Choosing timber legality verification as a policy instrument to combat illegal logging in Indonesia☆

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ABSTRACT

The Ministry of Environment and Forestry (MoEF) of Indonesia has recently started to implement legality verification as a policy instrument to combat illegal logging. Using theories of policy instrument choice, this paper attempted to shed light on the conditions under which the instrument choice takes place. Over the past few years, there has been a significant change in political perception on illegal logging. In fact, the problem has been brought forward as one of the most chronic forest problems in the country. At the same time, there has been growing dissatisfaction on the previous range of instruments and measures. In addition, MoEF decision to use legality verification heavily interacts with the trend on import legislations in a number of countries. In fact, the trend is still "more friendly" for Indonesian timber products than boycotts. Legality verification was also preferred due to its streamlined requirements, compared to the more comprehensive standards of sustainability certification.

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1. Introduction

In the past few years, timber legality verification has become a popular forest policy instrument in many countries (Brown et al., 2008; Cashore and Stone, 2012). In the context of Forest Law Enforcement Governance and Trade (FLEGT) initiative, six Asian and African countries have signed a Voluntary Partnership Agreement (VPA) with the European Union (EU), with nine and eleven countries are either in negotiations or expressing an interest respectively by July 2015 (EU FLEGT Facility, 2015). A VPA means that the EU and the partner country agree to eliminate illegal timber from their bilateral trade of timber products (Brown et al., 2008). Through a VPA, a partner country commits to develop a system to verify that all timber is produced according to national laws (Obidzinski and Kusters, 2015). Indonesia is one of the EU's "VPA-partners" that has already developed the systems needed to control, verify and license legal timber. Since 2009, the country has implemented the legality verification, obliging all forest management units, in both state and private forests, and processing industries to obtain a legality certificate demonstrating that their operations are conducted legally (Obidzinski et al., 2014; Nurrochmat et al., 2016; Maryudi et al., 2015).

While legality verification involves audits against a set of standards by an independent body, Cashore and Stone (2012) outline the major difference of the policy instrument from voluntary certification of sustainable forestry with regard to: 1) the scope of forest problems to be addressed, and 2) the governing institutions implementing the instrument. While certification attempts to address a wide range of environmental, social and economic challenges of forest management, legality verification narrowly focuses on illegal logging and its associated trade. In addition, certification is a (generally) non-state initiative; the legality initiative is mostly used by state institutions. Why an instrument with a limited scope is preferred? Does it provide durable solutions for domestic forest governance? What rationales explain the choice of the legality verification as a forest policy instrument? Using the case of Indonesia, this paper aims to answer the questions using theories of policy instrument choice.

2. Choice of policy instruments: theoretical considerations

Forest problems have become more complex and are often related to cross-sectoral drivers, and therefore need innovative solutions/strategies (Krott, 2005; Krott and Hasanagas, 2006). The political-administrative system usually responds unacceptable social problems by formulating programs (Krott, 2005). Historically, there are always conflicting interests and goals in the use and allocation of forest resources. In this sense, regulating the conflicting interests on forests and balancing the different interests and values, are the core of forest policy. General programs which standardize public goals are therefore needed (Krott, 2005).

In implementing policy program(s), politicians usually ask what instrument(s) should be used. Boecher and Toeller (2007: 305) argue that politicians require policy instruments to influence collective action as a means of realizing political objectives. Bower (2005) also says that a policy instrument is particularly design to modify behaviors of actors. Therefore, policy instrument can be defined as a set of techniques or

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tools used by policy makers to ensure support from wider societies in the implementation of their policy objectives (Howlett, 1991; Vedung, 1997; Zito et al., 2011). In the conventional political-administrative system, policy instruments used to be promulgated by governmental institutions (Agrawal et al., 2009). However, in the past few decades, there have been increasing trends in environmental and forest policy that non-governmental agencies have also sought ways and modalities to encourage collective actions to achieving their political goals (see Cashore et al., 2004). There are now varieties of forest-related policy instruments, classified into four strands, i.e. regulatory, economic, cooperative, and informational instruments (Boecher, 2012).

How politicians select policy instrument(s) has increasingly been studied over the past few decades. Krott (2005) argues that analysis on the choice of policy instruments is usually focused on the formal rational scope and often neglect the informal power processes. In fact, the selection of policy instruments is complex and sometimes involves self-dynamic political process (Boecher and Toeller, 2003). In theory, innovative and comprehensive strategies are desired to solve complex forest problems (Krott, 2005; Krott and Hasanagas, 2006). However, political considerations may prohibit the adoption of comprehensive strategies. Such is the case of pluralistic interests; policy formulation often deals with minor changes of existing programs and waives any comprehensive problem analysis (Krott, 2005). It is therefore a strong interest in analyzing why policymakers decided to choose a certain policy instrument, not the others.

The selection of a policy instrument is shaped by a number of factors. They include legal and political responsibilities of public bureaucracies (Sahide and Giessen, 2015), the capacity and competences of the implementing bodies (Hubo and Krott, 2013), the power relations among concerned actors (Krott et al., 2014), and other external factors socio-demographic circumstances and markets' structures (Cashore et al., 2004) as well as international forest regimes (Bernstein et al., 2010; Maryudi, 2015). A new forest policy instrument may also be formulized due to the failure of the previous instruments in solving a problem (Ellefson, 1992; Howlett and Ramesh, 1993; Krott, 2005; Cashore and Stone, 2012). In fact, instruments of environment-related policy are prone to fail from time to time (Bower, 2005). Howlett and Ramesh (1993) further point out the likely reaction to the choice by affected social groups. There are numerous examples that the selection of a policy instrument may face hostile response from the affected groups (for instance see Nurrochmat et al., 2016; Maryudi et al., 2015).

While there is a large body of literatures explaining instrument choice, Boecher (2012) recently a more systematic framework to explain the choice of policy instruments in environmental policy. The framework elaborates the following factors: problem structure, discourses on instrumental alternatives, institutions, and actors and the decision situations (Fig. 1). Problem structure relates to the nature of

the given problem to be solved (Howlett and Ramesh, 1993), the extent to which it needs quick solutions, and the distributional costs. There might be a number of alternative instruments from which politicians can choose (Krott, 2005; Boecher, 2012). In exercising the alternatives, they may consider past experiences in dealing with the same or similar problems (Howlett and Ramesh, 1993). Boecher (2012) classifies instrumental discourses into two categories: i.e. specialist scientific discourses, which usually consider effectiveness and efficiency (see also Stavins, 1997), and politically loaded public discourses that relate to public perceptions on a particular alternative (see also Howlett and Ramesh, 1993; Lascoumes and Le Gales, 2007).

Boecher (2012) further emphasizes that the understanding on institutions should go beyond the traditional state agencies. Over the past decades, global forest governance has seen the popularity of market institutions that greatly affect decisions at the domestic/national level (Cashore et al., 2004; Bernstein et al., 2010). Competitions in the markets of forest products should thus be treated as a high important in understanding market-institutions (Boecher, 2012). Regarding the decision situations, Boecher (2012) understands that decisions by politicians are not necessarily guided by rational manners; the decisions on which instrument is used are also influenced by the intrinsic ideas, values and interests. This is also underlined by Krott (2005) who argues that analysis on policy processes, including the selection of instrument, should be able to reveal such informal scopes. They often pursue their own subjective policy preference by convincing other actors on their preferred policy instruments.

3. The Indonesia timber legality verification system: general overview

SVLK is a government-run system. It is a regulatory instrument imposed by the Ministry of Environment and Forestry (MoEF) to all types of forest management and industries in the country. In the system (Fig. 2), MoEF maintains full authority for creating and developing rules although it gives the enforcement of the rules to outside parties (Cashore et al., 2010; Cashore and Stone, 2012). In fact, SVLK relies on auditing processes against a set of governmental standards by an independent verification body. Although the scope of the standards covers a wide range of issues such as harvest rights and cutting permits but also labor rights, environmental protections and social impacts, SVLK emphasizes the adherence of the national legislations. Concerns about the robustness of the standards also remain, particularly with regard to the issue of artisanal forest practices, local communities and their rights (Nurrochmat et al., 2016; Obidzinski and Kusters, 2015).

The standards were first regulated in Ministerial Regulation P.38/Menhut-II/2009 and followed a number of revisions with the latest revision is regulated in P.42/Menhut-II/2013 (Maryudi et al., 2015). The
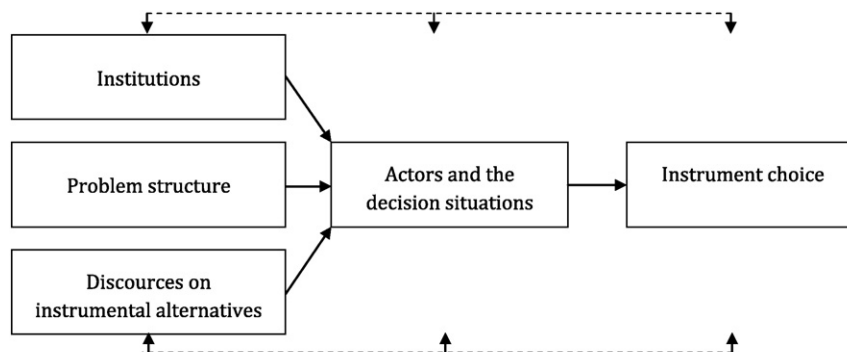
Source: Boecher (2012: 16)

Fig. 1. Boecher's framework for instrument choice.
Source: Boecher (2012: 16).