



The legally allowable versus the informally practicable in Bolivia's domestic timber market[☆]



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ABSTRACT

We analyze legality in the forest sector in Bolivia, focusing particularly on the domestic timber value chain in the northern Bolivian Amazon. Bolivia adopted wide-reaching forest, land and democratic regulatory changes since the mid-1990s that were partly intended to reduce illegal logging and related practices. The new forest regulations, in turn, led to new illegal practices because implementation and sanctioning were poor, but also because new forest and land regulations were inadequate and often contradictory. In response, the government and various forest agencies adopted new measures to address the new illegal practices. These forest regulatory and forest policy renovations and modifications of the last two decades are, for instance, reflected in the domestic timber market of the northern Bolivian Amazon, a region that relies heavily on the forest sector. The paper analyzes Bolivia's regulatory changes that were relevant for legality in the forest sector and the multiple modifications that were made to address shortcomings of these reforms. It also analyses legality in the domestic timber value chain in northern Bolivia. The new actors involved in especially the domestic timber value chain have moved away from formal and legal mechanisms to benefit from timber that grows on their land and forests to practices that were not considered or actually shunned in the law and that appear difficult to regulate. Unless these new practices are recognized adequately in a new forestry law, some of the production and trade of the timber value chain will likely continue to operate at the margin of legality.

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1. Introduction

Since the early 2000s, governments of tropical timber consuming countries, in particular, EU member states and also the USA, have tried to ensure that timber extraction and trade is legal. Reducing illegal timber was expected to address rampant tropical forest destruction, help capture billions of dollars of foregone tropical forest domestic taxes and reduce unfair competition in forest product markets (Gutierrez-Velez and MacDicken, 2008). Initially, measures mostly focused on tackling illegal or unauthorized actions of large forest entrepreneurs that engaged in logging and international trade (Tacconi et al., 2003; Tacconi, 2007; Smith, 2002). Since 2001, the World Bank has sponsored forest law enforcement and governance (FLEG), which for the first time required that also consumer countries adopt legislation that reduces illegal logging and illegal trade in

timber producing countries. Since the 2003 EU's timber legality action plan started, reference is made to Forest Law Enforcement, Government and Trade (FLEGT). The FLEGT Action Plan includes not only strict consumer country timber procurement policies (e.g. Eba'a Atyi et al., 2013), financial due diligence to avoid laundering of illegal timber money or investment in companies that engage in illegal logging (Cashore and Stone, 2012) and voluntary partnership agreements (VPA) signed between producer countries and the EU to eliminate illegal timber (e.g. Wiersum and Elands, 2013) but also regulations to eliminate illegal timber from countries that have not yet signed VPAs (Cashore and Stone, 2012).

Forest-dependent communities are affected by law enforcement in various ways (Kaimowitz, 2003; Colchester, 2006; Tacconi, 2007). Local communities suffer from inadequate forest law enforcement, when entrepreneurs extract timber from forests on which they depend for their livelihoods (Brown, 2013; Chirif and Garcia-Hierro, 2007; Colchester, 2006). Communities also engage in illegal activities themselves when they ignore legal procedures because they do not know them (de Jong et al., 2006) or complying with them is too costly and cumbersome (Benneker, 2008; Cano, 2012; Gasché, 2012; Pacheco, 2005). Forest communities are also victims of progressive

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forest law enforcement, for instance, when they desire to commercialize timber or other forest products but administrative requirements put these opportunities beyond the capacities of forest communities (Pacheco, 2008; de Jong et al., 2010).

A new dimension within the FLEGT debate is how it evolves in tandem with regulatory shifts within the forest sector itself (Cashore and Stone, 2012; Wiersum and Elands, 2013). Worldwide, the forest sector has experienced profound legal and governance reforms over the last 20 years or so, oftentimes in response to pressure from international actors. These reforms have, among others, created opportunities for new actors to engage in logging and trading of timber, including forest communities that obtained property rights of forestlands and to benefit from the available forest resources (Sunderlin et al., 2008; Chirif and Garcia-Hierro, 2007). Where this has taken place, complex new forest product value chains and related commercial networks have developed, for instance, in several countries in Central America and Mexico (Bray et al., 2003; Nittler and Tschinkel, 2005).

The super-positioning of global legality demands on top of the national forest governance reforms adds a new dimension related to legality of the forest sector. If indeed global FLEGT and its multiple contributing measures are to be implemented successfully, eventually national forest sectors of countries that export tropical timber need to be in full compliance with existing legislation. This then raises the following questions: How do actors in new value chains that have emerged as a result of land and forest property reforms and forest regulatory reforms deal with the existing legislation, but also with the new requirements that, for instance, VPAs impose on timber value chains that largely cater for domestic markets? How much do the new forestry actors who engage in domestic forest value chains comply with national forest legislation? If they do not comply with the legal requirements, is that possibly a result of the existing legislation not being adjusted to the realities in those value chains, as suggested by some (e.g. Kaimowitz, 2003; Colchester, 2006; Cronkleton et al., 2008)? And if so, can that be resolved such that laws and regulations do not unnecessarily constrain domestic timber value chains on which the new owners of tropical forests, mostly communities and smallholders, rely to capture income from timber? More generally, can legality compliance and its diverse implications for the timber sector inside tropical forest countries be made compatible with national efforts, supported by internationally operating development cooperation actors, to promote the forest sector as an engine for rural welfare improvement (Cronkleton et al., 2008; Pacheco et al., 2009)?

To contribute some answers to these questions, we review the recent forest governance reforms in Bolivia. We analyze to what extent they were devised to address timber legality. We also review how legality compliance is pursued or addressed in the domestic timber value chain of the northern Bolivian Amazon. Our purpose is to understand legality compliance in the Bolivian forest sector during a time when wide reaching reforms intended to modernize the sector and make it accessible to new forestry actors: peasant communities, indigenous groups and small forest owners and entrepreneurs. This will extend the FLEGT debate which has until date largely focused on forest law enforcement of corporate actors who engage in international trade. In particular, we try to answer the following questions: What have been the forest reforms in Bolivia to address legality in the sector? Who are the new forestry actors in the timber value chains, and how were they affected by the forest reforms? How much are laws and regulations adhered by and what explains compliance and non-compliance? And finally, what are the implications of our findings for the current ongoing global efforts to increase legality in the forest sector, including of largely domestic timber or other forest value chains?

In the following section, we first review the forest sector in Bolivia and the regulatory reforms that have taken place over the last decade and a half. This review especially includes elements of the reform that had the objectives to include smallholders and communities in the

commercial forest sector, but also to reduce illegal or unauthorized practices in the sector. Section 3 focuses on a set of more specific modifications of regulations and policies that intended to address problems of the new forest regime. Section 4, in turn, zooms in on the domestic timber value chain in the northern Bolivian Amazon, the role of peasant communities in that value chain and related legality compliance. Section 5 discusses the implications of the research findings for Bolivia's efforts to improve legality in the forest sector and how these efforts should be considered in the global forestry legality efforts. Section 6 concludes.

1.1. The northern Bolivian Amazon

The northern Bolivian Amazon is part of the south-western portion of the Amazon watershed and encompasses the Department of Pando, the province of Vaca Diez of the Department of Beni, and a part of the Province of Iturralde of the Department of La Paz. Its total area is about 86,000 km² and was inhabited in 2001 by a population slightly above 229,500, of which 34% lived in Pando, 62% in Vaca Diez and 4% in Iturralde (Zenteno, 2013). Of the total population, 27% or 62,000 lived in rural settlements. The region is covered with dense tropical forest that is still over 90% intact. The forest harbors natural rubber and Brazil nut trees and valuable timber species. Fig. 1 provides a map of the region.

The region was first commercially exploited for quinine and became one of the major Amazonian rubber producing regions between 1880 and 1920 (Fifer, 1970). From the 1920s onwards, forest production shifted gradually to Brazil nuts. Rubber and Brazil nut exploitation was controlled by a selected number of economically well-endowed families that held control over large tracts of forests, locally called *barracas*. The *barracas* commonly had a resident population that worked and lived in settlements inside the forest, mostly under semi-feudal conditions and bound by debt-peonage (Cano et al., 2014a). After the final demise of rubber exploitation since the second half of the 1980s, the *barraca* population moved to the cities or to independent settlements (Stoian, 2000; Stoian and Henkemans, 2000). The region is now also an important producer of timber and cattle (Stoian, 2006; Zenteno, 2013). Cross-border trade of commodities is now a major part of the region's commercial activities (Pacheco et al., 2009).

The region has experienced profound institutional reforms because of national democratic, land and forest reforms since the mid-1990s (Ruiz, 2005; Zenteno et al., 2014). Forest communities that had no legal status before the reforms became political administrative units and acquired related rights. Municipal and prefectural governments obtained new mandates because of wide-reaching decentralization reforms. The departments of Pando and the Vaca Diez province now have 245 rural forest communities, officially registered as Territorial Base Organizations (*Organización Territorial de Base*, OTB). In addition, the region has two indigenous territories (*Tierras Comunitarias de Origen*, TCOs) with multiple indigenous settlements.

1.2. Research methods

The paper is based on literature review and field research carried out during the first half of 2012 in six communities in the province of Vaca Diez and in the town of Riberalta, the main commercial centre in the province. The authors also draw extensively from their collective research experience in the region since the mid-1990s. The information on the domestic timber market derives from a wider study on timber and Brazil nut value chains in northern Bolivia (Cano et al., 2013). That study applied two types of semi-structured interviews: one designed for owners and suppliers of timber, many of whom are community residents and one for actors specialized in the commercialization and processing of timber (Table 1).

Qualitative information was collected to understand relationships between actors, processes of negotiation to define prices and informal

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