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Forest certification and legality initiatives in the Brazilian Amazon: Lessons for effective and equitable forest governance

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ABSTRACT

This paper draws on a case study of the Brazilian Amazon to assess how two widely promoted strategies to govern tropical forests – non-state certification and state-based legality initiatives – interact with tropical wood production systems and the implications this holds for reducing deforestation and degradation and for local benefit-sharing. The assessment is guided by an analytical framework that predicts the relevance and receptiveness of different timber supply chains to current systems of trade-based governance.

We find that Brazil's efforts to control illegal deforestation through satellite monitoring have contributed significantly to reducing deforestation, but the effects on degradation are less clear. Efforts focused on the timber supply chain, including certification and legal verification of traded timber, have been limited by the fragmented nature of Amazonian wood production. Both certification and legality verification favor large producers and concentrated supply chains destined for external markets (e.g. pulp and paper and high-value tropical sawnwood), while extensive legal requirements inhibit local benefit-capture. In order to prevent the means of forest governance (i.e. certification and law enforcement) from trumping its commonly stated ends (sustainable forest management and local welfare), there is a need to prioritize the generation of local benefit from locally adapted production systems.

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1. Introduction

This article examines the interaction of forest certification and state-based legality initiatives with the tropical wood production systems of the Brazilian Amazon, and the implications this holds for core sustainability goals. Brazil is chosen as a focal case because it has recently enacted a series of major initiatives that link with global attempts to promote legality and expand the supply of certified timber (e.g. EC, 2013, 2008; UNFF, 2007).

Our decision to focus on certification and legality initiatives was based on their widespread promotion as tools of international forest governance (McDermott, 2014). Likewise we focus on several core sustainability goals – reducing the loss and degradation of natural forests and enhancing local benefit-sharing – due to their broad international endorsement (McDermott et al., 2011). While arguably no single governance strategy is intended or expected to achieve all of these goals alone, it is nevertheless critical to understand how different approaches support or undermine their attainment. Examining a range of initiatives

together allows us to uncover their similarities and differences as well as to evaluate their collective impacts.

The analysis begins with a brief review of certification and legality initiatives at the international level. It then introduces and applies a framework for assessing the relevance of certification and legality initiatives to promoting forest conservation and local benefit-sharing in the Brazilian Amazon and the receptiveness of different Brazilian supply chains. This explicit linking of the ends and means, together with detailed analysis differentiating among disparate forest production systems and supply chains, is arguably lacking in much of the debate over trade- and legality-based strategies to date.

Forest certification first emerged in the late 1980s during a period of growing international attention to the rapid loss of forests worldwide. The estimated rate of global deforestation during this decade reached an average of 13 million hectares per year (FAO, 2007: 64), while an un-quantified but also highly significant forest area was being degraded by logging and other activities (e.g. Asner et al., 2010). Most of this loss was occurring in tropical forests, known for their biodiversity and their importance for some of the world's poorest people, including both indigenous peoples and more recent settlers (WorldBank, 2004). This rising concern for tropical deforestation brought negative attention to the tropical wood trade, which was perceived to be an important driver of forest loss and degradation (e.g. Elliott, 2000).

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The Forest Stewardship Council (FSC) was launched in 1993 as a new form of trade-based governance designed to harness market demand in support of forest practices that did not harm the environment or local economies (e.g. Elliott, 2000). Certification would attach a “green” label to forest products produced according to standards of responsible or sustainable forest production. The FSC standards were set at global and national scales and then “audited” or verified by third party assessors. Products would be tracked from the point of origin to the final point of sale. This process of standardization, auditing and tracking was intended to ensure global transparency and conformity to the FSC’s mission (McDermott, 2012). Concerned consumers and other buyers could then support internationally sanctioned forest practices by buying certified wood products.

Soon after the international FSC was launched, forest industry associations and wood producer groups in key wood producing countries formed their own competing schemes (Cashore et al., 2004). Most of these national schemes have since joined under an international umbrella group, the Programme for the Endorsement of Forest Certification Schemes (PEFC). The addition of these schemes greatly accelerated industry uptake and the sale of certified products in North America and Europe (Ibid).

However by the 2000s, it became clear that certification under all of these schemes was expanding much more rapidly in the global North than in the tropics. Among the hypotheses explaining this, was that clearly defined land rights and compliance with local laws was a prerequisite for certification and many tropical countries lacked the basic legal frameworks needed to achieve this (Ebeling and Yasué, 2009). Thus international attention began to reconsider the role of the state. Many tropical forest governments already had quite stringent or prescriptive forestry laws on the books, but these laws were not necessarily followed in practice (McDermott et al., 2010). While some companies were struggling to meet the additional requirements of certification, they were being outcompeted by producers who failed to meet even basic legal requirements (Cashore et al., 2007). The new solution to the perceived failures of certification thus became the eradication of illegal logging through enhanced state control.

This re-focus spurred a proliferation of different “legality initiatives”. We define “legality initiatives” in this context as coordinated international and/or domestic efforts primarily focused on ensuring and verifying compliance with forest-related laws in regions with historically low rates of legal compliance. This includes a growing number of international trade-related initiatives that aim to incentivize legal compliance by requiring proof of legality in internationally traded products (Cashore and Stone, 2012). Such initiatives of direct relevance to Brazil include unilateral actions in the US (via an amendment to the Lacey Act¹ (United States, 2008)), the EU (via the 2010 Timber Regulation (EC, 2010)) and Australia (via the Illegal Logging Prohibition Act (Australia, 2012)). These unilateral Acts and/or Regulations prohibit the import of wood products produced in violation of the laws of their country of origin. They furthermore require that imported wood products be accompanied by declarations of their origins and their legality and/or proof of “due diligence” to ensure their legal origin. In other words, like certification, these initiatives aim to make timber supply chains transparent to external actors and hence subject to external surveillance and control.

Brazil has also pursued a range of internal efforts to strengthen legal compliance, and it is these domestic efforts that are of core concern to this paper. We consider two major categories of such efforts here—those focused on control of illegal deforestation (*fiscalização*) and those focused on control of legal forest management (*auditoria*).

The next section draws upon past research to introduce our framework of key factors affecting the influence of supply chain governance. We then apply this framework to the Brazil case study and consider the implications for forests and local communities.

¹ This Lacey Act amendment incorporated wood products into pre-existing prohibitions on illegal trafficking of wildlife and fish.

2. The assessment framework

The primary aim of the assessment framework is to examine the *relationship* between the relevance of particular forest production systems to core sustainability challenges, and their receptiveness to the governance systems under analysis. For this purpose we rely on a priori definitions of relevance based on international forest-related agreements, and we synthesize what is known about receptiveness based on existing literature on forest trade. The resulting assessment framework is then used to compare and contrast the relevance and receptiveness of certification and different legality initiatives in the case of the Brazilian Amazon.

Drawing on McDermott et al.’s overview of international forest-related agreements (2011), we define *relevance* in terms of several widely endorsed sustainability goals: these are the protection of natural forests (with an emphasis on forests of high conservation value) that are under threat of loss or degradation; and the generation of benefits for local communities and prevention of harm to the poorest and most vulnerable populations. Our analysis of relevance then considers what forest areas and wood production systems are most relevant to these goals and whether governance efforts are well designed to serve these goals in these key forest areas. The focus therefore is on the distribution of governance impacts across the forest landscape and forest markets. We do not, however, assess the environmental or social *content* of the certification standards or legal requirements themselves. While we acknowledge that these initiatives may have other important impacts at the management unit level, such as changing riparian zone management, worker employment or worker health and safety, the focus of this paper is on how these schemes distribute forest impacts and shape local access to wood production and trade.

Our definition of *receptiveness* refers to the presence or absence of key attributes that enable and/or incentivize forest producers and supply chains to meet certification and/or legality requirements. Similar to Cashore and Stone (2012), we are particularly interested in those attributes that affect the ease with which forest production and supply chains can be monitored and tracked for the purposes of certification or enforcing/verifying legality. However, while the focus of Cashore and Stone (Ibid) was on the potential of state-driven tracking systems to lead to a “ratcheting up” of industrial forestry regulations worldwide, our primary interest is in how this increased emphasis on tracking and verification influences the types of production systems and supply chains favored, and what this means for the end goal of sustainability.

For this analysis, production systems encompass the methods of harvest, processing and sale embedded in particular socio-economic contexts. These range from small-scale production for local use to large-scale, industrialized production for international trade, and many variations in between. Supply chains are an integral part of this broader production system. They consist of a series of actors between the owners of the resource and the end user or consumer of the product. In the international wood trade, supply chains can be complex and draw on a shifting mix of different types of production systems and cross several countries. We use the term “chain” as a convenient shorthand here, though it is often taken to imply more rigidity and permanence of commercial relationships than actually exist in the market. In practice supply relationships are often more web-like than chain-like (Ireland, 2007).

As has been extensively discussed in academic literature, the ability of modern nation states and corporate actors alike to assert authority from a distance over economic systems of production depends on rendering those systems “legible” or transparent through standardized metrics (e.g. Scott, 1998; Mutersbaugh, 2005). This has fueled the codification and standardization of information through a wide range of means, from cadastral surveys to formal regulatory procedures and industry-wide standards.

Likewise, in the context of timber production, the transparency of supply chains to external actors depends on the presence of formal,

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