



# Facing the complexities of the global timber trade regime: How do Chinese wood enterprises respond to international legality verification requirements, and what are the implications for regime effectiveness?

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## ABSTRACT

The emergence of transnational approaches to combat illegal logging and related trade through legality verification (LV) has spurred debate about the implications for the global timber trade regime. Scholars debate to what extent the various actors will support LV, and whether LV will undermine private forest certification and higher standards due to operators' venue shopping. This paper explores Chinese wood enterprises' responses and discusses the implications for regime effectiveness. Based on primary data from 158 questionnaires and secondary data we find that, although the majority of the sampled export-oriented Chinese companies have heard about LV requirements, only few have detailed knowledge. Furthermore, they look to their customers' different requirements, and therefore often apply multiple measures simultaneously rather than do venue shopping. The question whether LV will undermine standards and certification therefore to a high extent bounces back to customers and import authorities. On the other hand, the Chinese companies consider the complexities of the timber regime a major constraint for meeting customers' requirements and therefore for own uptake and support. There is hence a need to reduce complexity in order to ensure regime effectiveness. We suggest this is best achieved by increased transparency of and alignment between the various LV regulations.

## 1. Introduction

Tropical deforestation and forest degradation is one of the world's most urgent environmental problems. It contributes to biodiversity loss, accounts for approximately 17% of total global carbon emissions, and has adverse socio-economic consequences for forest-dependent people (e.g. EU, 2016). Many public and private initiatives have emerged over the past decades to deal with the problem, but are, by most accounts, falling short. While some progress has happened, frustration exists over a range of global initiatives, such as the unsuccessful efforts a generation ago to agree on a legally binding global forest convention (Arts and Buizer, 2009; Davenport, 2005); the lack of impact and applicability of the Criteria and Indicators for Sustainable Forest Management (Rayner et al., 2010), and the important but limited uptake of forest certification schemes (FAO, 2017; Nathan et al., 2014; UNECE/FAO, 2009; Pattberg, 2005; Gulbrandsen, 2004; Cashore et al., 2004).

The present paper focuses on timber legality verification, which is one of the most recent global instruments for forest governance. This instrument, which aims particularly at combating illegal logging and

related trade, has been described as a new mode of regulation that gains authority from governments as well as from demands for legal timber along transnational supply chains, while aiming to help enforce domestic rules (Cashore and Stone, 2012; Overdevest and Zeitlin, 2014a,b). The timber legality verification approaches have their historical origin in the 2001G-8 Bali Ministerial Declaration that committed the parties "to address violations of forest law and forest crime, in particular illegal logging, associated illegal trade and corruption, and their negative effects on the rule of law" (EAMC, 2001; Cashore and Stone, 2012). The most comprehensive initiative that has come out of the Bali Declaration as far as EU's Forest Law Enforcement, Governance and Trade program, FLEGT (EC, 2003). FLEGT also fits with the rules of the World Trade Organization (WTO), which allows for non-tariff barriers only if both importing and exporting countries agree to such restrictions (Nathan et al., 2014, Brown et al., 2008).

In addition to EU's FLEGT program, the United States introduced the 2008 amendment of the US Lacey Act, which aims at restricting the import of illegal timber to the States (USDA, 2013). This was followed by the EU introducing the European Timber Regulation (EUTR), which

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aims at restricting import of illegal timber to the European market (EC, 2010). More recently, Australia and Japan have introduced their own timber regulations, and China is in the process of doing so (Cashore and Stone, 2014; GAU, 2012). These timber regulations have in common that they prohibit the placing of illegal timber in markets within their jurisdictions, and that they require that operators who place timber on their internal markets show *due diligence* or *due care*. They differ, however, with regard to what they define as legal timber, and what they count as verification of legal timber (EFI, 2012; WRI and FLA, 2016; UNEP-WCMC, 2017). Each of the regulations, therefore, entails different challenges for operators and importers, for instance, with regard to how to interpret the rules, how to document and verify legality, and how to take appropriate actions, cf. Annex 1.

It has been argued that timber legality verification represents a unique multi-level mode of regulation, but also that it has traits in common with forest certification, such as the Forest Stewardship Council (FSC) and the Program for Endorsing Forest Certification Schemes (PEFC) (Cashore and Stone, 2012; Bernstein and Cashore, 2007). Thus, both legality verification and forest certification address problems in the forest sector as a matter not only of improving forest management (supply-side measures), but also of changing the behavior of all actors along the supply chain (EC, 2003). Both modes of forest governance therefore are important components of the *global timber trade regime*, which we understand as the principles, norms, rules, decision-making procedures, and organizations governing international trade in timber and wood products with a view to ensuring sustainable forestry (cf. O'Neill, 2017; Krasner, 1982).

The emergence of timber legality verification regulations has spurred various debates among scholars and practitioners.<sup>1</sup> The debate with which the present paper engages is about how legality verification will affect the effectiveness of the global timber trade regime. This debate tends to focus on the extent to which the various actors in international timber trade (form coalitions that) accept and support legality verification (e.g. Sotirov et al., 2017; Leipold and Winkel, 2016); and how legality verification will affect the uptake and growth of existing higher standard private and semi-private forest certification schemes (Bartley, 2014; Overdevest and Zeitlin, 2014a,b; Cashore and Stone, 2014, cf. Section 2).

China is one of the largest importers as well as exporters of wood in the world (e.g. Forest Trends, 2017). China and Chinese enterprises therefore are key actors in the global timber trade regime, cf. Section 3. The present paper therefore aims at contributing to the current debate about legality verification by exploring how Chinese enterprises respond to the new legality requirements, and by discussing the implications of these responses to the effectiveness of the global timber trade regime. We explore the responses by drawing on primary data from a questionnaire survey distributed to Chinese companies. We link up to the theoretical debate by discussing the effectiveness of the regime both in terms of the uptake and support the new legality regulations can generate among these particular actors, and in terms of the potential impact the responses of the Chinese companies will have on private forest certification schemes. Before proceeding to the results

<sup>1</sup> These debates relate to a number of different topics, among which FLEGT's Voluntary Partnership Agreements have attracted the most attention. Analyses of the VPAs range from analyses of the chances for genuine national support of the VPAs (e.g. Wodschow et al., 2016; Carodenuto and Cerutti, 2014; Springate-Baginski, 2014); the potential interaction of VPAs with REDD+ or Reduced Emissions from Deforestation and Forest Degradation (e.g. Ochieng et al., 2013; Tegegne et al., 2017); and the intended and unintended consequences of the VPAs in terms of legality, sustainability, and equity at national and sub-national levels (e.g. De Jong et al., 2014; Cashore and Stone, 2012; Lesniewska and McDermott, 2014). There are still relatively few studies on LLA, EUTR, and other legality regulations. These studies tend to focus on the discourses surrounding the regulations in the EU and in more general terms the chances for support within the EU, the US (e.g. Sotirov et al., 2017; Leipold and Winkel, 2016; Winkel, 2014); and the potential interaction with forest certification, e.g. Bartley, 2014; Cashore and Stone, 2014; Overdevest and Zeitlin, 2014a,b).

and discussion we, first, take a closer look at the theoretical debate about the emerging legality verification requirements and their implications for the effectiveness of the global timber trade regime; second, we look into the role of China and Chinese enterprises in international timber trade; and, third, we explain our data collection methods.

## 2. Theory: the emerging legality verification requirements and their implications for the global timber trade regime

As mentioned, the debate with which we engage about the new legality regulations and their impact on the global timber trade regime tend to focus on the extent to which the regulations will lead to increased uptake (i.e. acceptance) and support and how the new regulations will affect existing certification schemes and standards.

In general, there is optimism with regard to the chances for uptake and support. One of the main arguments is that national governments are likely to support the regulations since they work through sovereign states, require only relatively few substantive policy changes, and can assist governments in enforcing own domestic policies and priorities (Cashore and Stone, 2012; Cashore and Stone, 2014; Nathan et al., 2014; Bartley, 2014). Bartley (2014) further argues that the regulations are likely to become effective because States are more powerful than private actors, and therefore more capable of implementation than non-state actors. He adds that it is less costly for private companies to comply with the regulations than it is for them to obtain a certificate from a private scheme. Furthermore, producers of legal wood/wood products and environmentalists are likely to support the regulations because they have a shared interest in weeding out illegal supplies albeit with different aims (Cashore and Stone, 2014; Nathan et al., 2014; Leipold and Winkel, 2016; Sotirov et al., 2017).

Scholars are more divided on how the new regulations will affect private certification schemes and standards. Bartley (2014), on the one hand, argues that legality verification approaches such as the EUTR and LAA are likely to undermine private forest certification schemes because the former are likely to spur customers and suppliers to meet the compulsory legality requirements rather than the more costly and demanding sustainability requirements under the latter. He further argues that, while legality requirements to some extent can be met through private certification, companies are more likely to turn to, what he sees as cheaper solutions, such as Chain of Custody (CoC) certification, and/or the growing set of lower standard certification and legality verification services on the market. In this sense, he points to the logic of *venue shopping*, i.e. that actors seek the regime or regulatory institution that suits their self-interests in a given issue area best (e.g. Alter and Meunier, 2009; O'Neill, 2017; Raustiala and Viktor, 2004).

Other scholars are more optimistic. Although Cashore and Stone (2012, 2014) agree that legality verification may lead to lower standards in the short-term, they argue that it will open up for increased standards in the long-term. For instance, infrastructure in terms of national and global tracking systems will be developed during the initial phases, which will reduce the marginal costs of increasing standards subsequently. Also, if the timber legality regulations succeed in weeding out illegitimate players in the long-term, this will reduce cost pressure on legal companies (Cashore and Stone, 2012, 2014).

Overdevest and Zeitlin (2014a) address the question about the potential impact of legality verification mainly at the systemic level. They see the emergence of the legality regulations as adding to the complexity of the timber trade regime, but also conceive of this very complexity mainly as an advantage, since it opens up for synergies, policy learning, and locally adapted solutions (see also Keohane and Victor, 2011; Ostrom, 2010). Overdevest and Zeitlin (2014a) draw attention to the fact that policy learning has already occurred between

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