

## Forest Governance Scholarship for the Real World:

### Building Strategic Insights through Policy Learning

Issues and Options Briefs on Forest Policy

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### **Forest governance scholarship for the real world: Building strategic insights through policy learning**

#### **Issues and Options Briefs on Forest Policy**

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# How Can REDD+ Foster Local Rights and Livelihoods? Lessons and Insights from Peru

## *Version 1.0*

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### **Issue**

We analyze participation and outcomes of current REDD+ policy development approaches for indigenous and other forest-dwelling communities.

### **Problem Definition**

Reducing carbon emissions through avoiding deforestation and forest degradation, REDD+<sup>5</sup>, is currently being negotiated under the United Nations Framework Convention on Climate Change (UNFCCC). The original idea behind REDD+ in 2005 was relatively straightforward: to create financial incentives for developing countries to reduce emissions by conserving and sustainably managing their forests (Pistorius 2012). However, longstanding complexities surrounding forest and natural resource governance have emerged, including how to engage with indigenous and other forest-dwelling communities. With this, the question arises of how REDD+ policies and approaches may be developed to ensure that local peoples are included in decisions that affect their livelihoods and, more importantly, that outcomes improve livelihoods and rights.

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<sup>5</sup> REDD+ formally stands for "reducing emission from deforestation and forest degradation in developing countries and the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries."

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A range of scholarly articles and practitioners have argued that, depending on specific policy incentives and institutional design, REDD+ could have either positive or negative impacts on local and indigenous communities.

There is a general consensus among most policy analysts that whether positive impacts will be realized will depend, in large part, on whether local peoples and their interests are integrated into policy deliberations and decision-making processes. As a result, many government officials and intergovernmental deliberations have responded with a range of efforts to formalize such involvement.

For example, the UNFCCC developed “safeguards” to be supported and promoted by REDD+ country initiatives (Jagger et al. 2012) and is discussing “co-benefits” to aim for synergies between carbon emission reduction and social goals (Brown 2013). Moreover, local communities could receive payments for forest conservation and sustainable use through REDD+’s “benefit sharing” arrangements, contributing to livelihood improvement.

Moreover, as international and national negotiations are still ongoing, some countries have worked to include local peoples in their REDD+ “pilot” and “readiness” projects — which are designed to create learning and “pave the way” for an international agreement. At the same time, some worry that in the absence of an international agreement and operational approaches to safeguards and benefit sharing, impacts may be suboptimal. The worry is that REDD+ project developers or commercial partners may take advantage of this policy vacuum to champion their interests while harming forest dependent communities.

### *Approach*

The policy analysis of this Issue and Options Brief draws on political science research on forest policy and governance to ask this: How can REDD+, at its early implementation stage when international negotiations are still ongoing, foster the rights and livelihoods of indigenous and other forest-dwelling communities? Our purpose is to foster a learning dialogue to reorient explanatory social science research towards its practical implications for improving and fostering the livelihoods of forest-dependent peoples.

We proceed with the following analytical steps. The Background section reviews current REDD+ safeguards, co-benefits, and benefit-sharing policies, with special consideration for participation, and introduces the case of the “carbon cowboys” in Peru to illustrate why the questions imposed in this brief are so important. The Analysis section explains these developments from a social science perspective. The final section provides strategic insights for moving forward. This Issues and Options Brief addresses the following questions:

1. How did safeguards, co-benefits, and benefit-sharing concepts emerge?
2. How can REDD+ impact forest-dwelling communities?

3. What strategic insights emerge from this analysis?

The first two questions are addressed in the Background section while the third is addressed in the final section.

## **Background**

Dependence of forest-dwelling communities on natural resources, rights over natural resources, and participation in related policy decision-making have been prominent topics in academic and policy debates for decades if not centuries (Castro and Nielsen 2001). Policies at all levels of governance — from global to local — reflect tensions between conservation and development (i.e., the debate on the role of protected areas in nature conservation) and the role of forest-dwelling communities in natural resource management (also referred to as community-based natural resource management, or CBNRM) (McShane et al. 2011). The debates on REDD+ safeguards, co-benefits, and benefit sharing can thus learn from these earlier discussions and provide new evidence and arguments for the ongoing debate (Brown 2013).

### *Global REDD+ Safeguard Policies*

The Cancun Agreement — a product of the 2010 UNFCCC Conference of the Parties (COP) — outlines seven safeguards that are to be supported and promoted in REDD+ initiatives as a means for minimizing risks to forest-dwelling communities and the environment (UNFCCC 2011). These seven safeguards include the following:

- Actions be consistent with objectives of national forest programs and international agreements
- Transparent and effective national forest governance structures
- Respect for the knowledge and rights of indigenous peoples and local communities
- Full and effective participation of relevant stakeholders, with emphasis on indigenous peoples and local communities
- Conservation of natural forests and biodiversity
- Actions for addressing the risks of reversals (“permanence”)
- Actions for reducing displacement of emissions (“leakage”)

While this acknowledgement of safeguards demonstrates a level of commitment from the UNFCCC parties, the principles for safeguards are general and do not provide specific guidelines on mechanisms for accountability and criteria for what constitutes their adequacy (McDermott et al. 2012). This broadness in definition allows for the flexibility of REDD+ strategies to be respectful of state sovereignty and for states to conform initiatives to their own social and environmental policies but also causes widespread differences in interpretations in the application of these safeguards (McDermott et al. 2012) and inhibits a globally consistent interpretation (Visseren-Hamakers et al. 2012). The application of

these safeguards, as a result, proves to be a challenge for many countries (Williams 2013; Evans et al. 2013).

Parallel to the REDD+ negotiations and policy development under the UNFCCC, the World Bank's Forest Carbon Partnership Facility (FCPF), Forest Investment Program (FIP), and the United Nations Collaborative Programme on REDD (UN-REDD) support tropical forest countries to develop REDD+ readiness proposals (R-PPs). Once approved, the agencies support the implementation of national REDD+ strategies and pilot projects. These "REDD+ readiness initiatives" require that countries recognize and incorporate social and environmental safeguards into their national REDD+ strategy proposals before receiving financial and technical support (Williams 2013). The UN-REDD tests proposals against its Social and Environmental Principles and Criteria, and the FCPF against the World Bank Safeguards and Strategic Environmental and Social Assessment (SESA). Government-led programs can also seek certification from the REDD+ Social and Environmental Standards (REDD+ SES), and independent projects may seek voluntary certification through the Climate, Community and Biodiversity Alliance (CCBA) (Murphy 2011).

### *The Safeguard of Participation and Stakeholder Engagement*

The importance of full and effective stakeholder engagement, especially of forest-dwelling communities, has been emphasized by REDD+ donors and civil society (Williams 2013) because this is expected to assure proximate and long-term benefits to local livelihoods (Chhatre et al. 2012). In 2012, the UN-REDD and the FCPF produced guidelines for stakeholder engagement in the design and implementation of REDD+ readiness. These guidelines lay out the framework for the principles, step-by-step procedures in promoting effective indigenous peoples participation in REDD+, and are an instrument for enhancing stakeholder engagement after a project has already been designed and is being implemented (Rutt 2012). Many national REDD+ readiness proposals also support broad commitments to transparency, inclusiveness, and accountability in engaging with forest-dwelling communities (Jagger et al. 2012). Other proposals emphasize constructing multi-stakeholder platforms, feedback mechanisms for receiving stakeholder input, and procedures to ensure free, prior, and informed consent (FPIC). It remains unclear, however, how these concepts and ideas will actually be put into practice (Williams 2013). The following are examples of common challenges in engaging local groups as indicated in various REDD+ readiness proposals and REDD+ project development experiences.

- Lack of common vision. Indigenous knowledge is not incorporated enough into discussions and concepts as most project developers enter discussions with their own concepts and language (World Wildlife Fund 2012).
- Poor access for local stakeholder input. Engagement between state and communities served more as information-sharing sessions rather than consultations. Statements issued by 26 civil society organizations from the Central African Republic (CAR) indicated that recommendations and contributions made by civil society and local communities during meetings with government

bodies had little effect on the final decisions toward designing REDD+ national programs (Williams 2013).

- Insufficient engagement. Consultations do not ensure local understanding. A REDD+ project in Guyana consulted 27 out of 130 indigenous communities using PowerPoint presentations in meetings that lasted a few hours and focused mostly on technical matters, but it failed to result in sufficient understanding of project goals and strategies (Williams 2013).
- Poor access to information. Texts written in foreign languages to communities present a significant challenge. For example, the initial draft of Vietnam's R-PP was written in English rather than Vietnamese, limiting the effectiveness of access to information for and consultations with local communities (Williams 2013). In another case, several indigenous communities were presented with contracts from private carbon companies that were written in English (Espinoza and Feather 2011; de Jong et al. 2013).

Authors have variously assessed the difficulties of effective participation. Corbera and Schroeder (2011) highlight that REDD+ represents a governance process that includes multiple actors, interests, and processes, which may conflict or concur. With its multi-interest, multilevel, and multi-actor processes, REDD+ is moving forward in various directions and in different governance levels, mostly without proper elaboration in one level before moving forward to the next. REDD+ projects, for example, have already been designed and implemented by the private sector in indigenous territories before national REDD+ strategies and policies were even seriously debated (Corbera and Schroeder 2011), resulting in poor, if any, consultation and FPIC.

### *Carbon Cowboys: The Example of the Matsés and SCLR in Peru*

The development of REDD+ in Peru provides an informative example of the potential serious consequences of REDD+ projects when developed in parallel to the national REDD+ policy development process. In 2008, Peru became a pilot country for the FCPF and FIP. In March 2011, after several revisions led by AIDSEP (the organization that represents the country's indigenous federations) to incorporate indigenous peoples' values, the FCPF approved Peru's fourth R-PP draft. AIDSEP's main critiques of Peru's R-PP centered on the lack of land and property rights over forests and carbon stocks, clear mechanisms to ensure full and effective local stakeholder participation in REDD+ decision-making processes, and the lack of regulations for preventing carbon development projects from encroaching into local and Indigenous livelihoods and territories (Evans et al. 2013).

By 2011, at least 35 REDD+ projects were registered in Peru, affecting almost 7 million hectares of forest within the country (Espinoza and Feather 2011). These projects were developed in parallel to the national REDD+ policy development process, and while this approach allows for subnational and national REDD+ approaches to work concurrently, it also creates challenges and incompatibilities between national and subnational strategies (Rubio et al. 2012). Since the onset of REDD+ in Peru, carbon projects in the Peruvian Amazon developed at a faster rate than the strengthening and

safeguarding of Peru's national REDD+ strategy (Espinoza and Feather 2011). Without clear mechanisms and national regulations to guarantee indigenous peoples' engagement in REDD+ decision-making, cases have arisen in the Peruvian Amazon of indigenous peoples being negatively affected by REDD+ programs, particularly by carbon investors and entrepreneurs (Espinoza and Feather 2011). These "carbon cowboys" or "carbon pirates," as they have come to be known in the REDD+ academic and practitioner community, are entrepreneurs who engage local and indigenous communities in carbon development projects through negotiations lacking adequate legal and administrative means, resulting in negative consequences for local resource use and livelihoods (Evans et al. 2013; de Jong et al. 2013).

Two documented cases of carbon piracy in the Loreto region of the Peruvian Amazon are the Matsés and Yagua indigenous communities and an Australian national, David Nilsson, who operated with a Hong Kong registered company, Sustainable Carbon Resources Limited (SCRL) (Loayza 2011; de Jong et al. 2013). Nilsson initially offered the Matsés a joint venture with highly dubious terms of great disadvantage to the Matsés people (Espinoza and Feather 2011; Ruiz Molleda 2012). The signing of this contract would have handed over to SCRL the control of current, future, or potential carbon credits residing within Matsés territory and compensations that are yet to be received.

Because of disputes between the community and AIDSEP's negative advice, the signing of this particular joint venture did not happen. However, even after this attempted abuse became highly publicized and condemned in national and international media (e.g. Lang 2011), only six months later, Nilsson and his new company, Amazon Holdings Limited (AHL), undertook a new attempt, this time with Yagua indigenous people. Nilsson was assisted in his efforts by, among others, senior members of the Loreto Regional Government (de Jong et al. 2013). That time, agreements were signed (Ruiz Molleda 2012; de Jong et al. 2013), and back in his native Australia, Nilsson has actually tried to sell carbon credits from indigenous territories (*60 Minutes* 2012).

The Matsés-Yagua and SCRL-AHL cases present an example of the possible detrimental outcomes that can occur as a result of a lack of FPIC in the design and implementation processes (Thompson et al. 2011). Especially in Peru, this danger remains highly relevant because over one-third of Peru's 69 million hectares of forests are traditionally occupied and used by Amazonian indigenous peoples (Espinoza and Feather 2011). In the forest rich regions, the implementation of the rule of law is weak, and private entrepreneurs and public officials have no scruples to engage in fraudulent efforts to gain profits over the backs of remote forest dwellers.

## **Analysis**

Political science scholarship can be drawn upon to expand ideas about how strategies might intervene in this case to foster desired outcomes. The first thing that is important to be aware of is that political science's contribution not only pertains to "on the ground" research about past events and decisions, it also contributes to building understandings about "causal" expectations behind instrument choice and



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decisions. That is, drawing on previous research, political science theories can help policy makers and organizations identify more precisely what might occur when initiating a global policy or more focused experiments such as “readiness” projects. While it is impossible to predict with certainty because individuals and organizations often make unpredictable strategic decisions, we can uncover “plausible logic” of instrument choice in triggering unfolding events that might ameliorate, or exacerbate, the problems being addressed. To put it more concretely, attention to political science theory arguably would have helped policy makers avoid the carbon cowboys story above, shifting decisions about which policy experiments to initiate that had a greater likelihood of achieving desired results.

While it is impossible to draw on the range of relevant scholarship in a policy brief, we focus our analysis on two distinctions made by political scientists March and Olsen (1998) that seem particularly important for analyzing and offer strategies about how to proceed with REDD+ efforts that might foster local rights and resources. March and Olsen found that to understand the world of policy decisions and governance “institutions,” it is important to address not only substantive policy choices (what they termed a “logic of consequences”) but also the procedures in place that created the policy (what they termed a “logic of appropriateness”). These distinctions are important because they push strategists and policy makers to not only focus on the content of policy decisions, but also to develop a rationale as to why short-term and long-term support from a range of relevant stakeholders and communities might occur. Attention to the logic of consequences, for example, focuses attention on why different organizations with distinct interests might come to support the same policy instruments. This had led political scientist David Vogel to offer that a “California effect” might be nurtured in which highly regulated firms see it in their strategic self-interest to align with environmental groups to champion increased regulations on their less regulated competitors. This phenomenon, which draws on short-term strategic interests, ends up creating a long-term collective global good as other jurisdictions, and even international trade agreements, ratchet up environmental and social regulations in an increasingly globalized world. In this case, the implications for strategy are fundamental: We would not want to increase regulations on highly regulated firms because this would knee cap the reasons for the coalition building, hampering the cascading effects elsewhere. Therefore, increasing standards across the globe might mean maintaining standards in some jurisdictions. Strategists who had not reflected on this causal logic might inadvertently champion increased rules in the wrong jurisdiction, accidentally making the world’s problems worse off.

However, what is important for the review above is that sometimes a focus on logic of consequences can also make matters worse; it depends on the problem being addressed. For example, March and Olsen have found that failure to tend to logic of appropriateness often leads to short-lived policy decisions that never have a chance to institutionalize into full-fledged global approaches. According to these political scientists, policies are often short-lived when a community of stakeholders affected by the decision come to feel that the governance process lacked legitimacy. This distinction is important: March and Olsen argue that because every single policy decision cannot always benefit the short-term

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interests of a range of stakeholders (not all groups will come to evaluate the consequences of every decision as being in their organizational interest), the only way out of this conundrum is to build institutions that have “political legitimacy” in which stakeholders and societal interests feel that they are part of a fair system — even if not every decision goes in their favor (see also Bernstein and Cashore 2007). It is also important to note that a range of scholars, from Sabatier (1986) to Hall (1993) to Habermas (1994), have found that carefully planned “policy learning” architectures can help build institutions with broad legitimacy (appropriateness). This research finds, for example, the more learning focuses on “causal mechanisms” (the very topic of this policy brief) and less on short-term “compromises,” political feasibility and substantive impacts can be increased.

Application of the logics of consequence and appropriateness has profound implications for strategy in the case of REDD+ and indigenous rights. The main logic REDD+ is applying is the logic of consequence. As stated in the problem definition above, the rather straightforward idea behind the development of REDD+ is to create financial incentives for developing countries to conserve their forests and use them sustainably. With this, REDD+ can be considered a payment for environmental services (PES) scheme and is strongly driven by the idea that financial incentives can change behavior. The REDD+ social safeguards, co-benefits, and benefit-sharing arrangements can be regarded as being driven by the logic of appropriateness.

The problems with current REDD+ implementation, as illustrated by the strong example of the carbon cowboys, can thus be explained by the fact that REDD+ pilot projects are being implemented while logic of appropriateness, the safeguards, co-benefits, and benefit-sharing systems are not yet well catered to. This confirms earlier conclusions from the literature, which concludes that a new policy initiative often starts with the logic of consequence, and the logic of appropriateness is only brought on board in later phases of the policy development process. Insights from political science, however, also show that relying solely on the logic of consequence is not very durable and that a logic of appropriateness needs to be tended to for long-term effectiveness (Bernstein and Cashore 2007).

### **Way Forward**

This Issues and Options Brief has aimed to discuss the consequences of REDD+ for indigenous and other forest-dwelling communities. The case of the carbon cowboys in Peru has clearly shown the danger of REDD+ harming forest-dwelling groups if local projects are implemented before global and national safeguards, co-benefits, and benefit sharing are in place. The Analysis section has explained these dangers, applying the social scientific concepts of the logic of appropriateness and the logic of consequence. Main questions that arise from the discussions above are how policy makers might tend to follow both logic of consequence and logic of appropriateness and how learning processes might foster them. We suggest three potential ways forward toward an effective, legitimate, and equitable REDD+.

*Option 1: Tend to the Logic of Appropriateness in All REDD+ Activities*

An important question that arises from the analysis is *when* to tend to the different logics in the development process of a policy. Based on the discussion above, we hypothesize here that in REDD+, the logic of appropriateness need to be addressed immediately and before the consequentialist approach in order to avoid negative impacts on indigenous and other forest-dwelling communities. The safeguards, co-benefits, and benefit-sharing systems thus need to be in place early on in the process.

This does not necessarily mean that pilot projects cannot be developed before a country has the safeguards policies in place at the national level. Private certification standards, such as the CCBA, can take on the role of the logic of appropriateness at the project level while the national safeguards system is being developed. Earlier experiences of defining and operationalizing safeguards, for example in forest certification, could also play a role. The Forest Stewardship Council (FSC) Principles and Criteria or those of other certification schemes can serve as an example of standardizing a safeguard definition and measurement (Murphy 2011) at the project level.

Based on the analysis above, it seems clear that attention to inclusion of stakeholders in policy deliberations is fundamental. While well-intended efforts have been initiated, the interests of local peoples have not been incorporated into policy decision and decisions as much as has been the interests of the commercial sector. The REDD+ community could use national and local interpretation and implementation of the “full and effective participation” safeguard to ensure attention to the logic of appropriateness. Actors could deliberate how this safeguard needs to be interpreted in order for all stakeholders to regard the REDD+ policy process as legitimate.

*Option 2: Safeguards Information System*

A safeguard information system (SIS) can support such deliberations on the interpretation and implementation of REDD+ safeguards. While the deliberations above (under Option 1) are suggested for actors involved in a specific REDD+ activity or process at the local or national level, a SIS can support these deliberations across governance scales and among different REDD+ initiatives. A SIS thus raises attention for the logic of appropriateness in the international REDD+ community as a whole. Such a SIS on how REDD+ safeguards, co-benefits, and benefit-sharing systems are addressed by different actors can support their effective implementation and is already being discussed by different authors (Murphy 2011). A REDD+ SIS is best described as a set of institutions and processes of collecting, verifying, assessing, and sharing information with other relevant institutions aimed at promoting transparency, minimizing social and environmental harms, and providing information on REDD+ initiative impacts (Boyle and Murphy 2012). A SIS is especially useful in REDD+ because the system could support learning from the parallel experiences of projects and national dialogues (Jagger et al. 2012). Many countries have expressed the need for a better understanding of existing systems for REDD+ safeguard standards and institutions (Boyle and Murphy 2012).

### *Option 3: Learning Architecture*

Tending to the logic of consequence immediately at the start of a policy process is easier said than done. Moreover, the decision to do so is also political in nature. In order to achieve durable, effective, legitimate, and equitable solutions for REDD+, policy practitioners and social scientists can — together — discuss and analyze potential ways forward in a so-called “learning architecture” that accompanies and informs REDD+ (Visseren-Hamakers et al. 2012) in which the policy processes are analyzed in ways “that foster stakeholder engagement, learning, and ‘feedback loops’ across practitioner and scholarly communities” (Visseren-Hamakers et al. 2012). If different types of actors with different political views are engaged, such a learning architecture can foster greater collective knowledge among all actors involved in REDD+ about cause and effect of instrument choice. It can also build shared understanding and norms on how REDD+ ought to be developed and what issues are fundamental for its success.

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# Bridging Certification and Community Forestry through NTFPs: A Case Study from Nepal

## *Version 1.0*

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### **Issue**

For a variety of reasons, community forestry is not always well suited to existing forest certification schemes. Using the case of Nepal, this paper considers the extent to which promoting the trade in non-timber forest products can complement, or even provide an alternative to, forest certification for timber while promoting sustainable community forestry. The paper develops recent work on the interaction of transnational business governance (TBG) schemes to suggest how these two approaches to sustainable forest management can work together productively.

### **Problem Definition**

For the last 25 years, forest policy scholarship and practice has been characterized by various broad policy vectors, including biodiversity conservation, carbon sequestration, and watershed conservation. This paper considers how to promote synergies and complementarities between two of these policy vectors: promoting sustainable (or well-managed) forests through forest certification and promoting the human rights of forest-dependent peoples, in particular through community forestry. Community forestry may be defined as forestry where the local community is intimately involved in decisions on forests that are managed primarily for the benefit of the community.

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In principle, community forestry and forest certification for timber can be mutually supportive, with potential synergies between the two (Fischer et al. 2005, Macqueen et al. 2008, Macqueen et al. 2006). Certification can provide an incentive for forestry to meet minimum social, economic, and environmental standards, including respecting the traditional rights of communities and creating access for products in global markets. Certification may also enable communities to achieve greater control over their resource base and derive a new and stable income stream (Cashore et al. 2006, Molnar 2003, Nussbaum and Simula 2004). Forest campaigners argue that certification bodies should be more effective in respecting local cultures while providing local communities with an incentive to sustainably manage their resources (Colchester 2010).

While certification can, therefore, enhance SFM in community forestry, success cannot be taken as a given. In some cases, certification can promote social changes that run counter to traditional ways of life (Markopoulos 2003, Molnar 2003). Despite significant efforts, community forestry institutions may find it difficult to survive in the global marketplace, and forest certification for timber may provide additional obstacles rather than extra support. Many certification schemes are better suited to industrial scale commodity production than smaller scale economic activity (Bass and Simula 1999, Irvine 1999, Markopoulos 2003). Furthermore, in some places — including the more remote mountainous regions of Nepal — the difficulties of adapting existing management practices to meet certification standards, including the costs of audits, may remove any incentives that certification can hope to provide.

Focusing on Nepal we discuss three questions:

1. Can existing forest certification schemes adapt to promote the trade in non-timber forest products (NTFPs) from certified community forests?
2. Can non-forest certification schemes promote the trade of NTFPs from certified community forestry?
3. What are the likely synergies, if any, between different certification schemes, for timber and for NTFPs, from certified community forests?

These questions are important not only for Nepal. The first is relevant for all forested regions where timber certification may not be economically feasible and alternative approaches to sustainable forest management are sought. The second is relevant for several stakeholder groups including businesses interested in promoting certified community products, the forest communities who may benefit from certification, and the consumers interested in buying certified community products. The third is relevant to policy practitioners and scholars interested in whether there is complementarity or competition between SFM, certification, and community forestry.

## **Background**

When the Forest Stewardship Council (FSC) certification and labeling scheme was established, it was expected to enhance community forestry with an expectation that low-impact, locally-based operations



would be more easily certified than large-scale industrial operations (Irvine 1999). The reality, however, is that the bulk of FSC-certified operations are industrial forests, the majority in the global North, and the evidence that FSC certification can encourage sustainable community forestry in the global South is inconclusive at best.

Community forests in Nepal illustrate many of the challenges that forest certification faces. In Nepal, the government retained a centralized control over forests, appropriating and nationalizing forests until the 1970s (Satyal Pravat and Humphreys 2013). The failure of top-down centralized forest management in Nepal, characterized by diminishing economic returns from forestry and in many areas a degraded resource base, led to the systematic transfer of control to community forest user groups (CFUGs). CFUGs are now a cornerstone of forest governance in Nepal, the intention being to increase the productivity and economic returns from forests so as to benefit the state, promote conservation, and enhance livelihood opportunities (Naka, Hammett, and Stuart 2000). There are now 17,687 CFUGs across Nepal that have been granted control over a total of 1,652,654 hectares of national forests. Approximately 22 CFUGs managing 14,145 hectares have been certified (Community Forestry 2012).

The barriers to achieving certification for wood and wood products from forests controlled by CFUGs are high while the economic rewards remain largely unrealized in the absence of access to markets where sustainably produced forest products are valued. Specific factors include the following (Macqueen et al. 2008):

- Problems meeting quality standards developed for industrial-scale forestry
- Difficulties achieving the economies of scale and value added products that will make certification pay
- Lack of capacity to achieve the technical conditions necessary for certification
- Consumer resistance to paying premiums for certified wood products, especially in regional markets
- Inability to interest major buyers with access to global markets because of unreliable quality and supply

Given the problem associated with timber certification, the government of Nepal has taken a greater interest in working with communities to scale up the harvesting of non-timber forest products (NTFPs). NTFPs are a large component of Nepalese forest systems and local forestry practices due to the country's diverse geography, climate, and culture. There are long established markets for NTFPs, including bamboos (for mats and basket making), bark (for lokta paper production), and fibers (for alloo cloth production). Examples of NTFPs used in the domestic industry are resin tapping from *Pinus roxburghii* and paper made from sabai grass (Edwards 1993).

However, the domestic market for these products is limited, and the vast bulk of NTFPs are traded to India for commercial use and international marketing. Trading routes have varied over time.

Traditionally, there have been at least four different exchanges along the way: the village trader, the roadhead trader, the Terai middleman, and the Indian wholesaler. Indian wholesalers sell internationally as well as domestically, but the informal trade economy leads to the exports being labeled as Indian, even though a significant portion are Nepali in origin (Edwards 1996). Products manufactured in India from Nepali NTFPs include oils and ayurvedic medicines.

NTFPs have potential to promote poverty reduction. For example, a government program initiated in 2001 assisted the people of the remote, mountainous Darchula district in transitioning from a subsistence lifestyle to an enterprise approach based on conservation, poverty reduction, and scaling up the trade in NTFPs (Subedi, Sapkota, and Binayee 2005). This generated enough returns for poverty reduction programs, such as livestock husbandry and house construction. Similar results were found in Ilam district (Subedi, Sapkota, and Binayee 2005). Comparable successes were also found in a macro-level study of 37 CFUGs that had adopted an enterprise approach (Subedi 2006).

NTFPs can be particularly important in relatively inaccessible high-altitude forests, where timber time scales are too long to provide sufficient returns to villagers, and where local timber species are often unknown in the global market. Many CFUGs in mountainous areas are increasingly focusing on NTFPs, which can be more easily transported and consistently harvested with a lower ecological impact than timber (Banjade and Paudel 2008, Kandel 2007).

For all these reasons, there has been an interest in bringing NTFPs into certification schemes that would promote the sustainable management of the forests and protect the livelihoods of those who have come to depend upon them. In Nepal, these efforts have included seeking FSC certification for forests where NTFPs are a significant source of income. FECOFUN, a national federation of community forest user groups (CFUGs), hosted a multistakeholder process that generated a new alliance — the Nepal Non-Timber Forest Products Public-Private Marketing Alliance — of industry, government, NGOs, 21 CFUGs, and the FSC.

This process resulted in the award of a FSC group certificate covering 24 NTFPs. The alliance aims to promote resource conservation by increasing incomes and employment opportunities for NTFP producers and promoting responsible buying practices within the industry. A study of CFUGs covered by the group certificate in Bajhang and Dolakha districts (Acharya 2007) provides evidence that the scheme has generated some social and environmental benefits (Acharya 2007).

Nonetheless, the NTFP trade faces some barriers relative to the timber trade. First, not every NTFP is suited for value-addition at the village level, and when this is possible, many Nepalese harvesters are unable to compete with the economic power of Indian processors (Edwards 1996). Second, there is a risk that women may be forced out of their traditional roles when the primary usage of a species changes from household to market (Banajade and Paudel 2008). Third, NTFPs cannot always be managed the same way as a timber-oriented community forest. NTFPs are harvested over a different

scale than fuelwood and timber, requiring a larger land area and a variety of user groups for harvesting and cultivation (Edwards 1996, Irvine 1999). Not all community forests will be large enough, hence NTFP harvesting will not suit all CFUGs, at least those acting alone.

## **Discussion**

The discussion above makes clear that the barriers facing Nepali forest communities in scaling up their earnings from NTFPs suggest that these communities need to explore new ways to cooperate, both with each other and with other actors. It also suggests that certifying bodies should consider how they can best reposition themselves to label NTFPs as well as timber and that actors supportive of community forestry and certification should consider how they can constructively intervene in forest policy and governance. All of these challenges will involve new, and redefined, interactions between actors and some degree of negotiation. Hence, in order to answer the three questions posed at the start of the paper, this section draws from two fields in the political and policy sciences: interaction theory and negotiation theory.

Interaction theory focuses on how different actors involved in governance interact with each other and with state-based regimes. This area of theoretical enquiry is relevant for Nepali forestry, which involves a wide range of actors from government, businesses, certification schemes, NGOs, and communities. In a recent study, Eberlein et al. adopt an analytical framework of actor interactions that encompasses constructivist explanations and rationalist explanations (Eberlein et al. 2013). Constructivism focuses on the language, ideas, discourses, and ideologies that shape policy and governance and how actors interpret, make sense of, and relate to the world around them. Rationalist explanations explain interactions in terms of the cost-benefit calculations that different actors make when bargaining with each other.

Negotiation theory focuses on the question of rationality and how self-interested actors interact and can realize gains through bargaining. A key distinction is that between positional bargaining and principled bargaining. Positional bargaining starts with the assumptions of a “fixed pie,” with actors competing for relative gains in relation to each other in a zero-sum game. Positional bargaining is characterized by moves such as take it or leave it, divide and rule and good cop/bad cop. Actors seek to find a shared position through concession trading. Principled bargaining, in distinction, is characterized by a search for innovative and mutually beneficial solutions. It takes aim at expanding the “win set” (where the concerns of different actors overlap) and increasing both the number of actors that can benefit from a negotiated outcome and the gains that are available. Rather than a fixed pie, the aim is to enlarge the pie so that absolute gains are available for all in a positive-sum game (Fisher, Ury, and Patton 1999).

Eberlein et al. (2013) distinguish between four categories of interaction:

- Competition (e.g. for resources, regulatory authority, and legitimacy)

- Coordination (involving a quest for coherence, division of labor, learning, and including deliberative collaboration)
- Cooptation (recruiting other actors to a policy where there is scope for convergence on norms and interests)
- Chaos (where interactions are unpredictable and unstructured)

Mutual gains are most likely with modes of interaction that lend themselves to principled bargaining, namely coordination or cooptation. Mutual gains are unlikely where there is competition (which tends towards positional bargaining) and impossible where there is chaos.

These two areas of theory inform the following discussion of the three questions addressed in this brief.

*Can existing forest certification schemes adapt to promote the trade in non-timber forest products (NTFPs) from certified community forests?*

In Nepal, access to the international market is limited in part by geography and in part by the historical NTFP trade with India. Nepalese CFUGs and their allies could approach this problem from a position of positional bargaining, competing to achieve relative gains at the expense of middlemen, perhaps by cutting out the Indian link and selling direct to the international market. But this would involve potentially high transaction costs, and CFUGs may find it difficult to directly access the international market without significant external help (e.g., a broker to establish a direct link between the harvesters and potential buyers overseas). Approaching the problem from a position of principled bargaining would entail looking at ways that all actors, including the Indian middlemen, could benefit from the certified trade, for example, through an expansion in the trade beyond India to the global market.

From an interaction theory perspective certification schemes can be analysed along two dimensions. Scope refers to the policy problems that the scheme seeks to regulate while domain is the group of actors that is targeted by the rules of the scheme (Auld 2013; Cutler et al. 1999).

In 2001 the FSC introduced the Small and Community Label Option (SCLO). In doing so the FSC expanded its scope to address more fully the problems that forest communities face. While the FSC has never excluded community forestry, creation of the SCLO represented a realization that the scheme previously had been skewed toward larger businesses and a desire to focus more on interactions with community groups and the specific problems they face.

Constructivist explanations of actor interactions emphasize the role that new research and evidence can play in generating new policy strategies and alliances. By introducing the SCLO label, the FSC was responding to market research from the International Institute for Environment and Development (IIED), which revealed a growing international demand from forest industries for distinguishing community forest products in the market (Macqueen et al. 2008). This research also revealed increasing customer demand for knowledge on the source of forest products. Communities that successfully apply

for the FSC SCLO scheme will be awarded a FSC label option stating, “From well-managed forests of small or community producers.” This marks a point of departure for the FSC, which, like other certification schemes, was until then interested primarily in promoting sustainably managed, or well-managed, forests rather than ensuring communities were rewarded for responsible practices (Macqueen, Dufey, and Patel 2006: 7).

A forest certification scheme may realize certain advantages from expanding its scope to embrace new problems. The more comprehensive a scheme is, the better equipped it will be at dealing with complex problems and actor interactions (Auld 2013). The scheme may also improve its legitimacy and market appeal by catering to the needs of forest communities. However, there are disadvantages. The more a scheme expands its scope, the more its internal administration costs can be expected to increase.

In Nepal, transport remains difficult even for NTFPs, and the market still requires a consistent and quality-controlled supply. Profits often do not trickle down to the poorest due to distributional inequalities within communities. Should a community that is dependent on external financial support lose that support, there is a risk of CFUGs losing their certified status. However, CFUGs can, of course, continue to trade in non-certified products, and the balance between timber and NTFPs in Nepal, as elsewhere, will vary from region to region depending on ecology, social conflicts, and use rights (Guariguata et al. 2010).

Certification may incentivize community forestry by providing premium prices for local products, but markets for certified NTFPs have been slow to materialize (Subedi, Sapkota, and Binayee 2005). Market access also continues to be a problem in the remote areas of the country, and it is difficult to see how certification can address this. There are high returns in the east of the country due to favorable conditions, such as harmonious relations at the village level, competition from buyers at the roadhead, and proximity to the main market, India. The opposite is true in the west (Edwards 1996).

### *Can non-forest certification schemes promote the trade of NTFPs from certified community forestry?*

Interaction theory suggests that a proliferation of certification schemes could lead to competitive or chaotic interactions between actors and that existing schemes should, therefore, coordinate their activities and explore areas of complementarity. Indeed, while the IIED revealed a growing demand for distinguishing community forest products in the market (see above), the IIED report did not advocate further proliferation of labels, calling instead for the FSC and fair trade bodies to provide a community forest products label (Macqueen et al. 2008).

Like the FSC, fair trade organizations work through the market but rely on a politically aware consumer base (Wilkinson 2007). The values that underpin fair trade certification are social justice and poverty alleviation. Such values are not unimportant to the FSC, although more important is forest conservation and minimizing environmental impacts. Fair trade bodies, such as Fairtrade Labelling Organizations

International (FLO, also known as Fairtrade International), operate in a different market niche to that of timber. Products that have received fair trade labeling include coffee, cocoa, fruit, honey, bananas, and rice. Fair trade aims at better working conditions, wages, and prices for farmers and workers.

Both Fairtrade International and the FSC can stake a legitimate claim to certify NTFPs from sustainably managed community forests. Given the possibility of competitive interactions if both schemes operated in isolation, the two schemes entered into a pilot project on a fair trade standard for forest management in 2009. Forest products certified by both schemes are labeled “100 percent from small or community-based forest enterprises that are both FSC and Fairtrade certified.” The project should be seen as a coordination interaction with the two schemes cooperating to provide coherence, an agreed division of labor, and shared learning. Participants in the project must already be FSC-certified before they are assessed for fair trade criteria not covered by the FSC. Producers must be classified as “community, small, or low-intensity timber operations” (Forest Stewardship Council 2013b). Advantages to the producer are “entrance to new markets, agreed upon minimum prices, and guaranteed price premiums, which will go to Social Fund for use by the producers” (Forest Stewardship Council 2013b). So far, a community forestry operation in Honduras and small/low-intensity producer groups in Chile and Bolivia have been certified.

If the dual pilot project continues, it allows for the possibility of dual-labeled NTFPs. Fairtrade’s target consumption pattern is suited to community-produced NTFPs in Nepal, such as handmade lokta paper. Fairtrade certification can help to address distributional and equity issues at multiple levels because it specifically targets unfair trade relations, seeking to ensure that all levels of the supply chain are equitably compensated (Taylor 2005). In Nepal, this could enable the three layers of middlemen (village, roadhead, and Terai traders) to maintain their place in the NTFP economy without economically disenfranchising the harvesters.

Fairtrade certification can help stimulate consumer demand by appealing to virtues such as responsibility and social justice. Labeling of products can re-establish connections between producer and consumer and encourage a “politics of caring” whereby consumers feel empowered to improve the welfare of producer communities in distant places (Barnett et al. 2005; Archer and Fritsch 2010). In effect, Fairtrade, like other forms of certification, seeks to transform the interactions between consumers and producers from a relationship that is less anonymous to one that is more personalized and humane.

However, challenges remain. There are different fair trade labeling organizations and some confusion on what fair trade actually means, leading to different understandings of the concept between consumers in different parts of the world (Hira and Ferrie 2006; Kim, Lee, and Park 2010; Raynolds, Murray, and Heller 2007). There is also the risk of business coopting fair trade standards, weakening them in the process (Jaffee and Howard 2010; Jafee 2012; Gendron, Bisailon, and Rance 2009). However, the risks

of business cooptation need to be balanced against the role that major business corporations can play in rapidly extending the market in fair trade goods (Reed 2009).

To take advantage of the fair trade movement, Nepali forest owners could prioritize access to markets where there is a developed or developing ethical consumer base. The support of major retail chains can play a major enabling role in marketing community forestry products in the global North. However, very few Nepali NTFPs reach the global market; most are processed or sold in India. The importance of local markets within Nepal should also not be neglected.

*What are the likely synergies, if any, between different certification schemes, for timber and for NTFPs, from certified community forests?*

Certification schemes such as FSC and Fairtrade International and its variants are intended to bypass gridlocked interstate negotiations, improving global governance and on-the-ground outcomes. However, different schemes can lay claim to the same issues. The FSC-Fairtrade dual project is a case where the two actors have chosen cooperative interactions rather than risk the net losses that would likely ensue from competitive or chaotic interactions.

If schemes were to proliferate this would pose new coordination challenges and raise the specter of a new kind of governance gridlock. The challenge is not a simple one of persuading actors to recognize common issue boundaries and identify agreed divisions of labor. Coordination is not necessarily beneficial; it may involve significant transaction costs, lead to problems of incomplete coverage, and create a convergence on lowest-common-denominator standards. And competition between different forms of regulatory governance can raise (rather than lower) standards and increase the coverage of certification schemes themselves as competing schemes seek out niches where they have a comparative advantage (Auld 2013). Schemes may best serve the common interest not by seeking areas of complementarity with other schemes, but by contracting their policy focus to enable a better fit with other schemes. This insight from interaction theory tends to contradict one of the tenets of negotiation theory, namely that actors should negotiate on principles so that both benefit. But some losers may be necessary to enable a more coherent model of certification governance across diverse issues. Sometimes fewer is better.

## **Way Forward**

This paper has used the case of whether increasing the trade in NTFPs can enhance Nepali community forestry to trigger a debate on certification schemes informed by interaction theory and negotiation theory. The analysis suggests the following strategic options for consideration by policy makers and other actors.

### *Option 1: Increase Culturally Appropriate Education, Capacity Building, and Training*

Informing communities about the ecological conditions and economic viability of their resources is a first step towards self-sufficient and sustainable forestry. Capacity building and training can help. However,

constructivist theories of interaction suggest that ideas, norms, and social practices that may seem rational and appropriate in one cultural space can undermine traditions in another. The introduction of experts from outside forests concerned with the technical problems of sustainable forest management may risk undermining traditional lifestyles and the cultural basis for community forests. This is an example of how interactions between actors from different cultures and at the boundaries of different issue areas may generate unanticipated effects.

Despite the risks, a range of scholars and practitioners have found that certification has enhanced social and environmental quality and increased awareness of best practices (Archarya 2007, Kandel 2007, Subedi, Sapkota and Binayee 2005), although some institutional barriers to social equality remain (Banjade and Paudel 2008). Although the specifics will vary from place to place, it is likely that the same will be true worldwide, though there should be safeguards against the risks that training could be culturally inappropriate.

#### *Option 2: "Certification-Lite"*

The FSC is attempting to respond to the needs of community groups. As well as the Small and Community Label Option (SCLO), the FSC also operates the Small and Low Intensity Managed Forests (SLIMF) program that reduces costs for eligible applicants. But even with these options, certification remains economically infeasible for many community forestry operations. Fees are high; timber certification costs in Nepal were estimated in 2007 to be approximately U.S. \$35.50/ha, higher than many other countries (Kandel 2007). Yet despite the costs, certification has still enhanced social and environmental quality and increased awareness of best practices.

A principled negotiator would argue that if the costs of certification are prohibitive for some communities, alternatives that are faithful to the aims of certification should be found. On this view, pursuing certification as an end is not important; rather it is the benefits certification brings. The question would then become how communities can gain awareness of the best practices that lead to environmental and social improvements short of full certification. One response might be "certification-lite," in which communities enter a certification process to improve awareness and build capacity on the understanding that full certification is not possible at present but may be an option in the future. The Rainforest Alliance, for example, has introduced a stepwise approach to certification that is geared more toward verification of legality than origin, leading in the future to full compliance with certification standards. This is not ideal, but in the absence of lower certification fees, it may be financially feasible for communities. This would create win-win solutions: Communities would gain awareness of best practices, forest health would most likely improve, and the certification body and any NGOs involved would gain from exploring forests that could be targeted for full certification in the future.



*Option 3: Explore How Alliances and Shared Objectives May Emerge From Mixed Values and Mixed Motives*

Actors should not limit themselves to pursuing alliances only with like-minded partners. Insights from interaction and negotiation theory illustrate that actors may enter into alliances for a variety of reasons and motives. They may share similar value-based beliefs (e.g., conservation) or similar material interests (e.g., increased access to resources). Actors that share neither value-based beliefs nor material interests may through cooperation successfully realize mutual gains through coalescing around a policy innovation that realizes different benefits for different actors. The FSC was created on this basis, with some actors recognizing that the FSC would realize conservationist aims while timber traders supported the institution for more self-interested reasons. The term “bootleggers and Baptists” coalition describes alliances of actors who may support a policy innovation but for very different reasons (Cashore and Stone 2012).

*Option 4: Identify Synergies Between Forest and Fairtrade Certification*

There are potential areas of overlap between FSC and fair trade labeling organizations. The two organizations could consider a permanent single system for NTFP and timber labeling that allows consumers to distinguish community-produced products that meet fair trade criteria. The results should be disseminated within the International Social and Environmental Accreditation Labeling (ISEAL) alliance.

This raises the question of when it might make sense for schemes to merge. Certification schemes concentrating on narrow issues can keep their internal administration costs low but may neglect important problems. Dealing with these problems will then require cooperating with other schemes, creating additional coordination costs, as is the case with the FSC-Fairtrade joint project. A more comprehensive scheme (such as, for example, a hypothetical merger between the FSC and Fairtrade) can have the advantage of focusing on different interconnected issues so that important problems are not neglected. Yet this may come at a cost, namely vastly increased internal administration costs (Auld 2013).

These costs would be difficult to estimate in advance. However, any cost-benefit calculation should not simply compare different scenarios of the financial costs of administration within schemes and coordination between them but should also consider the non-financial benefits of different options for communities and forests.

*Option 5: Leverage the Local Market*

In Nepal the goals of government and forest communities are mostly synchronous, as evidenced by the significant devolvement of forest management to CFUGs. The difficulty in achieving certification and a transition to an enterprise approach lies in creating a viable market for products from CFUG forests. To that end, the local market should be investigated as an alternative to expensive and logistically difficult

international export. However, the potential of the domestic market is restricted by lack of local awareness and knowledge (Irvine 1999). Therefore, growing the market for domestic sustainably produced wood, for example by pairing awareness campaigns with subsidies or 'buy local' campaigns, may be the most feasible strategy for encouraging long-term economic independence for community forests. As noted, entering international markets is difficult without prior local, regional, or national experience (Irvine 1999). Access to and participation in a robust domestic market will also likely lead to later success with exports. By providing communities with reliable returns, a successful domestic market may even increase the economic feasibility of certification.

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# Can Legality Verification Combat Illegal Logging in Brazil? Strategic Insights for Policy Makers and Advocates

## *Version 1.0*

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### **Issue**

Despite significant drops in the rate of deforestation in Brazil between 2006 and 2012<sup>3</sup>, forest cover loss continues to be one of the greatest challenges for Brazilian law and policy, negatively impacting biodiversity and increasing greenhouse gas (GHG) emissions.

### **Problem Definition**

The drivers of deforestation in Brazil include illegal timber harvesting, agriculture, urbanization, infrastructure, development, and mining operations. This paper will focus on illegal logging to examine whether, and if so how, current international efforts to curb deforestation through legality verification instruments may help reduce forest cover loss and promote good forest governance.

Legality verification is unique among international forest policy instruments because instead of seeking to bind states to international commitments, it reinforces sovereignty by encouraging compliance with domestic resource and environmental policies and laws.

The questions that inform this paper are twofold:

- How can transnational actors help reduce illegal logging in Brazil?
- How can these efforts create synergies with existing domestic policies?

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<sup>3</sup> According to Imazon, annual deforestation decreased from 14.3 million km<sup>2</sup> to 4.7 million km<sup>2</sup>. (Instituto do Homem e Meio Ambiente da Amazônia (Imazon). 2012. O Estado da Amazonia. <http://www.imazon.org.br/publicacoes/o-estado-da-amazonia/o-estado-da-amazonia-uso-da-terra>, at 18.)

We are therefore interested in studying not only to what extent international institutions may influence Brazilian domestic policy, but also how they might reinforce current environmental law and policy. The latter question is important because international backing for existing domestic instruments is more likely to attract support from government officials in Brazil relative to international initiatives that may be seen as an infringement on the country's sovereignty. Legality verification is also important to help foster and address the underlying conditions of good forest governance. These conditions can be subdivided into capacity, efficiency, enforcement, and durable support.<sup>4</sup>

## **Background**

Illegal logging is one of the major drivers of deforestation in the Amazon forest and is responsible for major forest cover and biodiversity loss. The boom of the timber industry started in the 1970s, with the exhaustion of timber supplies in the southern states, coupled with the construction of the BR 010 and BR 230 highways (which allowed for greater access to remote areas with high-value timber) and the lack of effective environmental restrictions for timber extraction.<sup>5</sup>

While the 1965 Forest Code prescribed stringent regulations for the extraction, exploitation, and use of natural resources, enforcement was negligible until the advent of satellite monitoring and the creation of a full-fledged environmental institutional apparatus, including the Ministry of the Environment, the Federal Environment Agency (IBAMA), and the Ministério Público (MP). After the enactment of the 1988 constitution (the so-called "democratic constitution"), which served as a basis for a number of environmental regulations, and the 1992 United Nations Conference on Environment and Development (Rio Summit), civil society had both the political momentum and legal reasoning to bring to the world's attention the destruction of the Amazon forest usually coupled with social issues, in particular indigenous communities' rights.

Since then, the Brazilian government has been relatively sensitive to external pressure related to its environmental policies. While since 1992 Brazil has been adamantly against any international regulation that would restrict exploration of the Amazon forest, the country has been dedicated in the last few years to furthering the REDD+ (Reducing Emissions from Deforestation and Forest Degradation in Developing Countries) mechanism, both domestically and internationally. This might be explained by the fact that pledges for financial assistance for forest conservation policies and future economic benefits were largely absent during the Rio Earth Summit in 1992, which, largely due to Brazilian opposition,

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<sup>4</sup> Cashore, Benjamin, and Stone, Michael. 2013. Can legality verification promote good forest governance? Lessons from Indonesia, Malaysia, and Brazil. Paper prepared for presentation to UNFF side event, 10th session of the United Nations Forum on Forests in Istanbul, Turkey, at 8. See also Cashore, Benjamin. 2009. Key components of good forest governance in ASEAN part 1: Overarching principles and criteria. Edited by Exlibris: ASEAN. German ReFOP project. <http://www.aseanforest-chm.org>.

<sup>5</sup> Serviço Florestal Brasileiro (SFB) e Instituto do Homem e Meio Ambiente da Amazônia (Imazon). 2010. A atividade madeireira na Amazônia brasileira: produção, receita e mercados, at 5.



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failed to reach a legally-binding global forest convention. This shift, from a defensive to a collaborative position in some instances<sup>6</sup>, can be seen as a positive step towards future partnerships between Brazil and international organizations and entities (such as the European Union) to address environmental challenges.

Economic globalization is an added incentive for collaboration between Brazil and developed countries to tackle resource depletion issues, such as illegal logging. Although most timber extraction in the Amazon is for domestic markets, Brazil is a major exporter of forest products and, according to the FAO, was responsible for 17 percent of global exports of pulp for paper in 2011.<sup>7</sup> According to Imazon, the top four Brazilian exporter states of timber between 2009 and 2012 were the southern states Paraná and Santa Catarina followed by Pará and Mato Grosso, located in the Amazon region.<sup>8</sup> In 2012, the top importing countries of forest products from the Amazon were the United States (31 percent), France (13 percent), and the Netherlands (7 percent).<sup>9</sup> The gross revenue of the logging industry in the Amazon in 2009 was R\$4.94 billion (approximately U.S. \$2.47 billion).

As Sam Lawson and Larry MacFaul explain, although illegal logging is not considered a major issue in Brazil's southern region (because most timber harvest comes from plantations), this activity is worrisome in the Amazon.<sup>10</sup> The extent of illegal logging is uncertain, with estimates ranging from 34 percent to 72 percent of total production.<sup>11</sup> In addition to contributing to biodiversity loss and GHG emissions, illegal logging in the Amazon is one of the main causes of another driver of deforestation — the construction of roads for transportation of illegally harvested wood. These roads, in turn, facilitated the emergence of human settlement and forest clearance for agriculture in previously inaccessible areas.

The problem definition of Illegal logging has not only arisen within domestic circles, but also involves a range of international actors. For example, in addition to EU and U.S. efforts drawing on international trade policy discussed below, Interpol has addressed the criminal aspects of illegal logging.<sup>12</sup>

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<sup>6</sup> Arguably, Brazil's collaborative position emerged from, and is dependent upon, investments and financial assistance from other countries and multilateral institutions. Whether this represents a stark change in stance towards international forestry regulation is still up for debate. (We would like to thank David Humphreys for raising this point.)

<sup>7</sup> Available at <http://www.fao.org/forestry/statistics/80938@180724/en/>.

<sup>8</sup> Imazon, *supra* note 3, at 48.

<sup>9</sup> *Ibid.*, at 50.

<sup>10</sup> Lawson, Sam, and Larry MacFaul. 2010. *Illegal logging and related trade*. Chatham House.

[http://www.chathamhouse.org/sites/default/files/public/Research/Energy,%20Environment%20and%20Development/0710pr\\_illegallogging.pdf](http://www.chathamhouse.org/sites/default/files/public/Research/Energy,%20Environment%20and%20Development/0710pr_illegallogging.pdf), at 90.

<sup>11</sup> Chatham House. *Illegal logging indicators country report card*. <http://www.chathamhouse.org/publications/papers/view/109398>.

<sup>12</sup> <http://www.guardian.co.uk/environment/2013/feb/21/interpol-arrest-seize-illegal-logging-raid>.

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Brazilian legislators have defined illegal logging to occur when: (1) the wood was harvested without/in violation of state and federal environmental permits (or with falsified licenses); (2) timber extraction in protected areas (such as conservation units) and indigenous lands; (3) overharvesting; or (4) extraction of protected/endangered species. However, there is no agreed definition of illegal harvesting on the international level yet. As Dieter explains, “The common denominator is harvesting without permission (licence), and harvesting exceeding permission with regard to volume, region, or tree species. Logging rights obtained, for example, through corruption, are regarded as illegal by most parties concerned as well.”<sup>13</sup>

In order to curb illegal logging, the Brazilian government has taken a number of measures, ranging from command-and-control instruments to enforcement mechanisms to ensure compliance, such as the Document of Forest Origin (Documento de Origem Florestal, or DOF), a timber-tracking system created in 2006. The DOF is a federal, mandatory permit that controls the transport and storage of forest products of native origin that follows the product from origin to destination and contains information about the product’s source.<sup>14</sup> Although some states have devised their own tracking systems, they will eventually be linked to the federal DOF system. One of the benefits of this instrument is that environmental agencies will be able to concentrate enforcement efforts on states and cities where timber trade is highest. According to an assessment by Lawson and MacFaul, “Volumes at origin and destination must match; and volumes processed at mills must not exceed volumes authorized in sustainable forest management plans. Likewise, information at state and federal level (IBAMA’s National Registry) must match. Tamper-resistant documentation is also used, although, owing to the newness of the system, some improvements are still in the process of being implemented.”<sup>15</sup> Some security issues have also been discovered since its implementation.<sup>16</sup>

Despite significant progress in deforestation reduction and environmental policy, new challenges for good forest governance have emerged in the past couple of years. A 2011 federal law<sup>17</sup> gave to states a number of enforcement powers in environmental matters, thus expanding decentralization efforts in Brazil that were already present in the 1988 constitution. Some states, however, do not have the necessary manpower and institutional capacity to fight deforestation and curb illegal logging, thus lacking the required conditions of good forest governance. Corruption in some states may further erode good governance and further hinder efforts to address illegal logging. Additionally, the Brazilian

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<sup>13</sup> Dieter, Matthias. 2009. Analysis of trade in illegally harvested timber: Accounting for trade via third party countries. *Forest Policy and Economics* 11:601.

<sup>14</sup> Ibama, Instrução Normativa No. 112. August 21, 2006. <http://servicos.ibama.gov.br/ctf/manual/html/IN%20112-21-8-2006-DOF.pdf>.

<sup>15</sup> Supra note 10, at 22.

<sup>16</sup> “In 2008, for instance, it was discovered that logging companies had hacked into the database and adjusted data, allowing 1.7 million cubic metres of illegal logs from the state of Pará to be laundered.” Supra note 10, at 22.

<sup>17</sup> Brasil, Lei Complementar No. 140. December 8, 2011. [http://www.planalto.gov.br/ccivil\\_03/leis/lcp/Lcp140.htm](http://www.planalto.gov.br/ccivil_03/leis/lcp/Lcp140.htm).

Congress approved a new forest code in 2012, which weakened a number of provisions regarding protected areas (such as permanent preservation areas and legal reserve) and suspended criminal and administrative sanctions for illegal extraction of vegetation in protected and restricted use areas carried out before July 22, 2008. These changes directly affect accountability and equity norms, especially for those who disregarded environmental laws before that date and who had been subject to administrative and criminal proceedings.

The purpose of this brief overview of the illegal logging scenario in Brazil is to provide a glimpse on the impacts of illegal logging, particularly in the Amazon region, as well as the possible legal and political challenges for good forest governance. In the next section, we will examine how and to what extent transnational actors and institutions might influence Brazilian domestic policy to address this issue, giving special attention to legality verification efforts that have gained significant traction within the United States, the EU, and other OECD countries.

## **Discussion**

### *1. Analytical Framework*

Illegal logging has both localized and global impacts, ranging from forest cover and biodiversity loss to GHG emissions that contribute to planetary climate change. Additionally, economic globalization has facilitated transboundary socio-economic processes that have catalyzed environmental degradation, including deforestation. The international regulation of forests has emerged in a piecemeal and incremental fashion, with a complex set of rules, norms, and institutions developing that deal, directly and indirectly, with forest protection. The challenge for the global governance of forests, thus, is to send a coherent set of signals (through norms, rules and discourses, for example) to the state and non-state actors involved that influences their behavior in a way that effectively addresses the problem at hand.

In order to address the two questions outlined at the start of the paper, we will use the analytical framework developed by Bernstein and Cashore about the “four pathways of influence.”<sup>18</sup> According to the authors, transnational actors may explore four pathways that can influence domestic policy-making, namely: international rules, international norms and discourses, creation of or interventions in markets, and direct access to domestic policy processes. In the case of forest governance, each pathway is exemplified below:

#### *a. International Rules*

Given the failure of international negotiations to create a convention on forests, no binding forest-focused agreement exists thus far. Instead, the international rules path depends on a number of multilateral environmental agreements (MEAs) that partially touch on forest issues, such as the

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<sup>18</sup> Bernstein, Steven, and Benjamin Cashore. 2012. Complex global governance and domestic policies: Four pathways of influence. *International Affairs* 88(3):604.

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Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as well as trade rules under the World Trade Organization.<sup>19</sup> Moreover, initiatives such as the Forest Law Enforcement and Governance and Trade (FLEGT) that include voluntary partnership agreements (VPAs)<sup>20</sup> and REDD+ are giving rise to binding agreements that can strengthen forest protection in developing countries.

### *b. International Norms and Discourses*

In the past few decades, the concept of good forest governance has been widely developed and advocated, in particular, broad principles of inclusiveness, transparency, and accountability.<sup>21</sup> The norm of Sustainable Forest Management (SFM) is also extensively used by both developing and developed countries.

### *c. Markets*

This pathway includes the boycotting of targeted companies that are believed to undertake unsustainable forest practices<sup>22</sup>; non-state market driven systems (NSMDs) of eco-labeling, such as the Forest Stewardship Council (FSC); future REDD+ credits that can be traded in carbon markets; and legality verification. Similar to forest certification, legality verification depends on third-party auditing to confirm that the timber was legally harvested but reinforces domestic legislation instead of imposing outside standards.

### *d. Direct Access to Domestic Policy Processes*

The access is possible through capacity building, technology transfer, and the provision of financial resources by international bodies such as the World Bank. These tools can generate multistakeholder dialogue that has the ability of empowering domestic actors and organizations to push for good forest governance.<sup>23</sup>

With this wide array of options and mechanisms in mind, the question is how actions through these pathways can address illegal logging in Brazil. In particular, we will focus on the last two pathways in order to assess whether and to what extent legality verification can provide a viable mechanism to solve this issue. Although secondary for this analysis, the international rules and norms and discourses pathways are important, considering that the most important international hard law and soft law

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<sup>19</sup> Ibid., at 595.

<sup>20</sup> A VPA, once ratified, is a legally binding contract between two states. (We thank Ragna John for raising this point.)

<sup>21</sup> Cashore, *supra* note 4, at 3-6.

<sup>22</sup> For more on boycotting strategies, see Issues and Options paper by Dieterich and Auld titled “Moving Beyond Commitments: Creating Durable Change Through the Implementation of APP’s Forest Conservation Policy.”

<sup>23</sup> It should be noted that this pathway includes both multilateral and bilateral cooperation. Dependence in a dyad of states, such as trade-based dependency, also facilitates direct access to domestic policy processes. (We thank Ragna John for raising this point.)

provisions have already been incorporated in to the Brazilian legal system.<sup>24</sup> Moreover, the problem of illegal logging in Brazil is not so much the lack of environmental protection instruments as the failure of their implementation and enforcement.

## *2. Legality Verification*

Legality verification, according to Cashore and Stone,<sup>25</sup> “represents a hybrid of global certification and FLEG efforts: similar to FLEG efforts legality verification recognizes and promotes national sovereignty, however like certification it relies on third-party certification.” Moreover, legality verification is not dependent on consumer support, as is the case with NSMD systems.<sup>26</sup>

The two major examples of legality verification efforts are the Lacey Act in the United States and the European Union Timber Regulation and VPA agreements. The Lacey Act seeks to prohibit import of illegally harvested timber by requiring “due care” from timber producers and sellers. In the EU, early efforts to combat illegal logging were promoted through the FLEGT initiative, which limited timber imports to the community only from those countries that signed a VPA agreement, with a clear legality standard and a verification system.<sup>27</sup> Additionally, the EU also passed Regulation No. 995/2010, which “1. Prohibits the placing on the EU market for the first time of illegally harvested timber and products derived from such timber; 2. Requires EU traders who place timber products on the EU market for the first time to exercise ‘due diligence.’”<sup>28</sup>

Cashore and Stone have found that support for legality verification has been possible in at least two cases: First, when the forest sector depends on a foreign market, where legality verification mechanisms are already in place; and second, when the actors involved (i.e., forest industry and government officials) perceive legality verification as a means to buttress their own interests.<sup>29</sup> In other words, the norms of legality should mirror those already in place in the exporting country, thus “borrowing” normative authority from its own legal system.

### *Combating Illegal Logging in Brazil*

Considering that Brazil’s timber industry serves both domestic and foreign markets, the implementation of legality verification efforts is more likely to succeed in the latter because verification norms are required by consumer states, such as the United States and the EU. This does not, however, prevent

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<sup>24</sup> For instance, the Convention on Biological Diversity and CITES have been formally incorporated into the Brazilian legal system and have provided a basis for domestic legislation. More recently, Brazil has ratified the International Tropical Timber Agreement (ITTA).

<sup>25</sup> Cashore, Benjamin, and Michael Stone. 2012. Can legality verification rescue global forest governance? Analyzing the potential of public and private policy intersection to ameliorate forest challenges in Southeast Asia. *Forest Policy and Economics* 18:15.

<sup>26</sup> Cashore and Stone, *supra* note 4, at 14.

<sup>27</sup> *Ibid.*, at 15.

<sup>28</sup> European Union, Timber Regulation. [http://ec.europa.eu/environment/forests/timber\\_regulation.htm](http://ec.europa.eu/environment/forests/timber_regulation.htm).

<sup>29</sup> Cashore and Stone, *supra* note 4, at 22-24.

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transnational actors from seeking other strategies from the pathways described above to tackle illegal logging serving domestic markets. In this section, we will discuss to what extent legality verification could address illegal logging in Brazil and the challenges for domestic-market efforts.

As explained above, legality verification is more likely to advance in countries where the forest sector depends on foreign markets, given that this instrument is nothing more than an incentive for compliance from external actors. This being the case, legality verification efforts would probably succeed in the Amazon states of Pará and Mato Grosso because they serve both American and European markets with tropical forest products. The environmental benefits would also be welcomed, considering that the two states have the highest deforestation levels in the country (albeit not primarily due to illegal logging). Strategies of how legality verification could be nurtured in this case will be discussed in the next section.

The challenge of curbing illegal logging in the Brazilian Amazon remains, however, for timber intended for the domestic market. In this case, Cashore and Stone have raised for consideration two strategies. First, “for legality verification to have influence, it may be that strategists must place greater effort in encouraging purchasers of products within Brazil to demand legality verification.” However, they also posit that “it is not so much the percentage of domestic versus international consumption of wood produced in Brazil” but rather whether “Brazilian producers view the external market as important for their ongoing economic success.” In such cases, “the EU and the U.S. may have more influence ‘tipping the scales’ in Brazil than strategists may think.”<sup>30</sup> Regarding the first point, one possible limitation to encouraging buyers within Brazil to demand legality verification is creating dependence on consumer preferences in the same way as in certification systems. Another approach would be to encourage the Brazilian government itself to demand legality verification as a matter of national policy, incorporating third-party auditing, which could help lessen the burden of compliance verification on understaffed state and environmental agencies. As we explain below, there is already a precedent in the Brazilian legislation requiring third-party auditing at the expense of the grantee of forest concessions.

While markets are the primary pathway travelled by transnational actors to promote legality verification worldwide, the implementation of legality verification domestically will require greater emphasis on direct access to domestic policy making. In the Chatham House illegal logging indicators country report card for Brazil, it was suggested that “[i]ncreased international engagement may help spur the growth of certification and verification.”<sup>31</sup> This engagement, as will be proposed below, could entail working through the direct access to domestic policy processes pathway through technology transfer, financing and capacity building for third-party auditors and environmental agencies.

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<sup>30</sup> Cashore and Stone, *supra* note 4, at 22.

<sup>31</sup> Chatham House, *supra* note 10.

In short, reducing illegal logging requires developing simultaneous and complementary strategies that aim at domestic and external timber markets. This requires being aware of the pathways being traveled (especially distinguishing the markets and direct access pathways) and the mechanisms at play, such as technology transfer, financing, capacity building, and/or labeling or tracking challenges.

To be sure, these pathways are not necessarily independent from one another. One of the main concerns in devising such strategies, therefore, is to nurture positive interactive effects between two or more pathways.

## **Way Forward**

For analytical purposes, we present a few possible strategies dividing (or “in line with”) foreign markets and domestic markets:

### *Option 1 (Illegal Logging and Foreign Markets): Maintain Strategic Support Domestically and Internationally*

Previous studies by Cashore and Stone<sup>32</sup> on Indonesia, Malaysia, and China have shown that the shift from opposition to support for legality verification only occurred after strategic self-interests of different groups were tended to, giving rise to “bootleggers and Baptists” coalitions.<sup>33</sup> Moreover, focus on mechanisms that reinforce, rather than challenge, sovereignty of domestic governments over policy-making was key to attract support from producing countries. Focusing on building supply-chain tracking, instead of rising forest management standards, seemed to contribute to this shift. These questions are essential to help understand the first question we posed in the beginning of this paper: that is, how transnational actors can help reduce illegal logging in Brazil. In other words, the pathways we described above and the coalitions necessary to support legality verification efforts should be considered by transnational actors when pushing for better regulation and/or tracking systems in Brazil.

Cashore and Stone also found that economic interdependence is a prerequisite to create opportunities for leverage.<sup>34</sup> Given that the United States and the European Union already have legality verification legislation in place and that they are two of the top importers of tropical wood from Brazil, legality verification is an attractive option for environmental groups and the government (who have a vested interest in the reduction of deforestation and GHG emissions), purchasers in the U.S. and the EU (who can be held accountable for importing illegal forest products), and legally harvesting firms (who have “an economic self-interest in weeding out of global supply chains illegally harvested fibre as, all else

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<sup>32</sup> See Cashore, Benjamin, and Michael Stone. 2013, forthcoming. When and why do states support transnational business governance? Explaining domestic sources of support for legality verification across global forest sector supply chains. *Regulation and Governance*.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

being equal, prices will go up<sup>35</sup>). The logic here is that improved weeding-out of illegal timber from the market can be expected to increase the demand for, and thus the value of, timber from legal forests, making them more competitive with other land uses.<sup>36</sup>

*Option 2 (Illegal Logging and Domestic Markets): Encourage Brazil's Tracking System Through Third-Party Auditing*

Transnational actors could provide the necessary incentives (financing, technology transfer) to encourage the Brazilian government to create legality verification-like systems within the country. The DOF system could be improved by allowing third-party auditing, similar to existing legality verification systems. This could lessen the burden on governmental enforcement officials and would also be advantageous from an economic standpoint, assuming the current overly bureaucratic requirements were to be replaced by a straightforward auditing process. The implementation of this option could require legislative action promoting third-party auditing and requiring the wood industry to seek their services. Such requirement is not alien to Brazilian law: The Public Forest Law, for example, already requires independent auditing of forest concessions at the expense of the grantee.<sup>37</sup> This point is important to consider the second question we raised at the outset regarding nurturing synergy between legality verification efforts and existing domestic policy. Again, the sovereignty issue is relevant because these efforts are likely to be more successful if they are perceived as reinforcing the Brazilian government's authority over rule-making.

*Option 3: Amelioration of Brazil's Tracking System Through Technology Transfer, Financial Resources, and Capacity Building*

In addition, or as an alternative, to the employment of third-party auditing, transnational actors could help reduce illegal logging by providing subsidies to implement tracking of forest products in Brazil through pathway four described above. Developed countries and financial institutions could provide the means for the federal or state governments to make use of DNA technology, for example.

The DOF system is used as a starting point in strategies 2 and 3 because they are more likely to succeed if they create synergies with the existing normative and institutional framework already in place.

Furthermore, the three strategies are not mutually exclusive; they all have the ability to improve good

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<sup>35</sup> Cashore, supra note 4, at 25.

<sup>36</sup> We would like to thank Kathleen McGinley for raising this point. However, there could also be negative feedback loops as prices of wood products would rise, potentially causing substitution to occur to cheaper materials produced from non-wood sources.

<sup>37</sup> Brasil, Lei No. 11.284, art. 42. March 2, 2006. [http://www.planalto.gov.br/ccivil\\_03/\\_ato2004-2006/2006/lei/l11284.htm](http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2006/lei/l11284.htm). We would also add the role of policies to raise demand for legally harvested timber within Brazil through, for instance, public procurement policies that are already being implemented in the country (i.e., Instrução Normativa No. 1, January 19, 2010, of the Ministry of Planning, Budget, and Management, <http://cpsustentaveis.planejamento.gov.br/wp-content/uploads/2010/03/Instru%C3%A7%C3%A3o-Normativa-01-10.pdf>), which requires the proof of legal origin of timber used in public services and constructions.



forest governance in Brazil by directly fostering its four underlying conditions: capacity, efficiency, enforcement, and durable support. The options also seek to follow what Cashore found to be the two ways to assess good governance interventions: “the extent to which an intervention is, or might come to be seen, as appropriate; and the extent to which an intervention is viewed for its consequences in ameliorating a particular problem or set of problems.”<sup>38</sup> Although the extent to which illegal logging (and, consequently, deforestation and forest degradation) can be reduced through legality verification is still unknown (given the relatively recent efforts from demand-side countries), the push for compliance of environmental laws is thought to be one of the responsible factors for the drop in deforestation levels in Brazil from 2006 onwards.<sup>39</sup> Thus, one could argue that legality verification has, at the very least, the ability to aid and build on domestic efforts to reduce forest cover loss and expand this trend even further. This improvement could also have possible beneficial implications for other drivers of deforestation as well. The tracking system, as envisioned above, can serve as a model for the agriculture sector, once the know-how and institutional capacity are established, in order to ensure environmental compliance of soy products, for example.<sup>40</sup>

## Way Forward

The above review has focused on analyzing and understanding the causal pathways that strategists and government officials might follow in nurturing legality verification toward effective “on-the-ground” solutions. If we stand back even further, we can identify key challenges and obstacles of which strategists must be aware. First, in comparison to wide ranging “top-down” global approaches, such as the failed efforts to achieve a binding global forest convention or Forest Stewardship Council certification standards, legality verification represents a more modest approach<sup>41</sup> that reinforces, rather than challenges, national sovereignty. For these reasons, some scholars assert that a focus on legality verification may lead to a “race to the bottom.”<sup>42</sup> Others assert that once supply-chain tracking is entrenched, standards can increase in ways that reward, rather than punish, participating firms, managers, and countries.<sup>43</sup>

We have provided some advice above relevant for nurturing what appears to be a potentially evolving, sequential process towards increased participation/support and beneficial impacts “on the ground.” At

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<sup>38</sup> Cashore, *supra* note 4 (b), at 1.

<sup>39</sup> As reported in *The Guardian*, “George Pinto, a director of Ibama, Brazil’s environmental protection agency, told reporters that better enforcement of environmental laws and improved surveillance technology are behind the drop in deforestation levels.” (<http://www.theguardian.com/environment/2012/nov/28/amazon-deforestation-record-low> and <http://www.guardian.co.uk/environment/2012/nov/14/brazil-amazon-rangers-farmers-burning>.)

<sup>40</sup> Future research is also needed on possible implications for other drivers, such as land conversion for agriculture, as well as possible interlinkages with other instruments, such as FLEGT. (We thank Ragna John for raising these questions.)

<sup>41</sup> Cashore and Stone 2011.

<sup>42</sup> Cashore and Stone, *supra* note 25.

<sup>43</sup> Cashore and Stone, *supra* note 4.

the same time, scholars and practitioners must also reflect on two possible interacting effects of legality verification as it continues to unfold. First, legality verification might ultimately help empower global forest certification systems by building better tracking mechanisms — the fragmentation of which has hampered linking supply of certified products to demand. Second, it may very well be that legality verification might help “tip the scales” in favor of broader “good forest governance” initiatives already taking place within tropical countries.

What is clear is that strategists must be careful to undertake decisions consistent with these evolutionary and interacting potential. Policy makers and scholars should consider synergies and complementarities between the four different pathways described above and consider how action through one pathway can be enhanced by simultaneous action in one or more of the other three.<sup>44</sup> For instance, scholars are theorizing that using legality verification as a proxy for certification may backfire because standards that are too high and that challenge sovereignty may reduce incentives for forest companies to participate in efforts to build better supply-chain tracking. For these reasons, policy makers and practitioners must expand beyond deliberating on what they want to achieve to focusing on the “logics” of the mechanisms and pathways for achieving them.

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<sup>44</sup> We would like to thank David Humphreys for raising this point.

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# Can Legality Verification Combat Illegal Logging in Indonesia? Strategic Insights for Policy Makers and Advocates

## *Version 1.0*

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**Date:** 16 November 2013

### **Issue**

Illegal logging in Indonesia has been raised as a key driver in deforestation and degradation, leading to biodiversity loss, increased climate emissions, and poor forest governance. This paper explores the pathways through which strategists might travel to combat illegal logging. This paper will focus on one proposed mechanism for combating illegal logging in Indonesia: legality verification.

### **Problem Definition**

With 98.7 million hectares of forest cover (Indonesian Ministry of Forestry 2012), Indonesia has the third-largest expanse of tropical forests in the world after Brazil and the Democratic Republic of Congo. However, high rates of illegal logging in Indonesia (Seneca Creek Associates 2004) and hundreds of millions of cubic meters of illegal exports (Obidzinski et al. 2007) have combined to cause extensive deforestation and cost the Indonesian economy from \$1 billion to \$5 billion (U.S.) per year (Seneca Creek Associates 2004; Human Rights Watch 2009). Although it is estimated that rates have declined from 80 percent in the early 2000s (Environmental Investigation Agency EIA and Telapak 2002) to 40 percent in 2009 (Lawson and MacFaul 2010), illegal logging remains one of the key challenges facing the Indonesia forest sector.

In response, the Indonesia government in 2009 created a new national legality verification system, *Sistem Verifikasi Legalitas Kayu (SVLK)*, which domestic and international organizations now view as one of the most promising mechanisms for addressing illegal logging in Indonesia (Cashore and Stone 2013).

However, the degree and extent of successful implementation of legality verification will depend on the decisions made by policy makers and environmental practitioners in the coming years. This paper will

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highlight the key strategic choices forthcoming and suggest potential strategies to ensure legality verification is successful in halting illegal logging in Indonesia.

The questions that inform this paper are twofold:

- How can transnational actors empower the SVLK to stop illegal logging in Indonesia?
- How can these efforts create synergies with existing domestic policies?

## Background

Despite encouraging statistics demonstrating a decline in reported cases of illegal logging, the environmental, economic, and social impacts of the illegal timber trade remain widespread. Illegal logging is widely acknowledged to be one of most damaging and egregious cases of forest degradation and deforestation (Brown 2006; Kaimowitz 2005; Food and Agriculture Organization of the United Nations and Organization 2005). It results in significant loss of national tax revenue and generates illicit wealth that serves as a source of social conflict and fuels widespread corruption (Obidzinski et al. 2007) (See Table 1).

**Table 1: Estimates of the extent of illegal logging in Indonesia**

Source	Extent	Annual Loss	Years Covered
DFID 1999 <sup>3</sup>	73%		1990s
Center for International Forestry Research 2004 <sup>4</sup>	64-83%	\$1 billion	2000-2001
Seneca Creek Associates 2004	60%	\$0.6 - 3 billion	2003
Human Rights Watch 2009	50%	\$ 2 billion	2003-2006
Chatham House 2010 <sup>5</sup>	40-61%		1997-2009

The first formal recognition by the government of Indonesia of the need to address the illegal logging challenge through legality verification came in 2002, when it founded the Badan Revitalisasi Industri Kehutanan (BRIK, Indonesian Institute for the Revitalization of the Timber Industry), which was charged with monitoring and verifying the legality of timber. To accomplish these objectives, BRIK was charged with issuing certificates of legality (Ekspor Tir Terdaftar Produk Industri Kehutanan, or ETPIK) to export-oriented forest companies that included all required legal documents and transportation permits. However, many questioned whether this approach reinforced, rather than addressed, the problem of illegal logging by lack of standardization across cases (Brown and Stolle 2009), making it relatively easy to produce “black market” certificates (Colchester 2006). Critics suggested that issuing certificates of

<sup>3</sup> DFID 1999. Roundwood supply and demand in the forest sector in Indonesia. Indonesia-UK Tropical Forest Management Programme. December 1999.

<sup>4</sup> Tacconi, L., K. Obidzinski, and F. Agunget. 2004. Learning lessons to promote forest certification and control illegal logging in Indonesia. Center for International Forestry Research. Bogor, Indonesia

<sup>5</sup> Lawson, Sam, and Larry McFaul. 2010. Illegal logging and related trade: Indicators of the global response. London: Chatham House.

legality were little more than paper exercises with little intention to champion meaningful changes (Tacconi 2007).

As part of a Voluntary Partnership Agreement (VPA) with the European Union, the Indonesian government agreed to step up its efforts to counter illegal logging by completing a Timber Legality Assurance System (TLAS) in the form of the SVLK. The SVLK adopted an approach in which the Ministry of Forestry is not involved in any accreditation or auditing of legal compliance. Instead third parties audit compliance to Indonesian law (Luttrell et al. 2011). Third-party auditors are themselves also accredited by an Indonesian auditing company (EU-Indonesia FLEGT VPA Experts 2010). In addition to the formal third-party monitoring, the Indonesian government has created independent monitoring under the SVLK whereby civil society is empowered to submit objections (Government of Indonesia and EU 2011).

## **Discussion**

### *1. Analytical Framework*

Indonesia's struggles to eliminate illegal logging and institute legality verification have persisted for over a decade. Over this time period, a variety of different domestic and international pressures have been utilized to generate support for legality verification. In particular, the international pressures can be categorized into the four pathways which Bernstein and Cashore identify for transnational actors to impact domestic policy making (Bernstein and Cashore 2012). These pathways present both a framework for analyzing the prior efforts and for highlighting potential strategies that transnational actors can undertake to influence Indonesia in shaping the development of legality verification. In particular, the pathways are international rules, international norms and discourses, creation of or interventions in markets, and direct access to domestic policy processes.

#### *a. International Rules*

This category was at one time the major focus of transnational actors with efforts to agree to a global forest convention in 1992 being a key example. This pathway includes hard international law, such as the Convention on Biological Diversity (CBD) and the Kyoto protocol to the U.N. Framework Convention on Climate Change and also includes bilateral agreements such as the European Union's Forest Law Enforcement, Governance, and Trade (FLEGT) initiative. The FLEGT is in the process of agreeing to a series of voluntary partnership agreements (VPA) with key tropical forest countries, including Indonesia, to develop legality verification systems. Indonesia also has experience with the international rules pathway in the form of private efforts such as the Forest Stewardship Council (FSC) private certification or with international institutions such as participation in the World Trade Organization (WTO).

#### *b. International Norms and Discourses*

Broad principles of inclusiveness, transparency, and accountability have been crucial to the development of several forestry governance issues. For example, norms were key in the promotion of "good forest governance" as well as the concept of Sustainable Forest Management. These holistic

approaches were largely driven by broadly shared ideas about what standards for forestry practice should entail.

*c. Markets*

The markets pathway consists of the “carrots and sticks” commonly associated with rewarding or punishing companies according to the sustainability of their corporate practices. This pathway includes boycotts; non-state market driven systems (NSMDs) of eco-labeling, such as the FSC; and legality verification. Certification and legality verification depend on third-party auditing to confirm that the timber was legally harvested. Legality verification reinforces domestic legislation instead of imposing outside standards.

*d. Direct Access to Domestic Policy Processes*

These processes utilize individual relationships among key actors or the direct provision of funds to government such as World Bank loans. Alternately, the use of stakeholder dialogue can be a mechanism of giving voice to marginalized individuals and groups to impact policy through directly communicating their concerns to key actors or government agents.

*2. Legality Verification*

By applying the “four pathways” framework to the case of illegal logging in Indonesia, we see that all four pathways were crucial in creating support for timber legality verification in Indonesia’s domestic policy process (see Table 2). Each pathway has played a different but crucial role, and the four pathways have combined to develop the SVLK. Accordingly, when thinking about the SVLK and its capacity to eliminate illegal logging, it will be valuable to consider future steps that can be undertaken to reinforce or further empower legality verification.

**Table 2: Application of the four pathways framework to the case of timber legality verification in Indonesia**

<b>Pathway</b>	<b>Indonesia</b>
<b>International Rules</b>	U.S. Lacey Act and EU Timber Regulation EU FLEGT VPA Process Public procurement policies of timber importing countries (Japan, Australia, New Zealand, UK)
<b>Norms</b>	Sustainable forest management Good forest governance Green public procurement
<b>Market</b>	Desire for market access Possibility of gaining market share from other not pursuing legality verification Realizing potential premium prices
<b>Direct Access to Domestic Policy Processes</b>	Civil society and bilateral donors have direct access to the policy making process through the multistakeholder process in

	developing SVLK
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The institution of the SVLK represents one of the most advanced legality verification systems presently in existence. Resulting from extensive negotiation in the VPA process, the Indonesian government and the multistakeholder group that developed the SVLK standard realized that there was a critical need for the SVLK to be credible (Cashore and Stone 2012). The pursuit of credibility fundamentally altered the design of the mechanism to include components that government would normally interpret as infringements on national sovereignty, such as third-party auditing and independent monitoring of implementation. These characteristics led the SVLK to adopt traits typical to market-based institutions as well as government-directed regulation. The SVLK has third-party auditing of compliance with laws set by the state. This unusual formation suggests that strategies for transnational actors to influence Indonesia to eliminate illegal logging domestically will likely also utilize multiple pathways of influence.

Presently legality verification in Indonesia is at a crossroads. It is gaining support, but the strength of its impacts remains unclear. For the purposes of this policy brief, we will compare several strategies designed to support long-term positive gains for protecting Indonesia's forests. These strategic options will focus on how the four pathways may be utilized for international actors to support the Indonesian government towards creating the strongest protections for Indonesia's forests. Accordingly, we will consider how these pathways can lead to linkages between the SVLK and forest certification and how good forest governance may potentially lead to better protections for Indonesian's forests.

### **Strategic Insights for Moving Forward**

For analytical purposes, we present possible strategies in line with our suggestion that utilizing multiple pathways is likely to yield the most effective solutions.

#### *Option 1: Norm Generation*

With the SVLK being mandatory for all timber producers, it seems likely that this will aid in creating a certain baseline of management that is at least legally compliant. If one considers that Indonesia's forest laws are reasonably stringent on the books (McDermott et al. 2010), the key would be creating some sort of synergy between the existing required SVLK and the global norm of sustainable forest management. Yet it is also possible that such an explicit connection would lead to a ratcheting down of standards if legality is treated as a sufficient standard without any recognition of the role of sustainable practices and good forest governance. Accordingly, the question for linking the legality verification to sustainable forestry will hinge on whether there are legal requirements for forests area to be maintained. For example, there is currently concern about "conversion timber" in Indonesia, where forest conversion into palm oil is a major issue.

To further develop the norms of sustainable forest management will likely require a furtherance of some of the same historical trends that produced the SVLK. In a linkage to the international rules



pathway, Indonesia willingly worked to create the SVLK largely due to the self-interested economic motives of gaining preferred access to the EU market. This suggests that a “carrot” market mechanism worked effectively and may work again. Accordingly, there is potential to tie forest certification, another positively market mechanism, into legality standards by allowing the participation of one certification’s auditing to have partial overlap of the other. Forest certification should not be replaced by legality verification because certification implies adherence to the strictest standards while legality verification should be tied to ensuring supply chains of basic compliance. However, if the act of being certified under legality verification can be used as a starting point to be built upon directly for forest certification, then it will make obtaining certification easier without any decline in the rigorousness of forest certification being applied.

*Option 2: Foster Synergies with Good Forest Governance and SVLK*

While certification proceeded slowly in the developing world, international agencies led by The World Bank have initiated approaches in line with the direct access to domestic policy processes pathway. Good forest governance efforts were addressed to underlying conditions that created governance gaps. The idea was to focus on building capacity and fostering learning within the countries directly to assist their own policy priorities for sustainable forest management. Accordingly, the UK and German development agencies and the European Commission undertook initiatives within the FLEGT that were new attempts to foster learning and improve capacity building (World Bank 2006; FLEG News 2007; The World Bank 2006; Food and Agriculture Organization of the United Nations and Organization 2005). The underlying norms of promoting good forest governance were widely shared, yet they still faced substantial challenges owing to limited resources, technical training, and corruption within Indonesia (Mayers et al. 2005; World Resources Institute 2009; Kanowski et al. 2011).

Good forest governance has primarily been pursued as part of the norms pathway by focusing on the holistic meaning of forest management. However, the SVLK seems intended to provide immediate synergy by tying in formal international rules. Creating an institution that ensures the compliance with domestic and international law covers at least part of the goals for good forest governance related to technical issues and corruption. Forest certification and the markets pathway seem to cover much of this compliance dimension in the first option. Yet simply having a separation of standards between the merely compliant and the best practices may not be sufficient to achieve sustainable forestry. Good forest governance is about ensuring a process that supports sustainable forest management consistently. To make such connections will require both the external and internal stakeholders involved to determine how good forest governance can empower the Indonesian government’s VPA. For example, one possible approach would be to use the “direct access pathway” to empower the SVLK by sending tax agents or technical officials from other countries’ forestry bureaus to partner with the Indonesian Ministry of Forests to identify ways to use the SVLK as a tool for exposing tax evasion or failure to comply with existing regulatory burdens. In this way, the direct access pathway could help the

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Indonesian government increase its revenues in such a way that is likely to help improve sustainable forest management as well.

While self-interest is a powerful motivator, it is only as durable as it is profitable. Good forest governance is a holistic process that seeks to ensure forestry is not merely a profitable enterprise, but also a moral enterprise that considers the greatest good of forests and peoples. To make this jump requires engraining these beliefs as deeply as possible. This kind of transformation is not easily achieved but is necessary to build durable, long-lasting solutions. Instead, this strategy should focus on the long-term effects of legality verification. If legality verification supports the restoration and long-term protection of forests at the same time as it proves healthy for the industry, then it becomes possible to intertwine these notions by having emphasis on one aid the other. Education and experience will be key drivers for this strategy, but the first step will be to demonstrate the tangible impacts on the forests that have resulted from legality verification. This means identifying areas that had illegal logging, documenting their condition, and using their change over time under improved forest governance to model the impacts of this policy change. This creates a visceral impact and provides testimony to the importance of good forest governance that goes beyond profit motives.

While Indonesia's struggles with illegal logging are well documented, the development of the SVLK as a counter to illegal logging is less well understood. Further research into the motivation and historical institutions that shaped the SVLK will be valuable for future action. Furthermore, ongoing research into the condition and effects of the SVLK will be needed to evaluate its impact and suggest new potential improvements. Research on these will both create better understanding as well as guide strategy to ensure Indonesia's forests are rid of illegal logging and are effectively protected from legal destruction as well. This paper has shown that by utilizing multiple pathways of influence, transnational actors can make linkages to existing domestic policy making efforts in Indonesia. Further understanding of the potential strategies available will aid transnational actors in joining Indonesians in protecting Indonesia's forests from illegal logging.

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# Implementing Asia Pulp and Paper's Forest Conservation Policy

## *Version 1.0*

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### **Issue**

Asia Pulp and Paper, a large paper company operating across Indonesia and China, announced a new corporate environmental policy in 2013 to improve conservation and management of forests. This paper examines key challenges to the effective implementation of this policy to maximize its environmental and social benefits for Indonesian forests.

### **Problem Definition**

Southeast Asia forests have been under pressure for decades (Dauvergne 2001; FAO 1980; FAO 2010). Research in Indonesia has documented the role of public policies (e.g., subsidies) and other pressures, including the timber industry (Rudel 2005; Gillis 1998), as drivers of forest extraction. This work also highlights the consequences of forest practices and conversion for biodiversity losses (Curran et al. 2004). Recent studies have clarified the links between forest losses and forest harvesting to free up lands for agricultural production, including coffee (Kinnaird et al. 2003; O'Brien and Kinnaird 2003) but most significantly palm oil (Koh et al. 2011; Carlson, Curran, Ratnasari, et al. 2012; Wicke et al. 2011; Carlson, Curran, Asner, et al. 2012). At the same time, forest conversion has contributed to the economic growth of the region and Indonesia (Naidoo 2004).

This paper focuses on the Indonesian pulp and paper sector, and particularly one prominent company – Asia Pulp and Paper (APP). The role of APP, and the forest sector in general, in contributing to the conversion and degradation of Indonesian forests has been controversial. Stark contrasts exist between public pronouncements of APP and non-governmental organizations (NGOs). NGOs claim APP's operations adversely impact biodiversity, cause greenhouse gas emissions, and exacerbate unresolved community conflicts (Rainforest Action Network and Japan Tropical Forest Action Network, 2010; *Eyes on the Forest*, 2011). WWF-U.S. (2012) has found that expansion into natural forests, while providing

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employment opportunities, has also caused conflicts with rural populations and indigenous communities that claim the industry impinges upon their traditional and customary land rights (WWF-U.S. 2012). The pulp and paper sector has, nevertheless, supported economic development and poverty alleviation (ITSGlobal 2011).

Amid mounting controversy and pressure, APP announced a new Forest Conservation Policy in February 2013. The FCP committed APP to immediately stop natural forest clearance; ensure best practice management on peatlands to reduce greenhouse gas emissions; adhere to the principle of free, prior, and informed consent by involving forest-dependent communities in decision-making processes and by providing a grievance system; and ensure its suppliers comply with the FCP.

This paper details a framework for analyzing the challenges APP faces that is organized around two issues: facilitating implementation and fostering complementary processes and initiatives:

### *1. Facilitating Implementation*

- What activities are required to ensure implementation of APP's Forest Conservation Policy?
- What indicators can be measured to assess progress toward successful implementation?
- What challenges may inhibit implementation, and how might these be managed or overcome?

### *2. Fostering Complementary Processes and Initiatives*

- What roles can other companies, NGOs, and governments play to facilitate implementation and broaden the effects of the Forest Conservation Policy?

## **Background**

Founded in 1972 under the Indonesian Sinar Mas Group (SMG), APP holds more than 2.1 million hectares of logging concessions in Sumatra and Kalimantan (APP 2007) and has a total pulp production capacity in Sumatra — APP's main area of operation — that surpassed 2.7 million tons per year by 2010 (Eyes on the Forest 2011). Headquartered in Indonesia, the company markets various products to over 120 countries (APP 2012c). While APP is vertically integrated with several subsidiaries, the company relies on "independent suppliers" for around half its fiber supply (Rainforest Action Network 2013). It is currently one of the largest pulp and paper companies in the world.

For over a decade, NGOs have criticized APP for its environmental and social impacts. Reports by the Center for International Forestry Research (CIFOR) and Friends of the Earth UK in 2000 (Barr 2000) and 2001 (Matthew and van Gelder 2001) connected Indonesia's pulp and paper industry with massive clearing of natural forests, widespread illegal logging, and neglect of the rights of rural people. This spurred a series of countering claims by NGOs and APP about the company's practices.

Responding to the criticism, APP committed in 2001 to more sustainable operations as part of a debt restructuring agreement with certain international creditors (Eyes on the Forest 2012). In 2003, it signed a letter of intent with WWF-Indonesia to protect high conservation value forests (HCVFs), which warrant special management according to Indonesian law; introduce social safeguards; and develop a wood-sourcing system to ensure legal wood supply.<sup>3</sup> It subsequently sought independent monitoring through the Rainforest Alliance's SmartWood program. At each step, however, implementation has been challenging. For instance, the Rainforest Alliance ended its work with APP, claiming the company had neither sufficiently protected high conservation value forests nor worked to improve its conservation management (Rainforest Alliance 2007).

Throughout, the company has affirmed its commitments to engage with "credible and responsible NGOs" (APP 2010) and to "conservation beyond [legal] compliance," including through its chain-of-custody wood tracking system (APP 2007). However, NGOs remained skeptical. Consider two illustrations.

First, APP announced, and repeatedly voiced, its support for a forest sanctuary for the endangered Sumatran tiger, which included not logging concessions that overlapped the area (APP 2010). NGOs countered by noting that the company had originally opposed the sanctuary and that the sanctuary would only marginally affect APP's operations. According to Eyes on the Forest, most of the area was already protected or managed by other companies. Moreover, aerial photographs indicated that APP had failed to protect even the small project area within its concession (Eyes on the Forest 2011).

Second, the Forest Stewardship Council (FSC) disassociated itself from APP in 2007, refusing the certification of any wood processed by APP pulp mills, even if harvested in FSC-certified forests (WWF 2007). Intent on demonstrating its commitment to conservation, APP responded by seeking and achieving third-party chain-of-custody certification for some of its subsidiaries through the Program for the Endorsement of Forest Certification (PEFC), a global competitor to the FSC,<sup>4</sup> and in 2009 through the Indonesian certification standard LEI (APP 2012b; Climate Action 2009). WWF, however, reported that none of the certification bodies and auditors confirmed the company's sustainability as a whole (WWF 2012b). The group characterized APP's claims — including the tiger-sanctuary project and its efforts to certify — as part of one "massive global greenwash campaign" to counter NGO allegations (WWF 2012a).

The most recent events follow NGO market campaigns initiated in 2010. Greenpeace ascribed climatic, biodiversity, and social impacts to APP's practices and launched an international media and direct-action

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<sup>3</sup> APP released a Sustainability Action Plan to provide a "strategy for the future production of pulp and paper products in a manner that meets international standards of corporate responsibility." (APP 2004)

<sup>4</sup> For detailed analyses of certification politics in Indonesia, see Maryudi (2005) and Muhtaman and Prasetyo (2006).

campaign against the company (Greenpeace 2010b; 2010a; 2011a; 2012b; 2012a). Greenpeace's impacts are visible in its toy sector campaign focused on Mattel, the seller of the Barbie doll (Greenpeace 2011a). One month after the campaign launch, Greenpeace Internet videos attracted activists from around the world, who sent more than 240,000 messages to Mattel (Greenpeace 2011b). Soon thereafter, industry leaders — including Mattel — cancelled their contracts with APP (Greenpeace 2013c; Mongabay 2013). In 2012, concurrent campaigns by WWF and Greenpeace stopped the marketing of APP's toilet paper brand Paseo in the United States (WWF 2013). In the same year, Greenpeace published investigations claiming that APP regularly harvested the protected ramin tree. This led to contract cancellations of companies fearing prosecution under the American Lacey Act or the European Timber Regulation. The last big Greenpeace campaign targeted the fast food sector, leading several national Kentucky Fried Chicken offices to stop purchasing from APP (Mongabay 2013).

The campaigns led to lost market share for APP in different sectors, from publishing to grocery retail. NGOs attribute APP's Forest Conservation Policy (FCP) to these campaigns. APP reports its FCP — and its preceding policies on HCVFs, effective June 2012, which include the suspension of natural forest clearing to permit HCVF assessments — is the product of a decade of evolution in its sustainability and corporate responsibility strategy (APP 2012a). It also reports that it is part of an effort to become an industry-leading company, based on sustainability and support for the government's low-carbon development strategy (APP 2013). Regardless of the motives, the next section examines challenges APP will face in meeting its commitment.

## **Discussion**

The analysis is informed by research that details challenges of policy implementation and the means to overcome them (see, e.g., Sabatier and Mazmanian 1979; Smith 1973; for more recent review, see Schofield 2001; Matland 1995) and research examining how, why, and with what consequences corporations embrace environmental and social responsibility (for review, see Vogel 2005). Both research areas highlight the difficulties of translating a commitment into practice. Building from this central point, the discussion below focuses on the questions outlined at the outset that addressed two issues: (1) facilitating implementation and (2) fostering complementary initiatives and processes. The second issue is important because of the broader drivers of forest degradation in Indonesia; considering this issue, the paper examines possible means for extending the impacts of APP's commitment.

### *1. Facilitating Implementation: Activities, Indicators, and Challenges*

Box 1 details APP's implementation strategy, which includes a number of specific ways the company aims to work with stakeholders. Research notes that identifying groups that can help or hinder effective implementation is a key issue; obtaining their support can be critical for implementation (Smith 1973; Sabatier and Mazmanian 1979; Matland 1995). Note that stakeholders include the company's

employees because effective implementation will partly hinge on how well the company's policy becomes embedded in the daily practice of all employees.<sup>5</sup>

APP's intended work with stakeholders can be grouped in four categories of activities. For each category — and following the three questions detailed in the Problem Definition section above — the discussion below outlines the planned activities, possible indicators for tracking progress, and external challenges and ways they may be addressed.

*a. Consulting Technical Experts*

According to APP's plan, experts will be consulted to develop a protocol and method for management and monitoring of activities in peatlands. Mapping activities will be conducted to determine possible social conflicts and to delineate forest areas according to six categories of conservation and carbon values (using the criteria of HCVMs and high-carbon stock forests).

At least two activities can serve as indicators to evaluate progress on implementation. First, the mapping and evaluation work should be tracked to ensure the commitment is being kept. Second, mapping is not merely a technical exercise but will involve different interpretations of whether and how the forest's socio-ecological conditions merit special management attention.<sup>6</sup> Hence, careful review of this mapping process, and potentially some attention to its transparency vis-à-vis the broader community of stakeholders, warrants consideration.<sup>7</sup>

It may, in this respect, be valuable to think of these activities as an opportunity to develop joint understandings wherein a broad group of stakeholders participate in the collection, assessment, and interpretation of information. The credibility, salience, and legitimacy of the technical information and process of generating it, as seen by various stakeholders, are a key part of ensuring that stakeholders will support the assessment outcomes (Cash et al. 2002).

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<sup>5</sup> Prakash (2000) details the internal resistance companies can face in greening their operations. This is analogous to the importance of cooperative bureaucrats for successful policy implementation. Policy is rarely specific enough to avoid instances where implementing officials need to use judgment. Because of this, the preferences and knowledge of implementing officials is crucial. See, for instance, the discussion of ritualism in regulatory enforcement of nursing home rules discussed by Braithwaite (2008). See also Sharma, Sharma, and Devi (2011) for a study on the links between human resource management and successful corporate social responsibility.

<sup>6</sup> This mapping exercise fits Matland's (1995) category of an implementation process that has high conflict and high ambiguity. In this case, he argues that "the policy course is determined by the coalition of actors at the local level who control the available resources." (p. 168)

<sup>7</sup> Stakeholders called for increased transparency around the technical assessment processes during meetings with civil society representatives across Indonesia. In a feedback session, local stakeholders requested enhanced information sharing, which TFT and APP announced they would address. (The Forest Trust 2013)



*b. Engaging Stakeholders*

To address social conflicts, APP and The Forest Trust (TFT, formerly the Tropical Forest Trust) will work with the Ministry of Forestry and local communities in particular as well as seeking stronger engagement from civil society.

Such engagement activities have the potential to broaden support for the policy and foster innovative means of achieving its goals. Consider two illustrations. First, APP could also enhance its social performance beyond its already implemented community development initiatives via remuneration schemes comprising co-benefits such as health care, education, and partial payments to the spouses of APP employees (Sheil et al. 2009). Good labor conditions and approval from local populations may also contribute to improved worker productivity and morale.<sup>8</sup> Second, NGOs with expertise and interests in social justice and indigenous rights could help APP determine steps for guaranteeing free, prior, and informed consent of communities and indigenous peoples affected by its operations. Continued progress on these initiatives offers several possible indicators to track.

Stakeholder engagement does, however, pose challenges. First, work on implementation highlights that engaging stakeholders to help identify and address conflict is likely to lead to local variation in how implementation is put into practice (Matland 1995). Part of the engagement process, therefore, should consider how to communicate this to — and ensure buy-in from — local, national, and international stakeholders when what might be viewed as inconsistencies across locales arise. Second, a large challenge to engagement is the shadow of APP's past failures to achieve its previously announced sustainability goals and the implications this has for trust.<sup>9</sup> Trust needs to be built both for NGOs and the company, and this may take time. APP cannot control what NGOs do or how they react to the policy, but openness and transparency, as well as the invitation to engage in monitoring of implementation, are critical steps. The role of NGOs is picked up below in the discussion of complementary processes and initiatives.

*c. Education and Information Sharing*

The plan includes training activities for dealing with social conflicts around how APP staff and suppliers ensure free, prior, and informed consent of communities and indigenous groups. It also includes training for suppliers to raise their awareness of the FCP that warrants the inclusion of ecological safeguards in their operations.

Changing the practices of a large company is not easy. Research on organizational behavior provides insights into these processes relevant to APP's commitment. One important factor is the commitment

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<sup>8</sup> Research documents that boosts in worker productivity and morale are often expected benefits that come from proactive engagement on social and environmental issues. (Burke and Logsdon 1996; Lindgreen, Swaen, and Johnston 2009)

<sup>9</sup> For discussion of trust, see McDermott (2003).

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and characteristics of leadership (Waldman, Siegel, and Javidan 2006; Rivera and De Leon 2005), which means the public endorsement of the FCP by the APP chairman Teguh Ganda Wijaya is valuable because it helps set a maxim for all the company's activities.

APP's employees are also vital to effective implementation. Other research on corporate greening warns that these initiatives can become silos within an organization, minimizing the extent to which they affect the heart of a company's business strategy and operations (Prakash 2000; Howard-Grenville 2007). Training and education, in this respect, is a critical part of ensuring the commitment becomes a taken-for-granted facet of APP's operations, resilient against other competing demands. Assessing whether training is effective goes beyond reporting the number of staff that has received training; rather, progress evaluation requires qualitative information about how employees think about their day-to-day work for the company in light of the FCP.

APP's suppliers raise separate challenges. Upstream suppliers and downstream buyers can affect a sector's environmental or social performance. Effectively engaging these commercial partners will be essential in this case, particularly because APP relies on outside suppliers for roughly half of the fiber processed in its facilities.<sup>10</sup> Two issues APP will confront in working with suppliers are outlined in the following.

The first issue is ensuring sufficient resources and technical expertise are dedicated to raising the awareness of suppliers about the FCP and what it means for their activities. Though APP may be able to undertake this work in-house, there may be value in working with partners, including the Indonesian government, other forest companies, and NGOs. Learning from work advancing reduced impact logging (RIL)<sup>11</sup> could inform APP's work with its suppliers (which are outside APP's direct management authority).<sup>12</sup> RIL offers potential lessons for education and training, particularly because this work has been ongoing for many years (Enters et al. 2002). There may also be possibilities of partnering with groups experienced in training, such as the Tropical Forest Foundation, which runs a one-day workshop on the role of management in implementing RIL and a broader module on RIL planning and implementation (Tropical Forest Foundation 2009). APP's case may require a different specific approach,

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<sup>10</sup> Similar challenges have confronted the forest sectors in other countries, such as Germany, Finland, and the southeastern U.S., where companies are reliant on fiber supply from hundreds to thousands of private landowners. See Cashore, Auld, and Newsom (2004).

<sup>11</sup> RIL includes assessment and stratification of forest areas prior to harvest and careful planning of logging operations. RIL comprises techniques to preserve the soil, such as strictly adhering to skidding trails, and typically restricts the amount of extracted timber volume per hectare. While imposing planning, equipment, and training costs upfront, studies find that RIL improves efficiency and reduces timber losses and skidding costs. RIL is also found to offer longer-term financial benefits and reduced negative effects on the forest ecosystem. See Putz, et al. (2008).

<sup>12</sup> RIL deals with improving logging practices and thus is not entirely transferable to the APP case because the FCP focuses on a moratorium not just improved practices.

but there are undoubtedly lessons available from the experiences gained by these other training and education programs.

The second, more challenging issue relates to enforcement and the broader effects of APP's commitments. If APP decides to stop buying from certain suppliers, there is the possibility that those suppliers will continue to operate and sell their fiber to other buyers. Thus, progress in implementing APP's commitment may have no net effect if it is not complemented by efforts to raise the standards of practice across the entire Indonesian forest sector. This concern is picked up when discussing the role of other actors in fostering complementary processes and initiatives.

#### *d. Monitoring, Control, and Enforcement Mechanisms*

Finally, APP's and TFT's implementation strategy includes enforcement activities that are meant to signal a commitment to the plan and hold APP accountable. These include the Moratorium Committee, which will set sanctions for APP and the company's suppliers in instances where non-compliance with the moratorium on natural forest clearing occurs. APP also indicates that it will drop suppliers that do not conform to the policy. On social conflicts, it will work with TFT to establish a procedure for communities to file complaints. Finally, information sharing with TFT represents an attempt to create oversight to monitor the implementation process. Transparency is also reinforced by the invitation for additional third-party monitoring by other NGOs.

Monitoring, control, and enforcement will be critical for reducing and pre-empting non-compliance; they are also vital because there are things APP and other stakeholders could not have known about the challenges of implementing the commitment at the outset. The partnership APP has developed with TFT may be criticized for not being sufficiently arm's length to provide credible outside assessment of progress, but this form of relationship provides benefits too. TFT can provide direct advice and assistance to help APP work through problems during, and as part of, the progress report process rather than having to strictly adhere to the logic associated with an independent audit function (Auld, Renckens, and Cashore 2012).

As noted above, how APP handles sanctioning suppliers not adhering to the moratorium will require careful assessment and transparency because this is likely to be an area of controversy. If the process is not transparent, with clear rules around due process, outside actors will likely fill in the story that fits their interpretation of the events, which is unlikely to be an outcome that will foster trust and greater commitment to the policy among stakeholders and APP (see, e.g., Neu, Warsame, and Pedwell 1998).

## *2. Fostering Complementary Processes and Initiatives*

This section reviews how other actors can contribute to the implementation of APP's commitment and expand its effects to further improve the conditions in Indonesian forests.

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Successful implementation requires work by those groups APP has decided to engage explicitly as well as others motivated to see the policy reach its fullest potential. At a minimum, this means APP's suppliers must work to achieve compliance with the FCP, and NGOs must engage with APP in a monitoring capacity and in helping the company identify and address social conflicts.

Actions in parallel to APP's plans are also vital because there are many things APP cannot control. Moreover, corporate commitments have a mixed track record because meeting the commitments often proves difficult in practice.<sup>13</sup> Partly accounting for these challenges, Greenpeace, WWF, and other NGOs have announced they intend to closely monitor implementation (Greenpeace 2013b; RISI 2013 ). By staying actively involved instead of turning to another issue after the preliminary success with APP, NGOs may help ensure durable support for campaign outcomes while advancing implementation in concert with TFT as broker (as addressed below). Following this logic, NGOs have a stake in motivating APP and in providing available technical expertise and enabling knowledge transfer to fully implement the FCP.

Even if all of these things are accomplished, APP is just one company. Other forest companies operate in Indonesia, and other land use practices and development pressures will have separate and sometimes interrelated effects on Indonesia forests. Indeed, NGOs have raised concerns that APP's sustainability commitments will have minimal effects given the damage already done (Stringer 2013). Hence, it is necessary to assess how APP's commitment might accomplish broader effects. The following are possible ideas with this aim in mind.

### *a. Maintaining Pressure for Change (the "Stick")*

Maintaining pressure for change will be important. The discussion above touched on this, and it is clear the groups will be continuing to monitor the implementation plan carefully.

### *b. Creating Incentives for Change (the "Carrot")*

NGOs can help to create and reinforce incentives to change. There may be opportunities to help build support among APP's buyers that give the company some economic carrots to continue on its current path.<sup>14</sup> NGO initiatives to reward APP could even directly promote its products. This may achieve an increase in consumers' willingness to pay a price premium, although experience shows that this is hard to accomplish in practice (Auld, Gulbrandsen, and McDermott 2008).

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<sup>13</sup> For instance, the UK home retailer B&Q made commitments to securing sustainable wood products in the early 1990s. It was then, for nearly a decade, a key buyer of FSC-certified products. Then, in 2000, it shifted its policy to accept certain other certification programs and use truth claims of products in part because of challenges it faced in sourcing FSC products. (Auld, 2014 forthcoming)

<sup>14</sup> Greenpeace has previously made public announcements supporting the work of companies that it formerly campaigned against. After Mattel made the commitment noted above, Greenpeace Canada posted a webpage that allowed viewers to sign and send a letter to Mattel thanking the company for "doing the right thing." (Greenpeace Canada 2013)

Another means for doing this is extending the pressures placed on APP to other companies. Greenpeace has followed this logic by announcing that it is ramping up pressure on APRIL, APP's main competitor, pointing to the company's practices as now the most problematic (Greenpeace 2013a). Companies, researchers point out, will sometimes compete on their environmental reputations, creating the potential for a competitive ratcheting up of commitments within a sector (Cashore, Auld, and Newsom 2004; Schurman and Munro 2010).<sup>15</sup> Indeed, it should be in APP's self-interest to push its customers, such as large paper buyers, to adopt sustainability policies. This market approach could either trigger APP's competitors to adopt conservation policies similar to APP's in order to retain customers, creating a broader shift in the pulp and paper sector; or, in the case that other pulp and paper producers fail to comply with supply chain policies of corporate buyers, it could increase dependence on, or loyalty for, APP's products.

Beyond these commitments, the key challenge is how to formalize durable behavioral changes. One strategy is to adopt something similar to the stepwise approach developed by groups such as the WWF, whereby the commitments of individual companies can be progressed simultaneously. As a next step, and a potential carrot given the benefits it might provide the company, certification could play a role. Certification of both APP's supply chain and forest management practices on all of the company's operational area according to an internationally recognized standard holds promise to entrench policy support. While the choice of a certification standard will be influential in shaping APP's future market position, it goes beyond the unique control of the company.

For APP, achieving certification by the NGO-favored FSC would send the strongest message to stakeholders and the marketplace. Possible FSC certification may also reinforce APP's resolve to fully implement its policy. FSC's current policies, however, prohibit certification of forest plantations converted from natural forests after 1994 (FSC-US 2011). Furthermore, FSC's policy for association disabled APP from receiving FSC certification for any of its products, even if the timber processed in APP's mills stems from FSC-certified forests. Entering into a dialog to reverse the disassociation policy specifically, and to assess the conversion policy generally, may catalyze holistic implementation of APP's commitments and potentially trigger a cascading effect for the industry.

For the short- and medium-term, PEFC certification may be less subject to outside factors and hence be a feasible first step toward increased international recognition for APP. While the company already possesses chain of custody certification for most of its facilities (APP 2012b), achieving PEFC forest

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<sup>15</sup> A quick succession of commitments in the U.S. home retail sector to third-party certification followed Home Depot's announcement in 1999; the UK supermarket sector is also considered a highly competitive space wherein environmental performance can be a point of differentiation. (Cashore, Auld, and Newsom 2004) Greenpeace and other NGOs have successfully leveraged this competitive logic to broaden commitments.

management certification could reinforce compliance with its internal sustainable practices. Since PEFC does not eschew certification of plantations converted after 1994, APP should be eligible.

*c. Crucial Role of the Policy Broker*

TFT has the potential to serve as a “policy broker,” whose sole interest Sabatier (1988) describes to be advancing holistic policy implementation (this is what TFT’s performance is going to be evaluated against). TFT is in a unique position in that the organization already assisted Golden Agri-Resources (GAR), APP’s sister company in the palm oil sector, in developing and implementing the FCP. The structure of TFT’s work with GAR is replicated in the engagement with APP and provides the opportunity to inform the latter through policy learning to avoid and/or overcome potential obstacles to smooth implementation (Cashore, Goehler, and Rayner 2013).

*d. Securing Government Support*

The Indonesian government can support APP’s policy in several ways. Primarily, APP may be competitively advantaged if more companies are required to implement policies similar to its own due to government regulations. This follows the logic of the “California effect,” where it is in the self-interest of companies to impose regulations on their less regulated competitors (Vogel 1995). To achieve this, APP could lobby the Indonesian government to develop policies concerning environmental and social standards similar to the ones it has committed to.

Other government actions can also support APP. It will be important, for instance, that the moratorium on harvesting in natural forests, renewed in May 2013 (Bland 2013), is extended and increased in scope. Constraining the expansion of industries into forested areas may increase the value of current concessions and consequently encourage initiatives toward their sustainable management. Greater stability and certainty around concession allotments can facilitate further investments in sound forestry practices (Zhang and Pearse 1997), though it is not a sufficient condition alone.

Continued engagement in technical and legal corporations between regions under Forest Law Enforcement and Governance (FLEG) initiatives and legality verification are in the interest of all identified stakeholders (Cashore and Stone 2012). While the government benefits from increased control over illegal logging and trade through higher tax revenues, the forest industry may achieve higher wood prices,<sup>16</sup> and NGOs welcome positive environmental and social impacts. Beyond fostering legal compliance, the Indonesian government could require certifications for companies, as introduced above, to achieve licenses. Implementing such policies have led to favorable outcomes elsewhere (Cashore and Auld 2012). Certification has also been found to pave the way for more authoritative government policies (Cashore et al. 2006; Meidinger 2006). This suggests that embracing the potential

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<sup>16</sup> Estimates indicate that illegal logging depresses global timber prices by 5 percent to 10 percent. (Seneca Creek Associates and Wood Resources International 2004)

reinforcing and complementary effects of certification and legality verification may enable the Indonesian government to increase the forest industry's legal compliance by increasing monitoring mechanisms through assessments by certification standards. This could further scale up the effects of APP's commitment in Indonesia.

## **Way Forward**

This paper provided two sets of insights into the challenges APP faces in implementing its FCP. The first dealt specifically with the challenge of facilitating implementation. Here the company will confront, first, internal challenges to educating and mobilizing its employees and suppliers to successfully work toward the newly defined goals of the policy; and, second, external challenges to build trust and effectively engage with NGOs, forest communities, and indigenous peoples and other stakeholders that are critical for successful implementation.

A key lesson from implementation studies is precisely this point: Effective implementation requires the cooperation of many stakeholders. APP will need to ensure it can foster buy-in from all these internal and external stakeholders to realize its implementation plan (Cashore, Goehler, and Rayner 2013; Bennett and Howlett 1992).

The second set of insights focused on how stakeholders can effectively work to foster implementation through complementary processes and initiatives and potentially broaden the effects of the company's FPC. On working to help APP, two general tracts were discussed. First, engaging the company by offering technical assistance, sharing learned experiences from other settings, or helping to problem-solve to directly address unanticipated challenges as they arise. Second, monitoring the company to ensure it remains true to its commitments by tracking progress indicators, such as changes in the attitudes and awareness of employees and suppliers.

There is a tension between these two tracts because engagement can lead to cooptation that can undermine effective monitoring and accountability. Rather than ignore this tension, the insights offered above suggest that it should be continually embraced and recognized to ensure that either groups take on different roles through a division of labor between good cops (i.e., those that do the engagement) and bad cops (i.e., those that do the monitoring), or there is constant awareness of the potential conflicts that arise from doing both.

Finally, the discussion reviewed the importance of continued use of incentives (i.e., carrots) and sanctions (i.e., sticks) to motivate APP's holistic implementation and utilize market pressure and government rules to expand the potential on-the-ground effects on a national or regional scale. We introduced several ways in which APP, NGOs, the Indonesian government, and other companies can work toward the expansion of climatic, biodiversity, and social safeguards, building on the foundation created by APP's commitment. Ultimately, these broader effects will be the most important for

addressing the challenges facing Indonesian forests; that is, facilitating the sustainability of economic development by taking into account environmental conservation and social justice.

*Box 1: Implementation Strategy*

The implementation of APP's commitments is conducted in collaboration with The Forest Trust (TFT) to provide technical and strategic assistance. APP welcomes independent third-party monitoring by NGOs.

**Means for Achievement**

1. End Natural Forest Clearing
  - APP's concession areas are classified in six categories according to conservation values and carbon stocks through satellite analysis and field verification. Only areas identified as non-forest (belonging to the three categories identified as non-forest) may be developed.
  - A Moratorium Committee determines disciplinary actions in case of non-compliance of APP or suppliers.
2. Low Emission Development
  - Peat experts develop a protocol and methodology for peatland management and monitor the work.
3. Social Conflicts
  - APP and TFT work together with the Ministry of Forestry and local communities and encourage strong civil society engagement.
  - A process of social mapping identifies conflict areas across APP's supply chain.
  - APP provides training for suppliers and staff to ensure the free, prior, and informed consent of indigenous people and local communities.
  - APP and TFT develop procedures for grievances to aid communities voice their concerns and file complaints.
4. Third-Party Suppliers
  - APP informed all its suppliers and conducts training events about the FCP.
  - APP and TFT develop a Policy of Association to exclude non-compliant suppliers to secure the supply chain.



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# How Can Liberia's Government Prevent Private Use Permits from Degrading Liberia's Forests?

*Version 1.0*

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## **Issue**

Companies have acquired long-term leases from individuals and communities to much of Liberia's forested land, without being subject to the environmentally and socially protective regulations that apply to forest concessions on public land. Gaps and ambiguities in the laws governing harvesting in privately owned forests create a risk that large areas of Liberia's forests may be legally degraded or destroyed, harming communities that depend on these forests for their livelihoods.

## **Problem Definition**

In common law systems like that of the US, real property is often described as a "bundle of rights" (Baron 2014). Property ownership exists on a spectrum ranging from diffuse to consolidated depending on the allocation of these rights among different parties. At one extreme of this spectrum, a person who owns property in fee simple absolute<sup>2</sup> (meaning that they control every right within the bundle) can essentially do what they wish with the property (subject to limitations derived from common law principles including nuisance, economic waste, and eminent domain).

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<sup>2</sup> The term "fee" (also, "fief") described the property holding of a tenant living on a lord's land in feudal England. At the time, only lords could own land; they granted tenants a fee, which conveyed lifetime tenure and could not be passed on to a tenant's heirs. After about 200 years following the Norman Conquest, the fee's status under the law had evolved from a mere holding to a fee simple—a right to the land that the lord could no longer terminate, and which could be freely conveyed to other parties. Today, "[t]he fee simple absolute is as close to unlimited ownership as [United States] law recognizes" (Dukeminier et al. 2010).

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In Liberia, the bundle of rights associated with private land ownership does not necessarily extend to the trees growing on the land. With the exception of “Communal Forests” and artificial plantations, the central government holds all forest resources in trust for the benefit of the people (NFRL 2006, § 2.1).<sup>3</sup> Private ownership of forestland, therefore, does not generally grant rights to the trees that comprise the forest. This legal foundation justifies burdensome regulations concerning the circumstances under which trees can be harvested from private land that would be impossible in legal systems with more comprehensive private property rights. For example, private landowners need government permission to commercially harvest trees that naturally occur on their land.

Liberia’s National Forestry Reform Law (NFRL), passed in 2006, defines three types of licenses that authorize commercial timber harvest. The two that apply to government land are governed by a robust suite of rules detailed in the legislation and accompanying regulations. In contrast, the NFRL includes only limited rules concerning “Private Use Permits” (PUPs)—which allow commercial harvest on private land—deferring elaboration to a future regulation (NFRL 2006, § 5.2 (a)(iii)). The regulations that flesh out the rules for the other license types do not, for the most part, apply to PUPs, and the implementing regulation for PUPs that the NFRL envisioned has not been promulgated. In effect, Liberia’s forest regime is designed to regulate private forestland but has yet to specify these regulations in full.

In the context of an incomplete legal infrastructure, corporate interests began in 2010 to acquire harvest rights to vast segments of Liberia’s territory through PUPs. A UN panel of experts has described PUPs as a “particularly worrisome” and “largely unregulated route to substantial concession holdings” (UNSC 2012, ¶107). At present, more than 40% of Liberia’s forests (Global Witness, SAMFU, & SDI 2012a), or about a quarter of Liberia’s total land area (De Wit 2012), falls under PUPs, and the companies that control these permits have come to dominate timber exports (UNSC 2012, ¶125).<sup>4</sup> Under-regulation renders Liberia’s forests vulnerable to unsustainable management and exposes communities that depend on these forests to risk of negative economic and/or cultural impacts.

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<sup>3</sup> Note that the fact that the government holds forest resources in trust for all Liberians does not mean that all forestland is national land. Individuals may still own the land, even if they do not have rights to the trees.

<sup>4</sup> The UN Security Council reported that, according to the company contracted to monitor Liberia’s timber chain of custody, “64 per cent of all logs exported between January and October 2012 came from land covered by private use permits.”

The following questions drive the paper's subsequent analysis:

- Why have companies turned to PUPs to acquire rights to forestland?
- How might the government reform relevant forest laws and regulations to limit degradation of private forestland where communities maintain longstanding interests?
- What options are available to the government to overcome implementation and enforcement challenges?

## **Background**

Liberia's 1989-2003 civil war was fuelled in part by natural resources. During the 1990s, former president Charles Taylor traded diamonds for weapons and funds to pay his troops. In response, the UN Security Council imposed a ban on imports of Liberian rough diamonds in 2001 (UNSC 2001). Taylor turned to timber as a replacement source of income, but the Security Council again responded by banning imports of Liberian round logs and timber products (UNSC 2003).

By the war's end, the forest sector was in disarray. A review of forest concessions issued during the war found that they covered a combined land area more than double the acreage of forested land in the entire country (Wood, Blundell, & Simpson 2003). Moreover, not a single concessionaire met the five basic legal criteria to operate in Liberia (Ibid.).<sup>5</sup> Not only had they violated many laws, but logging companies had failed to pay US\$64 million owed in taxes (Ibid.)—a sum equal to 15% of Liberia's current GDP (World Bank n.d.).

Upon taking office in 2006, President Ellen Johnson Sirleaf acted quickly to restore order in the forest sector. Her first executive order canceled all timber concessions, froze timber exports, and placed a moratorium on granting new concessions until the relevant laws could be reformed (Government of Liberia 2006). The legislature enacted the NFRL in the same year (NFRL 2006) and in 2007, the Forest Development Authority (FDA) promulgated regulations about how forest resource licenses would be issued going forward (FDA 2007). These new legal instruments embrace principles of public participation, transparency, benefit sharing, and environmental sustainability. Satisfied that the

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<sup>5</sup> The criteria are that a company must: (1) possess a business license; (2) possess articles of incorporation; (3) hold a valid contract signed by all appropriate parties; (4) have posted a performance bond; and (5) have received legislative ratification (up until 2000).

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executive order and legal reforms reflected Liberia's "commitment to transparent management of the country's forestry resources for the benefit of all Liberians," the Security Council lifted timber sanctions (UNSC 2006).

Certain provisions from this new legal regime apply across all forest license types. For example, "no person," whether on public or private forest land, may "waste" forest resources, "expose natural resources to damage," or "destroy" long-term forest productivity (NFRL 2006, § 8.1(d)). Timber must also be tracked along the chain of custody to the domestic market or the point of export regardless of the type of land on which it was harvested (FDA 2007, Reg. No. 108-07). Other provisions apply specifically to PUPs. These include restrictions that harvest be undertaken only by the landowner or parties with written permission from the landowner, and that harvest proceed only after government approval of short- and medium-term management plans (NFRL 2006, § 5.6 (c)(i)).

Despite these rules which constrain PUP holders, a range of stakeholders assert, and practitioner studies have found, that there exist ambiguities and gaps that weaken the rules' ability to ensure that forests will be managed in a manner that protects the environment and community interests. For example, although harvesters are required to submit management plans, no criteria are specified for writing them and for assessing their completeness. And unlike other forest concession types, PUPs are not subject to a size limit, renewal restrictions, or public consultation and disclosure requirements. Further, Liberian law does not clearly define private land. The Liberian Land Commission proposed such a definition in May 2013 after years of work, but no definition has been officially adopted (IISD 2013). As a result, it is impossible to know what land is considered to be private and thus eligible to be harvested under a PUP. Scholars, NGOs, and a government commission have suggested that many of the PUPs issued to date are invalid because they cover communal rather than private land (De Wit 2012; Global Witness, SAMFU, & SDI 2012b; SIIB 2012). Besides the legal implications of issuing PUPs for ineligible land, this practice risks sidestepping the environmental and social protections applicable to communal land under the Community Rights Law.

These very ambiguities and gaps that create environmental and social risk may be the reasons that companies have been eager to access forestland via PUPs. Other types of forest licenses may only be issued through a bidding process in which companies with a history of legal violations are barred, and

they are subject to a complaint and review process and oversight by a dedicated concessions commission (Government of Liberia 2010). The lack of a clear definition of private land has enabled companies to negotiate deals with individuals who claim ownership to large land areas that may actually belong to communities (General Auditing Commission 2012). And the lack of transparency and public participation requirements means that companies need not bother engaging potentially affected communities or risking public ire by publishing information that could expose exploitative characteristics of a land deal. Given that it may be in companies' self-interest to access forestland through PUPs, the question is how to ensure that management of forests under PUPs does not lead to degradation of forest resources and negative impacts for forest-dependent communities.

## **Analysis**

There is a rich literature analyzing governance in the forest sector. Scholarly efforts have focused on the factors that comprise good forest governance (Cashore 2009), forest resources as key inputs for post-conflict peacebuilding (Lujala & Rustad 2011; Bruch, Muffett, & Nichols forthcoming 2014), and the potential of forestry as an entry point for broader governance reform (Brown et al. 2002). To approach the question of how the Liberian government can address the failure of governance of private forestland, this paper selects a recent theoretical framework to organize its analysis: Bernstein & Cashore's (2012) 'four pathways of influence.' This framework identifies four pathways that transnational actors may travel to influence domestic policy-making: international rules, international norms and discourse, creation of or interventions in markets, and direct access to domestic policy processes (Bernstein & Cashore 2012). Beyond providing a neat typology for a range of interventions available to the international community, its merit is that it identifies different 'causal logics' that explain how these interventions can shape behavior at the domestic level.

Although the four pathways framework was created to explain interventions by transnational actors, the pathways it describes are available to domestic actors as well. This paper extends the framework to propose ways that a national government can exert influence within its jurisdiction to effectuate its own policies. The following section describes the four pathways. Because extending the original framework risks severing the causal logics upon which it rests, a brief section follows that discusses the causal logics of each pathway as applied to the context of the Liberian government, considering the appropriateness

of policy interventions depending on two primary obstacles to successful intervention: powerful political opposition and capacity constraints. The pathways are then applied to the challenge of PUPs in Liberia to shed light on the actions that the government might take to prevent forest degradation on private land.

### Four Pathways of Influence, Extended

According to the Bernstein & Cashore model, the international rules pathway is traversed when an actor cites an international rule that is binding on the target state in an effort to force the state to comply with the rule. The logic of this pathway is that “whether perceived as resting on consent ... or on coercion,” international rules “are binding and create a pull toward compliance” (Ibid., p. 590). This may be the effect when transnational actors invoke international rule against states, but such rules are of little use to national governments seeking to enforce compliance with their domestic laws: international rules are binding on states—not on actors subject to a state’s jurisdiction. Instead, I consider how a government can reform its own laws to foster more or less of a particular activity of concern. Specifically, I analyze the ambiguities and gaps in Liberia’s forest legal regime to identify types of provisions that could be added or clarified to strengthen the regime. The causal logic of this modified pathway is similar to the rules pathway in the original framework: domestic law is binding; compliance is expected and can be enforced.

Actors travel the second of Bernstein & Cashore’s pathways, international norms and discourse, by using norms that emerge from multilateral processes and instruments to shape domestic policy. For example, the world community affirmed the importance of ‘sustainable forest management’ (SFM) at the 1992 Earth Summit, and numerous countries have since moved to incorporate sustainability principles into their forest management. The International Tropical Timber Organization and its members have worked to define the scope of SFM, and watchdog organizations such as Global Witness and Transparency International have been instrumental in promoting its uptake at the national level (Ibid.). The same way that transnational actors have employed norms such as SFM to further their domestic purposes (i.e., improving forest management abroad), so too can a national government. To the extent that a government can link its policy agenda with one supported by the larger global community, it may be

able to boost the policy's perception of legitimacy among the regulated community and increase compliance rates.

The third pathway makes use of international markets to achieve domestic objectives. Examples include initiatives to boycott products with undesirable environmental or social externalities, certification of products from well-managed sources to reward producers with enhanced market share and/or price premiums, and the recent trend toward consumer countries requiring that timber imports be legally sourced. National governments could use some of these strategies, albeit in slightly different ways. On the one hand, they could adapt these tactics for domestic use, for example by offering their own certification labels, as Indonesia has done by launching the Indonesian Sustainable Palm Oil scheme, or by revising procurement standards to support legal goods produced domestically. On the other hand, they could develop the institutions needed to take advantage of existing market mechanisms. In the case of Liberia, an option is to ratify the Voluntary Partnership Agreement (VPA) negotiated under the Forest Law Enforcement, Governance and Trade (FLEGT) regime with the EU.

The final, direct access pathway is used when transnational actors assist national governments or non-governmental actors through funding, training, and other forms of capacity-building in an attempt to empower stakeholders that share their interests. These tactics, unlike recourse to international rules, norms, or markets, represent direct interventions in the domestic policy arena. A national government may employ a similar approach by building coalitions in civil society that support its agenda. For example, a government that finds it difficult to monitor activities in remote areas may be able to work with local groups to fulfill this role more cheaply than if it were to expand its own footprint. Similarly, a government might be able to improve uptake of a particular policy by educating stakeholders about its merits. Just as the direct access pathway in the Bernstein & Cashore framework represents the most direct means for transnational actors to influence domestic policy, it allows a national government to effect on-the-ground behavioral changes more directly than by attempting to regulate such behavior, inspire it by appealing to norms, or incentivize it through markets.

### Appropriateness of Actions along the Modified Pathways

There are a number of ways to assess policy interventions. Cashore (2009), for example, emphasizes the importance of the legitimacy of both the process by which a policy is selected and the final decision

taken in earning support from citizens and stakeholders. I focus on the appropriateness—defined as the likelihood of successful adoption and implementation—of interventions given the presence of powerful opposition and/or capacity constraints. Each pathway, when extended for use by governments, has its own causal logic, so the particular context will dictate which pathway the government should follow.

The appropriateness of following each pathway given powerful opposition and/or capacity constraints may be visualized using a 2x2 matrix that presents appropriateness as the dependent variable and opposition and capacity as independent variables. See Figure 1 for a representation. A discussion of the appropriateness of each pathway given these hurdles follows.

**Figure 1.** Appropriateness (i.e., likelihood of success) of the four pathways, when each is traveled alone, depending on the presence of opposing power blocs or a lack of capacity

	Powerful opposition	Lack of capacity
Rules	X	X
International norms	✓	-
Markets	X/✓	✓
Direct access	✓	✓

**Rules.** The rules pathway functions on the presumption that the government has both the necessary support within the legislature to enact desired reforms and the capacity to monitor compliance with and enforce violations of the rules. Inability to overcome a power bloc opposed to the desired policy or a lack of capacity would dictate against following this pathway. As a result, Figure 1 provides an ‘X’ next to the rules pathway under circumstances of either powerful opposition or insufficient capacity.

**Markets.** As with the rules pathway, powerful opposing interests could stymie efforts to use the markets pathway to the extent that insufficient support exists to change procurement policy or create institutions to make use of international market instruments. But to the extent that sympathetic government actors can make use of existing international instruments that require little from exporting countries, opposition may be less relevant. (Figure 1 reflects these possibilities by listing ‘X/✓’.)

Moreover, if the problem is merely lack of capacity, the markets pathway presents an opportunity to



outsource monitoring and enforcement responsibilities. If Liberia were to ratify its VPA, for example, responsibility to ensure that timber imported to the European Union is legal would be shared between the Liberian government and the European Union along the lines specified in the agreement.

**Direct Access.** Capacity constraints would also favor recourse to the direct access pathway, which would enable the government to coopt other actors supportive of its policy agenda. At the same time, this pathway presents an opportunity to work around opposing interests within the government by avoiding the need to formally enact any policies; instead, individual government stakeholders, at the ministry or agency level, could simply direct funds, training, or other resources to partners outside the government.

**Norms.** The international norms pathway is not more or less appealing dependent on governmental capacity, as linking policies to international norms is not always a resource-intensive proposition and can be done under most capacity conditions. (This is indicated in Figure 1 with a dash.) It may be an important strategy, however, to overcome powerful opposition to a given policy. One way to accomplish this is to cite norms during debates in the legislature to get a policy enacted.<sup>6</sup> Proponents of a particular policy could also appeal to the public through the language of these norms to pressure their representatives to support the policy.

### The Four Pathways Applied to Liberia

**Rules.** The Liberian government could travel the rules pathway either by reforming the NFRL at the level of the legislature or by promulgating regulations through the FDA to clarify existing PUP provisions and add new provisions to fill gaps. Regulations could go beyond requiring certain documents as prerequisites for obtaining a PUP by specifying the information which the documents must contain. This might help end the recent practice of rubberstamping PUP requests without a robust vetting process

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<sup>6</sup> International norms and practice are often cited during the process of debating and enacting national legislation. For example, in the lead-up to the enactment of China's "Red Cross Law," which legally recognizes China's branch of the Red Cross, the State Council Legal Department and the People's Congress legal working committee stated that "[o]ne of the factors in favour of establishing the 'Red Cross Law' is that the Red Cross forms a part of the International Red Cross Movement, and we should consider aligning ourselves with international practice." (Working Committee of the National People's Congress Standing Committee 1994, 11). During the recent debate in the US Congress on how to react to Syria's use of chemical weapons, proponents of a military response frequently cited the international norm against chemical weapons use (Tumulty & Gearan 2013).

(Jackson 2012). Regulations could also set parameters for the permits themselves, providing size and duration limits along the lines of those that pertain to other types of forest concessions. This would spatially and temporally limit the potential for forest degradation, which is theoretically possible under PUPs that have been issued to date on areas as large as 140,000 hectares and for periods of up to 25 years (General Auditing Commission 2012). Transparency and public consultation may also merit regulation. Concessions on public land require that information regarding the license be published in a newspaper of general circulation, that affected parties be consulted and specifically notified of upcoming consultations, and that a particular level of agreement be reached (NFRL 2006, § 5.8; FDA 2007, Reg. No. 104-07 § 22). No such regulations currently apply to PUPs.

As shown in Figure 1, actions along the rules pathway may be ineffective in the presence of strong opposition to reforms or where government capacity is weak. Reforms to the rules governing PUPs such as those just now proposed require sufficient political support to be enacted. In fact, it may be that the strongest proposed reforms, which would be likeliest to prevent forest degradation under PUPs, are the least likely to be enacted in the face of opposing interests. It is difficult to predict how political alliances will form in the Liberian government because the Liberian political arena is complex and opaque; the presidency is endowed with substantial power on paper, but influential senators who command fierce support stemming from wartime activities are important political players, and little is known about the inner-workings of the legislature. Further, even if there were no strong opposition to reforms, the government's capacity to monitor and enforce forestry regulations is severely limited. As an example, the Environmental Protection Agency, which issues and enforces the environmental permits required by all harvesting operations, including those conducted under PUPs, has three vehicles with which to monitor projects across the entire country, and it is not uncommon for only one to be serviceable at any given time.<sup>7</sup> Given this reality, the rules pathway is unlikely to improve PUP governance—at least not when traveled in isolation from the other pathways.

**Norms.** To use the norms pathway, the government would need to first identify the norms that support better governance of private forestland and then decide how to use them to effect governance reforms. The norms available for this purpose could derive from Liberian society or from the international

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<sup>7</sup> Based on the author's experience working for the Liberian Environmental Protection Agency in 2012.

community, but as domestic social norms are difficult for foreigners to identify, I focus on international norms. Several norms might be helpful. One is the “generally accepted principle in international law that indigenous peoples should be consulted as to any decision affecting them” (Anaya 2005, 7), supported by instruments including International Labour Organization Convention No. 169<sup>8</sup>, Agenda 21,<sup>9</sup> and the UN Declaration on the Rights of Indigenous Peoples.<sup>10</sup> Similarly, Agenda 21, the Global Initiative for Fiscal Transparency, and other multilateral instruments have promoted transparency in dealing with payments to governments and decision-making around natural resources.<sup>11</sup> Sustainable development has emerged as a norm through the Convention on Biological Diversity,<sup>12</sup> the UN Framework Convention on Climate Change,<sup>13</sup> and other instruments, and sustainable forest management in particular has been “extensively used by both developing and developed countries” (Bueno & Cashore 2013). The precautionary principle, which the United States has passed over as an environmental decision-making technique in favor of cost-benefit analysis, has nonetheless permeated international environmental instruments created since the 1980s (McIntyre & Mosedale 1997).

There are two general strategies that elements of the Liberian government supportive of improved forest governance could use to take advantage of these norms. First, they could wield them in legislative debates to persuade the opposition to vote for improvements to the PUP system. Opponents may be convinced to change their minds by the logic of taking a cautious approach to resources on which the poor rely, of allowing parties to participate in decision-making that affects them, and of ensuring that forests are used sustainably for the benefit of future generations. These bases for good governance reform may be framed as scientifically appropriate approaches to resource management or as ways to

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<sup>8</sup> Article 6 states: “[G]overnments shall [] consult the peoples concerned ... whenever consideration is being given to legislative or administrative measures which may affect them directly.” Article 7 adds: “The peoples concerned shall have the right to decide their own priorities for the process of development as it affects ... the lands they occupy or otherwise use.”

<sup>9</sup> Section 12.57(b) urges governments to “establish and utilize mechanisms for the consultation and involvement of land users ... to identify and/or contribute to the identification and planning of action.”

<sup>10</sup> Article 19 requires states to “consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that affect them.”

<sup>11</sup> Cashore (2009) asserts that “[t]ransparency is now an entrenched norm.”

<sup>12</sup> Article 8(e) states: “Each contracting party shall, as far as possible and appropriate: ... [p]romote environmentally sound and sustainable development ....”

<sup>13</sup> Article 3.4 states: “The Parties have a right to, and should, promote sustainable development.”

garner support from constituents. Even if these arguments are not found compelling, opponents may see political and economic value in conforming Liberian policies to those that have gained traction within the global community so as to please international donors and partners (an example of interaction between norms and international market forces). In this way, as Figure 1 suggests, the norms pathway can be effectively used to overcome political opposition.

The second way to use norms to reform PUP governance is to educate the public about them. Diffusing norms that support good forest governance could boost compliance with existing PUP rules or even stimulate voluntary actions beyond what the rules require. If timber companies themselves are influenced by ideas such as enhanced transparency and public consultation, they may be likelier to take actions along these lines. If these norms penetrate into the public consciousness, citizens may refuse to abide by violations of the norms—especially if they are also violations of PUP rules, but even perhaps if they are not. The public may then become a more active participant in monitoring activities on private land and in informing the government of any problems. To facilitate norm diffusion, the government could build strategic coalitions with NGOs and civil society organizations that support environmental conservation, with the many aid agencies, UN offices, and international NGOs working to rebuild the country, and with timber and agricultural companies wishing to escape the poor reputation associated with Liberian timber. Amplified by the international media, watchdog NGOs have exposed corruption in the timber sector and questioned the legality of timber exports (Butty 2012; Ford 2012). Companies looking to sell timber or to develop agricultural plantations in previously forested areas may find it in their interest to abide by good governance norms to improve the international image of Liberian timber and export-oriented agricultural products in a world where consumers in the United States and the European Union demand legal and, to a more limited extent, sustainable products.

**Markets.** The market pathway provides the Liberian government two options for reducing the risk of forest degradation from PUPs. One option is to ratify the VPA it has negotiated under the EU's FLEGT regime. Under this agreement, Liberia would put in place a Timber Legality Assurance System which would verify the legality of all timber exported to the European Union, and the European Union would prohibit imports of any Liberian timber not verified using this system. This would create a market

incentive for companies operating under PUPs (as well as under any other license type) to comply will all relevant laws to ensure access to the lucrative European market.

A second approach would be to ensure that all countries with illegal logging laws and green procurement policies are familiar with Liberia's forest laws to make it more difficult for violators to export timber. This approach takes advantage of instruments like the US Lacey Act, the EU Timber Regulation, and Australia's Illegal Logging Prohibition Act, which require timber imports to have complied with the relevant laws of the country of harvest. Further, they require importers to exercise "due care" in the case of the former law or "due diligence" in the case of the latter two laws when importing timber products. Whether or not Liberia itself creates institutions to verify the legality of its own timber, these laws incentivize companies logging in Liberia to operate legally so as not to jeopardize market access.

Similar to the obstacle confronting legal reforms along the rules pathway, ratifying the VPA would require sufficient support within the government that may be difficult to muster. However, no voting is needed to take advantage of existing legislation in other countries that impact Liberian timber. The elements of the government that support improved private forestland governance could work to educate consumer countries on Liberian forest laws to enhance their ability to require compliance with these laws, without having to work with political opponents. Unlike efforts to use the rules pathway, Liberia's weak monitoring and enforcement capacity make use of the markets pathway *more* appealing. Instruments like the VPA and illegal logging laws represent opportunities for Liberia to reach beyond its borders for assistance. The VPA would involve collaboration between Liberian and European regulators to develop and implement legality verification infrastructure. Recourse to other countries' laws for enforcement assistance would allow Liberia to share the enforcement burden with well-resourced countries.

**Direct Access.** The Direct Access pathway presents an opportunity for supportive factions of Liberia's government to promote improved PUP governance regardless of political opposition or capacity constraints. Individual ministries or agencies could provide capacity-building to civil society organizations through funding, training, information-sharing, or other means, without having to garner the sort of support in the legislature that would be needed to enact a legal reform or approve an

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international agreement like a VPA. Building the capacities of groups outside the government that share the goal of improved PUP governance would also expand the total resources directed toward monitoring, enforcement, and related activities. Beyond coopting non-governmental stakeholders to share the burden of government tasks, civil society organizations working to implement government policies—particularly ones such as PUP reform which comport with international norms of transparency, public participation, and sustainable forest management—may be able to attract donor assistance and add further resources to the cause. Many NGOs and bilateral and multilateral donor agencies continue to operate in Liberia to rebuild the country’s infrastructure, institutions, and social fabric;<sup>14</sup> expanding the number of Liberian civil society groups that collaborate with these international actors could have a multiplying effect on the attention and resources directed toward private forestland governance.

Figure 1 depicts the appropriateness of each of the pathways when traveled alone under circumstances of powerful opposition or lack of capacity. When traveled in concert, actions along two or more pathways may complement each other in ways that both overcome the limitations of some pathways and strengthen the effects of others. For example, reform efforts along the rules pathway alone would be powerless in the face of weak capacity to monitor and enforce the rules. Paired with actions along the direct access or market pathways, however, environmentally and socially protective rules are likelier to create an impact on the ground. Civil society groups that are informed of stringent rules which apply to PUPs and that are empowered and sufficiently resourced may be able to monitor private forestland in remote areas that government regulators cannot easily access and report any violations. Likewise, while stringent rules may be difficult for the Liberian government to enforce, companies that are required to carry out due diligence under foreign illegal logging laws,<sup>15</sup> and the governments that enforce these laws, may be better equipped to ensure compliance.

Another opportunity for travelling multiple pathways simultaneously is to invoke the ideas embodied in international norms to persuade initially opposing legislators to support the adoption of stringent rules.

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<sup>14</sup> By one count, “hundreds” of international NGOs operate in Liberia (Glencorse 2013).

<sup>15</sup> The EU Timber Regulation requires parties that place timber on the European market to conduct “due diligence” into the timber’s legality (Article 4.2). Australia’s Illegal Logging Prohibition Act similarly requires timber importers and processors to conduct “due diligence” (Part 2, Division 2, Section 12; Part 3, Division 2, Section 17). The US Lacey Act instead refers to a standard of “due care” (e.g., Section 3373(a)(1)). Each law, or their accompanying regulations, provides its own definition for the term it uses.

In the case of PUPs this could be done, as suggested earlier, by highlighting the scientific basis for the precautionary principle and sustainable forest management, and arguing that these ideas could be usefully applied in rules governing PUPs. Alternatively, supporters of stringent rules could appeal to their opponents' sense of accountability to their constituents in arguing that transparency and public participation respect the rights of the forest-dependent communities that they represent. Finally, supporters could stress the importance of incorporating these norms into Liberian policy not so much because of their content but simply because they are international norms and that there are benefits to bringing national policies in line with international standards.

### **Strategic Insights for Moving Forward**

Any attempted policy interventions by the Liberian government to ensure that PUPs do not lead to forest degradation must be sensitive to the possibility of political opposition and the surety of capacity limitations. Stringent rules will be ineffective on their own if political opponents block their enactment and in light of weak monitoring and enforcement capacity. Opposition could also block ratification of a VPA, and educational outreach and provision of funding to civil society groups may be beyond the government's capacity. The following may be the most feasible options to improve PUP governance:

- Use the language of international norms to persuade political opponents to enact stringent PUP rules. Opponents may come to understand the logic of treating cautiously the forest resources on which the poor depend, of ensuring public participation in decision-making, and of protecting forests for the benefit of future generations. Additionally or alternatively, they may appreciate the reputational or other benefits of aligning Liberian policies with international norms.
- Diffuse throughout society norms such as public participation, transparency, sustainable forest management, and the precautionary approach. This could have at least two positive impacts. First, it may inspire the public to participate in monitoring compliance with PUP rules that reflect these norms, or to demand compliance with the norms even in the absence of strong PUP rules. Second, promoting transparency could lead to greater government reporting of forest license agreements and of relevant payments, which could in turn make it easier both for external monitors to pick up on incongruities and for international actors to respond through their markets to reports of legal noncompliance (i.e., by using illegal logging regulations).

- Enact stringent PUP rules in combination with efforts along the markets pathway to split the enforcement burden with other countries (provided political opposition is not prohibitive and/or can be overcome using norms-based arguments). Such efforts could include ratifying a VPA and communicating the new rules to countries that ban the import of illegal timber.
- Empower civil society groups to play a role in monitoring compliance with PUP rules. This could increase overall monitoring capacity directed at PUPs and could generate more resources as well if donor groups interested in supporting good forest governance choose to fund these newly empowered groups.

Although countries may differ in terms of the degree to which powerful political opposition and capacity constraints obstruct needed policy interventions, actions along the same combination of pathways are likely to be appropriate for countries that are similarly situated with respect to the matrix in Figure 1. As a result, the ways forward listed above (or variations thereof) should be applicable in countries where, like Liberia, power blocs threaten to derail interventions, and low levels of government capacity hinder implementation. International norms provide a means to persuade opposing policymakers to vote for reform and to coopt civil society into pressing for compliance with desired reforms, whether or not they are enacted. Direct access strategies represent an opportunity to sidestep opposition within the government and to increase monitoring capacity despite governmental shortcomings.

## **Future Research**

The central problem that this paper sought to answer is how governance of privately owned forests in Liberia could be improved so as to prevent forest degradation and consequent harm to forest-dependent communities. One recommendation was to reform relevant forestry laws and regulations to include more stringent rules concerning issues like required documentation before harvesting may commence, size and duration limits on forest concessions, and transparency and public consultation procedures. In light of the trend among consumer countries toward enacting illegal logging regulations, stringent forestry rules in producer countries like Liberia are becoming an increasingly feasible means to improve forest governance. Whereas capacity constraints in many producer countries have long interfered with the effectiveness of even the most stringent rules, these rules can now be enforced—at least with respect to exported timber—by consumer countries that typically enjoy greater enforcement



capacity. As a result, the time is ripe for comparative research into which regulatory instruments are most effective at stimulating good management of private forestland.<sup>16</sup> Models that have worked in certain contexts may be usefully adapted to the Liberian context. While political opposition may continue to hamper enactment of stringent rules, weak domestic enforcement capacity may be declining in importance with the rise of legality verification.

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<sup>16</sup> Fishman (forthcoming 2014), for example, analyzes Brazilian regulation of private forestland for instruments and approaches that might be usefully applied to the Liberian context.

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IUFRO World Series Vol. 9 - en	Terminology of Forest Management Planning - in English (revised in 2010)
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## **Our Mission is ...**

*to promote global cooperation in forest-related research and to enhance the understanding of the ecological, economic and social aspects of forests and trees; as well as to disseminate scientific knowledge to stakeholders and decision-makers and to contribute to forest policy and on-the-ground forest management.*