



A tale of transaction costs and forest law compliance: Trade permits for Non Timber Forests Products in Cameroon



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ABSTRACT

There are growing concerns about illegal activities in the forestry sector and some work is in progress to understand the causes and consequences of noncompliance to forestry laws. However, most research on illegal forest activities deals with illegal timber harvesting with little efforts on other activities like Non Timber Forest Products (NTFP). In Cameroon, commercial exploitation of most NTFP is regulated by a permit system. However a majority of traders who sell these products do not have the necessary permits. The objective of this paper is to assess and use transactions costs economics (TCs) to explain why traders in Cameroon do not comply with regulations on permits. Results show that the process to obtain permits may require more than 26,000 USD and may require regular monitoring during a time span of more than 4 years. Analyses of traders' perceptions illustrate that the major sources of high TCs in the forest sector are the perceived complex administrative procedures and information asymmetry on procedures and the requirements to obtain permits. The study concludes that it is the impracticality to abide to high TCs rather than the inclination to disobey the law that pushes traders to operate without permits.

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1. Introduction

1.1. Context

There are growing concerns about illegal activities in the forestry sector and some work is in progress to understand the causes and consequences of noncompliance to forest laws. However most research on illegal forest activities deals with illegal timber harvesting (Assembe Mvondo, 2009; Cerutti and Tacconi, 2006) with little attention for alternative activities like extraction of Non Timber Forests Products (NTFP). As an illustration, the latter group of products has been completely neglected in the Forest Law Enforcement, Governance and Trade (FLEGT) process. This can be considered as an oversight taking into consideration the economic importance of NTFP in local, regional and international trade (Tieguhong et al., 2010).

Illegal forest activities are defined to include a wide range of activities among which the occupation of forest land, and illegal harvesting, transportation and trading of forest products (Brown et al., 2008; Contreras-Hermosilla, 2002; Tacconi et al., 2003). Complying with laws and regulations governing these activities is therefore crucial

in achieving good governance in the forestry sector. The concept of compliance is defined as all behaviours by actors to respect prescribed rules governing specific activities (Young, 1979). While the extent and impacts of noncompliance have been well covered in the literature, factors and motivations that affect individual actors to comply with forest laws are generally not well known (Hansen, 2011; Ramcilovic-Suominen and Epstein, 2012). In the World Forestry Congress (WFC) in 2009, good governance and effective institutions at all levels of the forestry sector were particularly recommended as important drivers to be considered in order to achieve sustainable forest management (Serrano, 2010). It is thus regrettable that NTFP are often neglected when illegal forestry activities are discussed. The objective of this study is to contribute in filling this gap in the literature by using the failing permit system for trade of NTFP in Cameroon as a case study.

Different schools exist for explaining compliance with the law which may focus on economics (Becker, 1968), social factors (Cialdini and Trost, 1998) and/or institutions (de Soto, 1989; Ostrom, 1990). There are continuous calls that the concepts and models of the New Institutional Economics (NIE) schools need to be broadened to address public policies (McCann et al., 2005). The NIE with a focus on transaction costs (TCs) has thus been adopted in this study as the theoretical lens to analyse the reasons why traders do not comply with the law governing trade in NTFP in Cameroon.

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Specific questions targeted by the research are the following: Why do traders prefer illegally rented permits instead of applying for own permits? Is their decision to operate illegally related to perceived high transaction costs of governing the demand and supply of permits? If yes what are the sources of these high transaction costs? In addition, the study intends to answer whether the current institutional arrangements in the issuing of permits generate incidences of corruption or rent seeking? Are there winners and losers in the current configuration? If yes who are they?

1.2. Background to the case study

In essence the requirements to trade in NTFP in Cameroon are specified in the 1994 Forestry Law (Government of Cameroon, 1994). This law was conceived as an instrument to guide sustainable forest management in the country but it has received criticisms for various reasons. One concern is that it limits farmers' rights to most NTFP to usufruct rights (exploitation for personal use only) because commercial exploitation is subjected to permits (Betti, 2007; FAO et al., 2010; Laird et al., 2010b; Ngwasiri et al., 2002). The permits are either related to "special forest products" or to other high value NTFP not included in the lists of "special forest products". The Government of Cameroon (GOC) does not define special forest products per se but lists in section 9 (2) of the 1994 Forestry Law a number of products which are considered "special forest products". These include ivory, ebony, and wild and medicinal plant species. It is specified that they constitute products of special interest to the state. The law further states that the lists of forest products shall be fixed by the competent Ministry 'as at when necessary'.

NTFP marketed in Cameroon are gathered from the wild or from existing farming systems. The 1994 Forestry Law governing the permit system does not distinguish between these origins (Betti, 2007; Foundjem-Tita et al., 2012) and controversies exists in the scientific literature whether a NTFP is a NTFP when it is harvested from farmers' fields (Belcher, 2003); and whether NTFP harvested from farmers' fields need to be subjected to the same permit systems as products gathered from the wild. The end result is also that the list of products regulated by the permit system is not known. The common practice is that most indigenous tree species and wild leafy vegetables are subjected to the forestry regulation irrespective of their source (Awono et al., 2012; Betti, 2007; Foundjem-Tita et al., 2012).

Based on the proposition of Coase (1960) that a legal system may affect transaction costs, some scholars argue that the costs to obtain permits together with other policy instruments such as licenses to start a business form entry or trade barriers because they are expensive for poorer agents and they have a restrictive effect on economic activities (Bourke, 1988; Scherr et al., 2004; Shleifer and Vishny, 1993). The costs of obtaining formal recognition or the entry costs into the NTFP business considered in this study are different from the traditional barriers of entry or starting a business which are often referred to in economics such as monopoly and high capital requirements (Mujawamariya, 2012). Here the focus is on compliance with government-imposed procedures. In other words, this paper focuses on the procedures required to obtain permits to legally trade NTFP in Cameroon.

The sequence of documents required to gain an official status to sell NTFP is as follows: an approval, an exploitation permit (special or mutual), a proof of payment of a forestry regeneration tax, and a way bill. Although the formalisation process requires a series of documents, the entire process is colloquially referred to as permits. The term Permits will therefore be used throughout this paper to refer to the four different documents needed to obtain a formal status and where reference is made to a particular one, it will be specified. The series of documents required to obtain legal status to trade in NTFP has been specifically described by Betti (2007), Djeukam (2007) and Ngwasiri et al. (2002) and will only be sparingly depicted here.

An approval, commonly known by its French language appellation "agrément" according to section 41 of the 1994 Forestry Law, gives the holder the right to exploit any forestry resource. In other words it gives the holder access to the forest profession. It is only after obtaining such an approval that the holder can request for an exploitation permit. The latter could be a *special permit* for special forest products or *permit based on mutual agreement* for other forest products not classified as special. Another difference between special permits and permits based on mutual agreement is that the former is issued by an inter-ministerial committee while the latter is issued by the ministry in charge of the forest. A way bill is intended to monitor and trace the quantity of a product carried at any specific time by a trader authorised to sell a NTFP.

In other developed and developing countries, TC theory as a branch of the NIE has been used to analyse entry costs or start-up costs of a business. For example de Soto (1989) measured the cost of doing formal business in Peru; that is, the costs of meeting formal procedures and starting a new business as opposed to cost of doing business informally. Zylbersztajn et al. (2007) while studying the start-up costs of doing business by Brazilian small firms challenged the methodology used by the World Bank in its studies on doing business around the world (World Bank, 2006). Instead they adopted a method developed by the Ronald Coase Institute that uses real instead of hypothetical costs. The latter method makes provision to gather information from those who have succeeded in registering and also includes the perceived costs of registering by those who have been dissuaded from actually registering as a cause of these costs.

Even though the World Bank reports on the climate of doing or starting a business and addresses these cumbersome procedures in many countries, Arrow (1969) argues that it is important to quantify the specific TCs in different contexts and under different systems of resource allocation. By doing so it is possible to improve efficiency in that particular sector. This means that it is important to analyse TCs in the NTFP sector in order to bring out specificities needed to design policies or improve efficiency in the NTFP value chain in particular and in the forest sector in general. The issue here is that if obtaining permits requires years and has high costs, then, this must have an impact on the performance of actors in the value chain as they must probably have to sacrifice time and money. The concern here is not that such costs exist but rather that if they are too high compared to the capital of NTFP traders, it would deter them from complying with the law (Blaser, 2010; Richards et al., 2003; Wells et al., 2007).

If policy makers are aware of these transaction costs, their sources and the effect on the overall economy, and natural resource base, then they can develop measures to consolidate them if they are low or else design new options to mitigate their negative effects if they are high.

The rest of the paper is organised as follows: an analytical framework based on the New Institutional Economics (NIE) is developed to help explaining the occurrence and sources of TCs involved in obtaining permits to sell NTFP in Cameroon. A model is developed to analyse the traders' trade-off between formal and informal business models. At the empirical level an attempt was made to calculate the costs of obtaining permits as a proxy for the TCs. The perception of traders who had not succeeded in having permits was elicited in order to assess their awareness of the procedures and perceived transaction costs involved in the process. Finally the literature on the effect of the presence of an informal sector on an economy was used to elucidate the implications of high TCs on different actors in the NTFP value chain in Cameroon.

1.3. Key actors in the demand and supply of permits in Cameroon

Before specifying the model used in analysing winners and losers of the permit system it is important to describe the stakeholders that are involved in the demand, supply and control of permits in Cameroon

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