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

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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,[1] the implementation of GIs on coffee is peculiar. There are factors in the coffee sector that contrast with "old" GIs[2] 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[3] (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.

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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 [4]) 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, Thevenod-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, & Meulenberg, 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 (Quiñones-Ruiz, Penker, Vogl, & Samper-Gartner, 2015); as well as for Ziama-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 & Streatfeild, 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 & Arnould, 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) [5] 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 rely on coffee trading companies to obtain their supplies of green coffee. [6]

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 [7] 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 (Feria-Morales, 2002).
- There are significant differences in price depending on the country and/or region of origin (Barjolle *et al*., 2013).