

Rethinking Forest Practice Regulations: Overview and Introduction

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Outline

- Problems, causes, history
- Emerging concepts and “principles”
- Examples
- Reflections and questions

*Primary sources: Forest governance in federal countries (2006, CIFOR);
Cashore, McDermott (2006)*

Why “Rethink” Regulations?

- The forest sector is one of the most regulated; and some would say “over” regulated
 - Harvest regulations (AAC)
 - Management plans
- It is also among those with the most disappointing records:
 - Continuing deforestation and degradation
 - Widespread illegal logging and associated trade
 - Unintended effects
 - Social: e.g. rewarding large, penalizing the small – large/wealthy able to benefit **despite** regulations
 - Diminishing respect for law and judicial

Indications of Failure

- Logging bans (e.g. Asia)
- Log export bans (e.g. Africa, Asia)
- FLEGT – unusual diplomatic attention to forestry
- Others:
 - Conflict, protest
 - Subsidies for reforestation

** Of course, regulations (or the lack of them) in other sectors negatively affect forests (e.g. agriculture, mining)*

Common Causes of Failure

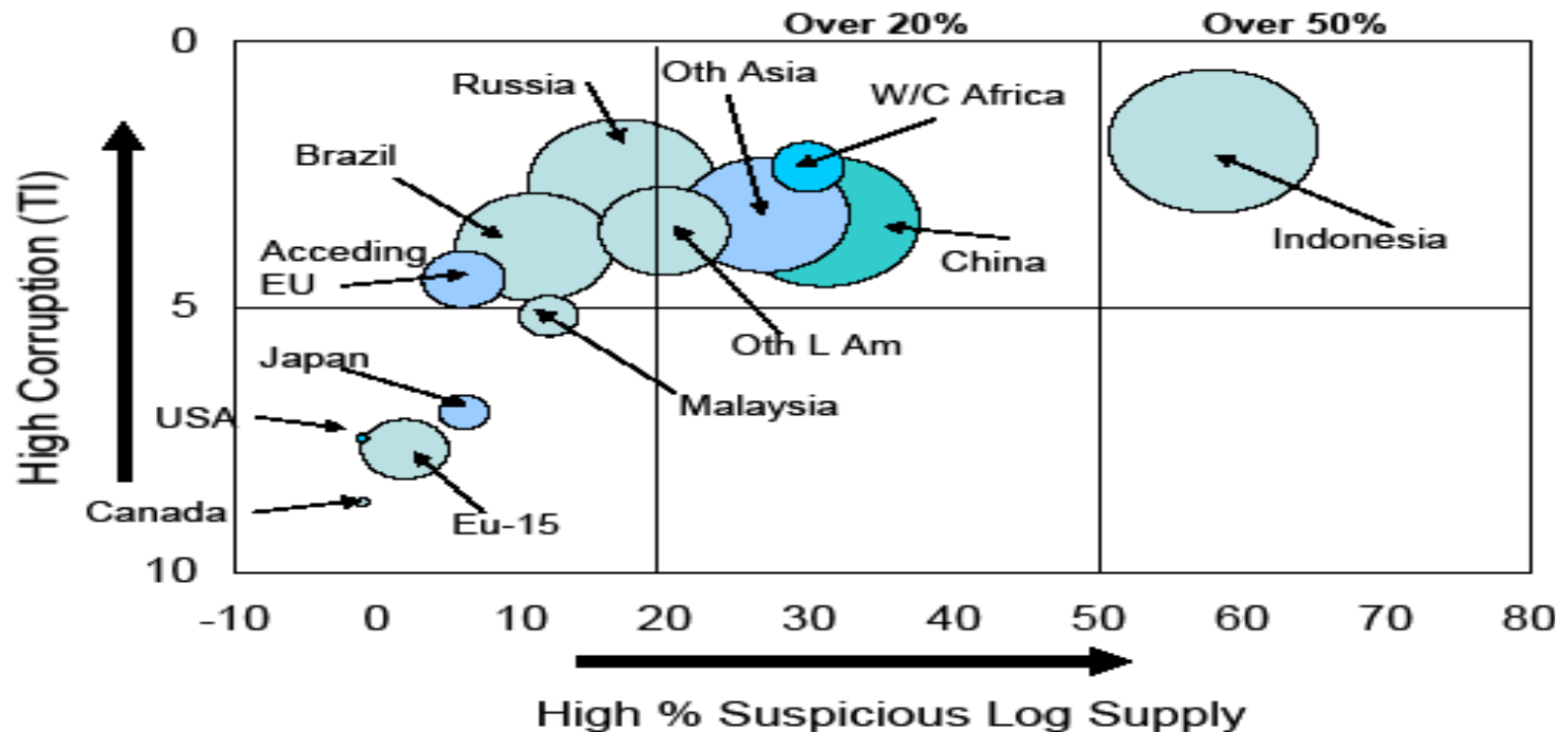
- Some regulations **cannot** be followed by main agents:
 - **Unrealistic** regulations
 - Regulatory **confusion**
 - **Conflicting** regulations
 - Too **cumbersome** (costly)
 - “**Unjust**” regulations (e.g. *ignoring traditional land and use rights – leads to resistance*)
- * Focus on “enforcement” often misplaced**

Problems in the Design

- Regulations inconsistent with legal framework (not designed with property rights in mind):
 - Public
 - Private
- Often a disconnect between regulations and government capacity to monitor and enforce
- Emphasis “command and control” regulations
- Corruption

Correlation between corruption and lack of regulatory compliance

Relationship between corruption and illegal forest activities



Source: Seneca Creek Associates and Wood Resources International 2004.

Note: Size of bubbles represents volume of suspect roundwood, including imports

Historical Premises to Conventional Approach

- **Ownership:**
 - by the **state** (king, crown, country)
 - increasingly owned or administered by **private and collectives**
- **Authority:**
 - Central **state** all powerful (and expert)
 - state increasingly decentralized; **civil and private** sectors growing in relative strength
- **Forest people:**
 - **limited rights** and voice
 - **increasing rights, voice** and capacity – with democratization



How This Has Played Out in the “Developed” World

Phases (Meidinger 2005)

1. 16th – 19th century: state, industrial control of public and private forests
 - *Degradation, “elite capture”, corruption – economic growth*
2. ‘20’s - ‘70’s – focus on “enforcement” command and control – prescriptive regulations and management plans
 - *Gradual strengthening of civil society and rule of law*
3. 80’s – now:
 - *public participation, transparency (e.g. BC)*
 - *Simpler rules, limited use of state power (e.g. Oregon)*
 - *Market-based approaches – incentives*
 - *Continued tension, revision and reform*



How This Has Played Out in the “Developing” World

1. No regulation – disposal
2. Regulation - mostly of public forests
 1. Industrial concession
 - *Degradation, “elite capture”, corruption – economic growth*
3. 90’s – now – some innovation:
 - *Certification (e.g. Bolivia)*
 - *Transparency – (GFW – Cameroon)*
 - *New regulatory approaches – Brazil, China*

* Yet, in many places, focus on **enforcement** (FLEGT)

Rethinking Regulations: Emerging Principles

1. carefully *identify priority problems and focus*
2. *only do what no other entity can do*
3. *create favorable conditions* for other actors to operate under conditions that are compatible with national priorities: incentives, participation and markets forces instead of “command and control”
4. Develop separate systems for public and for private/collective forests (rights/responsibilities are different)

1. Prioritize and Focus

- Concentrate on:
 - most important values/resources
 - most important and critical locations and habitats; demonstration effect considered
 - most relevant operators – those with potential to cause most damage

2. Do What Only Government Can Do...

1. Catalyze and facilitate process to identify standards and priorities
2. Create a favorable environment – “political will”, encourage action by civil society and private sector
3. Ensure clear and fair property rights
4. Limit, and judiciously use coercion (regulations)
5. Facilitate processes to compensate for “market failures” (e.g. ecosystem services)
6. Ensure education standards, costs

Don't have to “DO” all of these things, just need to make sure that they are done.

Emerging Tools

- Voluntary “best management practices” (BMPs for timber harvesting and management).
- Certification programs
- Independent, non-government monitoring and verification
- Transparency – of forest use, monitoring, impacts
- Education and dissemination of standards, positions, issues, impacts;
- Stakeholder interactions: conferences, committees, boards and other interactions to reach consensus.
- Corporate codes of conduct – self-policing
- Use of market based incentives
- Joint management and partnerships between government and non-public institutions

In what follows we look at some examples

3. Creation of Favorable Conditions: Process

USE OF THESE TOOLS:

LEADS TO IMPROVED:

WHICH LEADS TO:

Independent monitoring and reporting

Improved forest harvesting performance

CRITERIA

- fairness for smaller operators
- efficiency
- environmentally friendly
- social acceptability
- profitability for harvester

Research and better information sharing:

- develop BMPs
- conferences
- workshops/training

- Improved legislation,
- certification programs
- forest practice boards

- Increased trust in government and other stakeholders:
- establishing mutual goals among stakeholders

Market based changes:

- "Green" markets functioning
- Public relations improvements
- Public payments for environ. services, tax breaks, etc.

Knowledge information

Self-policing,
industry led voluntary action

Partnership cooperation

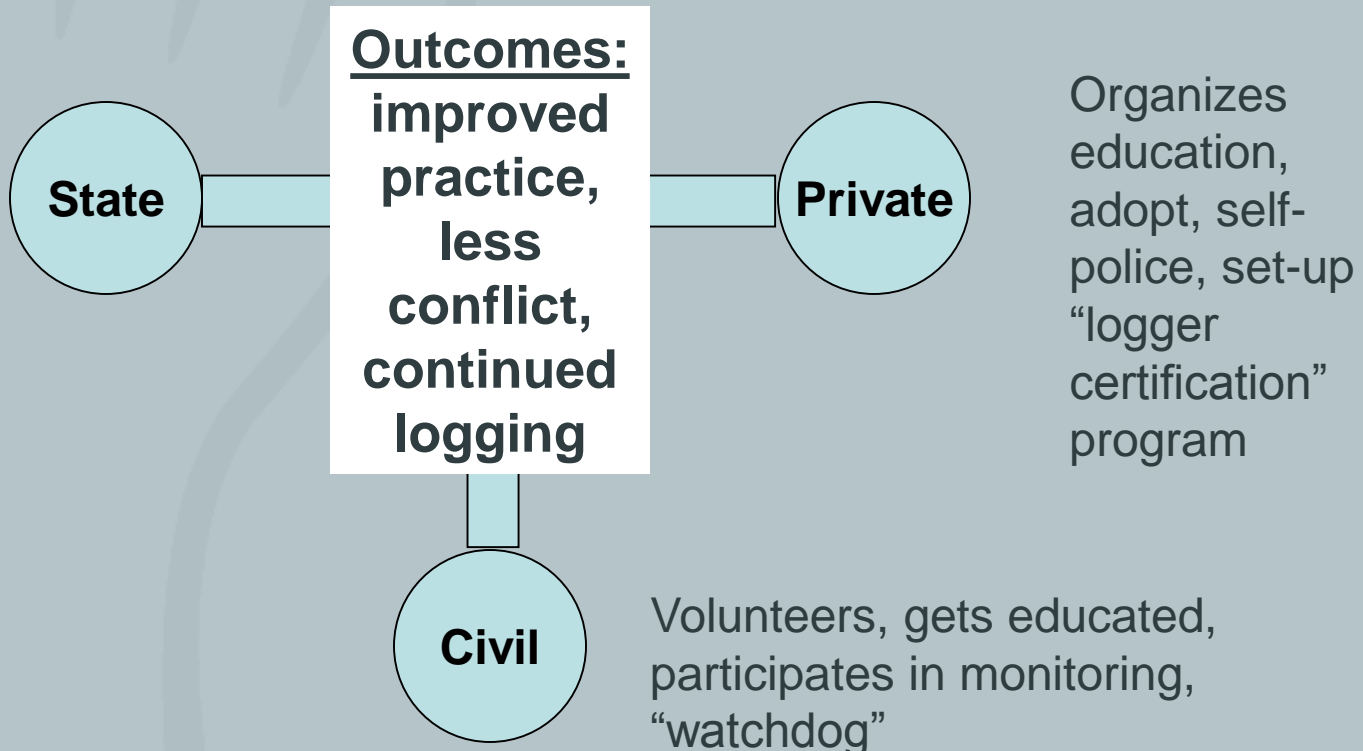
economic incentive

Increased motivation and action to improve forest harvesting

1) Montana – Best Management Practices

a “system to promote best practice and compliance”

Coordinates, facilitate participatory process to identify BMP's, funds education, organizes monitoring, enforces “bad actor” law



Montana: Interpretations

- Reasons why it seems to work:
 - simple, low cost to administer
 - transparent and inclusive;
 - focuses on most critical externalities (public goods),
 - empowering, minimal infringement on property rights
 - builds on individual incentives and interest for social inclusion,
 - state judiciously uses coercion “bad actor law”
 - a credible threat of imposition of high-cost, enforced, regulations – and the high costs of social conflict
- Some reasons why it might not travel:
 - “credible threat of regulation” often not present

Reflections

1. Reforms require rethinking roles (of state, private, civil)
2. Establish political will and conditions for active participation of civil and private actors
3. Differentiate between “public” and “private” forests and establish system for adaptive reform (at local level)
4. Focus on critical problems, sites and operators
 - Prioritize most important externalities, most important sites, largest, most destructive industry
 - Ensure that they don’t disproportionately hurt the poor
5. Simplify, encourage voluntary compliance, “systems” approach, transparency

Some Challenges and Questions

1. How must political will despite resistance and perceived risks?
 - Within agencies: Overcoming internal resistance/vested interests in current system
 - Across the government: developing constituencies for reform
 - *reform for economic development*
2. How to make use of current global attention to “illegal logging”

Thank You

Lots of opportunities to learn and share lessons between countries – principles not blueprints

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