tastes of consumers. As a case in point, consumers in the United States and in Japan do not accord the same value to the acidity of Kenyan coffee. Recently, the choice to introduce a new hybrid variety resistant to the Cherry Coffee Disease, Ruiru 11, to replace local arabica cultivars negatively affected
coffee quality, to the point that roasters having quality as the first criteria for selecting their coffees have stopped sourcing from Kenya.

Major local market players (Java House and Dormans) have a strategy based on well-known TMs “Kenya AA” and “Dormans”. But no mechanism ensures the authentic origin and quality of the coffee sold under these TMs (Bagal et al., 2013).

Hence, the guarantee conferred by control mechanisms attached to the implementation of GIs is likely to reassure consumers about the origin of Kenyan coffee when it is alleged so. The level of acidity for coffee is still the development base board for GI implementation through the national certification TM. A diachronic strategy is foreseen where regional GIs will further be registered on the basis either of a complex sweet flavor (as for Nyeri Coffee) or of a certain cupping profile (as for Muranga’s coffee). Success of this ambitious strategy depends on the governance capacities of the coffee sector in Kenya.

(c) Issues and challenges regarding the governance of the coffee sector in Kenya

The first government after the independence created a centralized management system for coffee, structured around the supervision of CBK. Until recently, only the Kenya Planters Cooperative Union (KPCU) could process (mill) parchment coffee to green coffee. Nonetheless, according to interviews, this management was mostly inspired by the Swynnerton Plan (passed in 1950) which had paved the way for a patronage system strictly regulating small producers and maintaining a largely favorable operating structure for estates (Charlery de la Masselière & Mbataru, 2007). The new Coffee Act (2001) marks the end of CBK’s and KPCU’s monopolies over trade and transformation of coffee.

In 2006, the Kenyan Government amended the Coffee Act allowing two coffee marketing systems to co-exist: besides the traditional auction system, a “second window” was introduced. The aim of the two systems is to encourage marketing agents to secure the best price for growers.

However, as the private sector is not well organized yet, the public sector still manages the sector (as a matter of fact, the CD remains the lever of government action). At the production stage, public institutions, notably the Ministries of Agriculture and of Cooperatives, have duties regarding coffee’s traceability through the CD’s laboratory and the managing of data on coffee quality. CD’s staff is in charge of the follow-up on the coffee commodity chain in providing extension and advices regarding quality improvement. Kenyan Bureau of Standards (KEBS) is in charge of the coffee standards and Coffee Research Foundation carries out research. Additionally, the CD has a regulatory marketing role: it registers and licenses coffee millers, marketing agents, warehouse proprietors, buyers, and roasters. The CD also has the

Figure 6. Map of Kenya, with in green: coffee growing areas. Source: Coffee Directorate. (For interpretation of the references to colour in this figure legend, the reader is referred to the web version of this article.)
responsibility for promoting the coffee identity: it develops regional networks through the African Fine Coffees Association (AFCA) and international networks through the ICO. The CD represents the government in international forums with regard to coffee matters and arbitrates any disputes in the industry. The CD is in charge of approaching consumer and industry organizations to increase awareness of the quality and expectations of the market.

Thus, the liberalized governance of the coffee sector remains under construction. Government agencies compete with new private agents within a system in which the formers seek to retain control. Internal competition between different segments of the industry to capture the value in the chain jeopardizes the gathering of all stakeholders around the promotion of the origin “Kenya” on national and international markets. The credibility of such a mobilization relies on the capacity to perform a new social contract, which is not the bearer of exclusion.

(d) Geographical Indications: their protection and the role of the state

Kenya has the reputation to grow one of the finest arabica coffees in the world. The national origin is well-known on the export market through the appellation “Kenya AA TOP”. The coffee cultivated around Mount Kenya, especially Murang’a and Nyeri coffees, is reported to have distinctive qualities, but at this moment no scientific evidence of these typicalities has been provided.

Coffee sector is characterized by the diversity of stakeholders and the heterogeneity of interests. As such, the issue of the group of stakeholders who initiates the GI process and will eventually manage it, is a sensitive one. The fact that Kenya is still recovering from the coffee crisis proves to be a window of opportunity for the state—in the form of the CD—as it legitimates the gathering of all stakeholders around the promotion of the origin “Kenya” on national and international markets. The credibility of such a mobilization relies on the capacity to perform a new social contract, which is not the bearer of exclusion.

Thus, the liberalized governance of the coffee sector remains under construction. Government agencies compete with new private agents within a system in which the formers seek to retain control. Internal competition between different segments of the industry to capture the value in the chain jeopardizes the gathering of all stakeholders around the promotion of the origin “Kenya” on national and international markets. The credibility of such a mobilization relies on the capacity to perform a new social contract, which is not the bearer of exclusion.

6. DISCUSSION AND CONCLUSION

Additionally to the Colombian and Kenyan cases, other coffee producing countries such as for example Ethiopia, the Dominican Republic, Guinea, Jamaica or Thailand have...
protected their coffee through TM or sui generis systems. The Ethiopian Government protected its coffee names through TMs. The Ethiopian case shows the paramount role of the government and its authorities (e.g., Ethiopian Commodity Exchange, Coffee Liquoring Unit) for quality enforcement and traceability (Mengistie, 2012) after the dispute with Starbucks (e.g., Mengistie, 2012; Petit, 2007; Rotstein & Christie, 2010; Schüßler, 2009). So did Jamaica with Jamaican Blue Mountain Coffee (Giovannucci et al., 2009; Hughes, 2009; Teuber, 2010). Jamaica has only recently started to make use of the enacted GI law, has allowed the Jamaica Jerk Producers Association (WIPO, 2015) to apply for GI protection in June 2014.

More recently, Café Ziama-Macenta robusta coffee was registered as GI in Guinea (Renard, Camara, & Haba, 2013). An internal control system is guaranteed by the GI interprofessional “Association pour la défense du café Ziama-Macenta”, which supports all local players concerning GI specifications. The WOKO cooperative is the major player that directly exports coffee to EU, but new cooperatives are emerging to also benefit from GI coffee (Renard et al., 2015).

Under the initiative of the Thai Government, coffee GIs were registered in the EU (EC Door Database, 2016), Kafae Doi Tung follows rather a development approach while Kafae Doi Chaang follows a business-oriented approach in which the exclusions (e.g., of local roasters to use the GI label) can be a concern (Nigmann, 2015). The control and traceability system in Thailand is administered by six different bodies including public authorities and private organizations (Nigmann, 2015).

In Colombia and Kenya, coffee growers able to provide coffee within the quality rules may become GI users upon request, and receive premium prices. Nevertheless, there are cases in which exclusion of certain producers from the GI use is a concern as it is the case for Doi Chaang (Nigmann, 2015) or Pico Duarte (see Galtier et al., 2013).

The cases above-showed are relatively new registered GIs and time needs to elapse to see the combined development of price and volume. Irrespective of the role of the state, and especially the traceability and enforcement systems—that indeed put a burden on producers—, there is a need not only to promote or increase exports of green certified coffee but also to emphasize adding value to the coffee through the GI process.

Permissive and prescriptive ways of implementing GI have been identified (Thévenod-Mottet, 2006). Permissive state does not play a particular role regarding GIs beyond TM registration; the legal protection of GIs is basically linked to its legal definition and a description of the conditions required for accessing it. In contrast, prescriptive state establishes a legal framework that may include a specific legal status for the GI producer group, its representativeness and even the conditions of the adoption of the product’s specifications through a decision taken by a majority of representatives from the producers’ group. Prescriptive implementation engages more state’s resources, and as effect, the positive effects of the virtuous circle are more likely to be observed (Barjolle et al., 2011; Belletti & Marescotti, 2011; Belletti et al., 2017; Tregear, Arfini, Belletti, & Marescotti, 2007).

We assume that Colombia and Kenya are more permissive than prescriptive regarding their way of implementing their GIs dispositions (see Table 1). In effect, Colombian authorities have passed a GI law and approved the registration of Café de Colombia and several local coffees as DOs; they did acknowledge the rules governing the GIs’ use elaborated by the Federation, which is entitled to take the lead on implementation. Originally, Kenyan public authorities were permissive. However, the liberalization process combined with the crisis and the pressure to enhance the coffee quality has resulted in less permissive policies on GIs for Kenya. Nevertheless, the sui generis law on GIs has not yet been enacted in Kenya. This...
Our first conclusion is that in the context of post-deregulation, there is a substantial challenge for making the coffee market recognize and reward green beans quality before blending. According to the basic economics of quality, in a well-functioning market, the quality should be well recognized by sellers and buyers. Therefore, the bodies in charge of the management of the coffee value chain in both countries should establish a good system for grading the coffee and pricing according to quality. While the role of the state (or of its delegates) is questioned in both Colombia and Kenya, the GI process supports the recovering from increasing economic efficiency and the payment of a fair price for a given quality. In the Colombian case, the pressure of critics regarding its quality management activities has stimulated the Federation to take the lead notably on efforts for GI recognition at the national, regional and international levels. While the Federation is still challenged in its position, thanks to the GI implementation, it has recovered some legitimacy. In the Kenyan case, the crisis has caused the public authorities to tackle quality management and governance issues in one go. Highly controversial, the implementation of the quality differentiation by the public authority is likely to reinforce their legitimacy while at the same time improving the promotion of Kenyan coffee. A convergence and coherence about the understanding and the implementation of the GI as IPR is needed in both country, and takes a long time. Similar conclusions have been drawn in very different contexts and the role of networks where knowledge, experiences and best practices are shared, needs to be highlighted (Wilkinson, Cerdan, & Dorigon, 2017).

Our second conclusion is that it is very challenging under current conditions to establish a “well-running” GI system in which every stakeholder understands its new role. This is in line with previous research conducted by Dentoni, Menozzi, and Capelli (2012) and Tregear et al. (2007). Indeed, the role of the Federation in the coffee sector is an exception in Colombia: the other sectors are not similarly self-organized, and it is more challenging to implement the GI system for other products after registration. In Kenya, the major challenge concerns the choice of the most appropriate legal framework to efficiently protect the name in a context where private interests of firms may contrast with certain aspects of sui generis system. This is a way to protect the existing TM making reference to Kenya, but as well a manner to prevent the further empowerment of the actors upstream in the value chain. In both cases, the timeframe is key for informing about the GI definition and rules, for raising awareness among the public and the private parts, letting all actors being able to take its position and act. Irrespective of the national legal framework, weaknesses are still challenging the use of the existing GI by the final users in the two countries. This important point was already pointed out in other contexts (Chabrol, Mariani, & Sautier, 2017).

Developing nations receive support to improve their IPR capacities (McBride, 2010), but exclusion effects may be deter rents, like restriction of the use of the GI to certain actors, and the value of GIs can be questioned, as in the cases exposed by Galtier et al. (2013), Mancini (2013), and Rangnekar (2011). In order to avoid such exclusion effects, GIs should be made available to anyone entitled to use the name (Bramley, 2011; Rotstein & Christie, 2010), and not necessarily as a club good (Benavente, 2010) or collective monopoly (Thiedig &

---

<table>
<thead>
<tr>
<th></th>
<th>Colombia</th>
<th>Kenya</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Setting up</strong></td>
<td>Public: state provides legislation</td>
<td>Public: GI is based on TM where the State conducts a formal examination of the application</td>
</tr>
<tr>
<td></td>
<td>Private: Federation complied with the Colombian and external GI regulations</td>
<td></td>
</tr>
<tr>
<td><strong>Adoption of the GI</strong></td>
<td>Private: Federation established the rules governing GI use</td>
<td>Public: Private: A company was contracted by CD to develop the specifications for TM</td>
</tr>
<tr>
<td></td>
<td>Use: Private: Federation has been delegated by the SIC of the management of all GIs for coffee</td>
<td>Public: CD is in charge of the management of the TM “Coffee Kenya—So rich, so Kenyan”</td>
</tr>
<tr>
<td></td>
<td>Until May 2015, 67 roasters have signed agreements framed by the Federation and have become authorized GI users</td>
<td>As the new TM is very new, the new TM is not implemented, there is no user yet</td>
</tr>
<tr>
<td><strong>Conformity Assessment</strong></td>
<td>Private: Federation and its allied organizations assess quality for the whole coffee production (not restricted to GI)</td>
<td>Public: CD, being the TM certifier, is the body in charge of the conformity assessment and the rules governing TM use</td>
</tr>
<tr>
<td></td>
<td>Private: Cafecert acts as a third party certification body</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Inspection offices from Almacafé (allied to the Federation) in Colombian seaports verify the quality and origin of coffee before shipment</td>
<td></td>
</tr>
<tr>
<td><strong>Enforcement of GI protection</strong></td>
<td>Private: Almacafé and Cafecert control on random samples of internationally traded coffee with the name Café de Colombia or 100% Colombiano</td>
<td>Public: KEBS enforces a routine check at sales locations in Kenya, free of charge</td>
</tr>
<tr>
<td><strong>International protection</strong></td>
<td>Public: Colombian Government is active in signing free trade agreements</td>
<td>Public: From an international perspective, the state registered the brand “Coffee Kenya” within the Madrid Agreement in February 2015</td>
</tr>
</tbody>
</table>

---

1 e.g., Bolivia, EU, Ecuador, Peru, and Switzerland.
2 Café de Colombia DO, Café de Colombia PGI; Café de Narino, Cauca, Huila, and Santander as local DOs.
3 e.g., using Near-Infrared Spectroscopy (NIR).
4 Surveillance of national and international selling places.
5 The Kenyan government is considering adhering to the Lisbon Agreement and to ARlPO. The Kenyan government is currently negotiating the Economic Partnership Agreement with the EU, which includes provisions on the mutual protection of geographical names.
Sylvander, 2000). Furthermore, there is a gap in research for demonstrating the extent of the link to the terroir. Such work should take into account natural and human influences, as core elements that confer typicity (Barham, 2003; Casabianca et al., 2011). The perspective opened by Biéna and Marie-Vivien (2017) envisions the way toward a pragmatic harmonization of the role of state around elements that are fundamental to the nature of the GI itself: the link to the origin and the process to establish it, whatever the legal framework and the social context.

Our third conclusion relates to the role of the state in the protection of the GI, and especially in the dimension of the delegation of responsibilities from the state to the private sector. Table 1 describes the functions that the state may play in the process of GI management: (1) setting-up the legal framework including the registration (i.e., the examination of the applications of new GIs); (2) adoption of the registered GI by the potential users; (3) use of the existing GI after adoption; (4) conformity assessment; (5) enforcement of protection including the surveillance of possible misuses at national and international levels (FAO Food Control and Consumer Protection Group, in Meybeck & Redfern, 2014). The basics of regulatory work and international protection are carried out by the state in both Kenya and Colombia, but the private sector endorses all responsibilities for adoption, use, conformity assessment, and surveillance in the Colombian case; this is in sharp contrast to the Kenyan case or to other cases in which the state is the title holder and manages the GI (e.g., Blue Mountain Coffee). However, the Federation is a long-standing organization, which has historical experience acting as a delegate of the state. GIs were perceived as an additional tool to further protect Colombian coffee, which had been done in the past through certification marks (Figure 4); this implies that conformity assessments and enforcement mechanisms were previously in place and that the product specifications was already designed. Nonetheless, tools for traceability have been newly implemented such as the Near-Infrared Spectroscopy (NIR). We thus argue that the GI strategy was a follow-up to the preceding one and pursues the same general objective, which is to develop, position, and protect Colombian coffee as a high-quality product in national and international markets.

In Kenya, the power to make decisions regarding the coffee value chain is still in the hands of a public body. Despite a long-standing quality management process and recognition of the high quality of Kenyan-origin coffee by international buyers, the GI strategy is much less developed in Kenya than it is in Colombia. Pressures on global markets have led to an increase in direct sales from the coffee growing estates to international buyers and to a diminishment of the influence of the CD and other public organizations that regulate or support the coffee value chain. The implementation of the GI could help to reconstruct a quality management regime shared between every stakeholder in the chain, which could be legitimized by a sui generis GI law in the near future. When considered in light of the Colombian case, maybe more delegation from the state to a private organization could stimulate engagement in an efficient and internationally recognized GI registration and promotion process.

The lessons learned from these two cases is that in the context of de-regulation of the coffee sector, the states are in a position to enact a legal framework related to protect GI for coffee, through the provision of a sui generis GI law or alike. Doing so, they contribute together with the private sector to establish and strengthen the enforcement of a quality management, because GI supposes the functioning of solid conformity and traceability systems. The protection of the GI for coffee alone still gives only little capacities to empower the producers along the value chain, unless they control the downstream steps of transformation and marketing. Therefore, the state should delegate the GI management to producer groups that are in a position to establish transparency and rules for pricing and distribution of the GI value added. Local public governments could take more responsibilities in the GIs processes, as it has proved to be efficient in empowering the local communities in all stages of the GI process, especially the setting-up, the adoption and the use of the GI (Durand and Fournier (2015)), Where the state holds the GI and also manages it, it might not give enough visibility/empowerment to producers and related stakeholders.

Despite all obstacles that coffee growers face (e.g., unorganized producers, price fluctuations, growers selling green coffee and roasters selling processed (blended) coffee in the North), GIs can be considered as a means to obtain rewards for high quality linked to origin. In the post-deregulation contexts of the national coffee markets in Kenya and Colombia, the emergence of GIs for coffee has redefined the role of the state and of its delegates, and offers possibilities for public endorsement of new functions. Additionally, although GI implementation started recently, several of these functions can help solve long-lasting tensions in the power distribution between stakeholders. It is clear that institutions are essential for building GIs, whether formal (e.g., GI legislation, product specifications) or informal (e.g., respect of local, fair and traditional practices without any specifications or controls), and these institutions will shape the evolution of the GI process (e.g., voluntary or involuntary exclusions). Thus, the state plays a critical role. Nonetheless, regardless of the success of GI implementation, growers covered by the sui generis GI law should consider joint alternatives for creating business-to-business relationships and alliances between coffee growing countries to bring their unblended coffee to the North and to make coffee with authenticated origin available in their home countries.

NOTES

1. “Blended” mean that there is a mixing of different origins during the processing phase.

2. The GIs are registered in some Western European since early XXth century—European Union having a sui generis regulation since 1992, and at international level through the Lisbon Agreement signed in 1958.

3. The conditions are: (1) products’ specificity—reflecting the objective difference between the product and its substitutes; (2) relevance of the market reflecting market attractiveness, intensity of consumer demand for the product, and the choice of distribution channel; (3) operator motivation: the necessity for differentiation and protection in a precise area; (4) coordination among firms with regard to product and quality management; (5) coordination among firms with regard to marketing management; (4) the effectiveness of institutional support.

4. All these are GIs of different legal and valid status as defined under Article 23 of the TRIPS Agreement of the WTO. Sui generis means that a special regime is established, with law and by-laws related to the
Geographical Indications, which set-up a procedure of examination and the legal inscription in an official public register.

5. The merger of Mondelez’s coffee division with DE Master Blenders in 2015 aims to create the world’s largest coffee business: Jacobs Douwe Egberts.

6. These involve the Neumann Gruppe (Germany), Volcafé (Switzerland) and ECOM (Switzerland) (Panhuyzen & Pierrot, 2014).

7. See paper authored by the FAO consumers group in Meybeck and Redfern (2014).

8. Café de Valdesia from Dominican Republic, Kafae Doi Tung in the EU, Zia-Macenta in Guinea or Bali Kintamani in Indonesia.

9. The Kenyan study was commissioned by the European Commission and its quality was overall assessed by an external review as very good (see http://ec.europa.eu/agriculture/external-studies/2013/gis-acp-countries/quality-assess_en.pdf).

10. According to the SIC, the State is the title holder of GIs as these are collective rights; however, the State can delegate the GI management to public or private entities that represent persons involved in the extraction, production, or manufacturing of products identified with the GI. The state authority in charge of GI processing is the SIC (adhered to the Ministry of Commerce, Industry, and Tourism).

11. The Coffee Commission was composed of a pool of national and international coffee experts.

12. The view of the Coffee Commission is that the role of Federation should be mainly confined to providing extension services, positioning and protecting Colombian coffee, developing value-add strategies, and increasing coffee productivity through research conducted at Cenicafé, facilitating the conversion of small coffee growers to other activities.

13. The response of the Federation to this specific critique is as follows: The Coffee Purchasing Guarantee Scheme (Garantía de Compra; GC) is a mechanism through which the Federation defends the growers’ income. The Federation executes the GC in a passive way through the publication of a floor price for the internal market and in an active manner when it buys and sells coffee above the floor price. The Federation would be in position to demand the growers’ income to the extent it is able to execute an active GC in the market; otherwise, the publication of daily prices would not be useful, since the intermediaries could be in a position to pay below the floor price. In this way the Federation would be capable of defending the growers’ income. According to interviews, coffee growers do not want the Garantía de Compra to be eliminated.

14. Yet, Kenyan coffee still owns a certain reputation. Germany, France, and Scandinavian countries prefer the acid taste of Kenyan beans. It seems that local differences are rather perceived by local experts, but worldwide the local specificities are minimal and do not affect the choice of roasters for their coffee blends. Coffee research foundation has recently introduced Batian variety which presents similar characteristics on the productivity side (yields, resistance), but is supposed to have a better aroma than Ruiru 11.

15. It also organizes a vertical redistribution of value added among the stakeholders. Money goes from the dealers to marketers/millers and from marketers to producers. Kenyan coffee prices are primarily set at the Nairobi Stock Exchange. This Stock Exchange Market was the only authorized before the liberalization, while after the reforms this step is no longer the unique route.

16. Coffee may be sold at the Nairobi Coffee exchange. The auctions are organized through an electronic bidding system with large screen indicating the price movements. When there is only one bidder remaining, an electronic hammer seals the deal (interview with KCPTA). Marketing agents and producers set reserve prices below which they do not sell their coffee. Once a trader buys coffee from the auction, he is required to pay the money to the marketing agent within 7 days after the auction which is then passed on to the grower minus the marketing cost, milling costs and the statutory deductions of 2% to Coffee Research Foundation, 1% to the Coffee Board of Kenya and 1% to the local authority (0.8% to Kenya Roads Board and 0.2% to the county councils) (François & Gichovi, 2011). The marketing agents are supposed to pay the farmers or his/her appointed commission agent within 14 days. However this is rarely the case, thereby causing delays in paying farmers (Kirumba, 2011). Farmer’s payment can be delayed up to 6 months, which means that producers are paid twice or sometimes once a year.

17. Indeed, through this channel, coffee is generally sold at a higher price than the current average price for the same coffee grade. Nonetheless, direct sale prove to be interesting only where one has enough quantity and meets the requirements of the partner. As a consequence, CD data on direct sales indicate that 49,155 bags valued at US$24,631,827 were sold via direct sales for the coffee year 2010–11. This represents approximately 8% of the total marketed coffee (610,493 bags). Until now, the impacts of certification on smallholder’s welfare are still difficult to assess (Kirumba, 2011). Finally, direct sales do not escape from public authorities’ control as the contract between the trader and the grower is duly signed and registered by the Board. Thus, profitable exports remain controlled by the state through the CD.

18. European and Swiss law on GIs.

19. Currently, the GI system is being studied, and the Government of Colombia is receiving capacity building assistance (from Swiss development aid) to improve it.

20. e.g., climate, soil, altitude, slope, etc.

REFERENCES


