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MPIfG Discussion Paper 13/12

The Effectiveness of Transnational Non-state Governance
The Role of Domestic Regulations and Compliance
Assessment in Practice

Olga Malets



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MPIfG Discussion Paper 13/12
Max-Planck-Institut für Gesellschaftsforschung, Köln
Max Planck Institute for the Study of Societies, Cologne
September 2013

MPIfG Discussion Paper
ISSN 0944-2073 (Print)
ISSN 1864-4325 (Internet)

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Abstract

The paper examines how a domestic institutional environment and third-party compliance assessment shape the effects and effectiveness of certification and labeling. Certification represents a form of transnational non-state market-driven governance of the environmental and social performance of firms. Based on an extensive qualitative analysis, this paper explores two factors that influence the forest certification program of the Forest Stewardship Council. First, the institutional setup and the implementation and enforcement of domestic law can restrict the effectiveness of certification if certification requirements contradict or significantly exceed national law or the institutional environment presents significant challenges to certification. Second, I show that third-party auditing, auditors, and certifiers play a crucial role in this challenging institutional environment. I adopt a dynamic approach to the analysis of these elements, focusing on how domestic law and institutions and transnational standards interact over time. Contrary to existing literature, which emphasizes certification and auditing methods and procedures, it is not only how the assessment system is set up but the ways it is applied in practice that shape the implementation of voluntary certification standards and induce certified forestry operations to modify their practices.

Zusammenfassung

Wirkung und Effektivität von Zertifizierung und Kennzeichnung sind mit dem nationalen institutionellen Umfeld und der externen Bewertung von Compliance verknüpft. Zertifizierung ist eine Form transnationaler, nicht marktgesteuerter Governance der Nachhaltigkeit und Sozialverträglichkeit von Wirtschaftsunternehmen. Auf der Basis einer umfangreichen Qualitätsanalyse untersucht diese Studie zwei Faktoren, die das Waldzertifizierungsprogramm des Forest Stewardship Council beeinflussen. Zum einen können die institutionellen Voraussetzungen sowie Implementierung und Anwendung nationaler Gesetzgebung die Effektivität der Zertifizierung einschränken, wenn ihre Anforderungen den nationalen gesetzlichen Bestimmungen zuwiderlaufen, sie überschreiten oder das institutionelle Umfeld die Zertifizierung erschwert. Zum anderen spielen externes Audit, Auditoren und Zertifizierer eine wichtige Rolle in diesem komplexen institutionellen Umfeld. Mit einer dynamischen Herangehensweise wird analysiert, wie nationale Gesetzgebung, Institutionen und transnationale Standards über längere Zeiträume interagieren. Im Gegensatz zur vorliegenden Literatur, die Zertifizierung, Audit-Methoden und Prozeduren bestätigt, kommt die Autorin zu dem Schluss, dass nicht nur der Aufbau des Zertifizierungssystems, sondern die Art und Weise seiner Anwendung in der Praxis eine Wirkung auf die Implementierung freiwilliger Zertifizierungsstandards und die Einführung zertifizierter Vorgänge in Waldbetrieben haben können.

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The Effectiveness of Transnational Non-state Governance: The Role of Domestic Regulations and Compliance Assessment in Practice

1 Introduction

Environmental certification and labeling has become a prominent form of non-state global governance of the environmental and social behavior of firms (Bartley 2010: 1). Non-state certification and labeling refers to programs and initiatives that use a pre-specified standard to assess the compliance of firms and provide written verification of such compliance when found. Since in today's globalized economy supply chains stretch across many borders, many certification and labeling programs are global in scope: they use global standards that are created by transnational organizations, including NGOs and industry associations, and implemented locally, in many cases in countries beyond the affluent Global North (Bartley 2010: 1). Over the last three decades, a plethora of environmental and social certification programs have emerged in various sectors of the global economy, including forests, fishery, mineral mining, agrifood, garments, toys, and sporting goods. Well-known examples include fair trade initiatives, the Forest Stewardship Council and forest certification, and the Marine Stewardship Council and fisheries certification.

These programs represent non-state market-driven governance (Cashore et al. 2007: 8–9). They are founded and run by non-state actors, including multinationals, industrial and professional associations, and nongovernmental organizations (NGOs). Governments are not directly involved in standard-setting and usually do not require adherence to these standards. A range of stakeholders are typically involved in standard-setting: NGOs create market demand for responsibly produced goods in order to provide firms with market incentives for responsible behavior; firms adopt certification in order to derive benefits including better access to markets and niche markets, as well as the ability to charge a price premium. Compliance is voluntary but must be verified: if professional certification organizations verify that firms comply with a predefined standard, producers can label their products with the logo of a standard-setting organization. Use of a logo communicates responsible use of resources and/or respect for human rights and the social and labor rights of workers and communities.¹

I am grateful to reviewers Constance L. McDermott and Sigrid Quack for their insightful comments on earlier drafts, as well as to Casey Butterfield for her careful language editing. I also thank my interview partners for sharing their time and knowledge with me.

1 This does not mean that governments are completely uninvolved in non-state market-driven governance. They usually do not participate in standard-setting, but they may include certification in their procurement policies, certify state-owned operations, or add certification to their legally binding due-diligence provisions for private firms and state agencies (Cashore et

The literature on the effectiveness of non-state environmental governance, although still relatively scarce, suggests that environmental certification has generated improvements in firms' environmental and social practices but that its success has also been uneven, and a larger positive impact has so far been limited (Marx/Cuypers 2010). Scholars have identified numerous factors that influence certification effectiveness. Most of them, however, focus either on the institutional design and organizational characteristics of certification initiatives or on the structural features of the domestic production and cross-border supply chains and transnational political dynamics. In contrast, I explore how the national context and certification implementation dynamics at the local level influence the effectiveness of certification and labeling programs. I focus on two factors that have been neglected in the literature but are likely to have a significant effect on how the implementation of certification standards affects practices on the ground: domestic regulations and the practice of compliance assessment.

Numerous studies of certification and labeling have emphasized the importance of effective governance institutions in the adoption of certification and labeling, because a well-developed regulatory framework and sound institutions make the gap between public rules and private standards small and compliance easy (Marx/Cuypers 2010: 413; Pattberg 2006b). It is largely for this reason that certification has been most widespread in advanced industrialized countries. Marx and Cuypers (2010: 422–423) tested this hypothesis statistically using a large N data set and found no correlation between certification uptake and a country's institutional setup. The present paper, in line with the growing literature on transnational non-state governance interactions (Eberlein et al. 2012), investigates whether the relationship between domestic institutions and regulations and the operation and effectiveness of certification and labeling is more subtle.

I broaden the concept of effectiveness beyond uptake, to include behavioral changes triggered by certification, and explore how the interactions between domestic governance institutions, regulations, and practices affect the translation of transnational standards into on-the-ground practices. In particular, I examine the implementation of transnational standards within a specific domestic context where transnational standards significantly exceed national regulations or contradict them and where governance institutions are less effective and durable than in many advanced industrialized countries. It may be predicted that certification is not likely to enjoy broad support in such contexts, nor is it likely to generate significant change in management practices. My study confirms this effect, but only to a certain extent. It also shows that creative and skilled actors, by using the opportunities that domestic institutions offer, can push certification and promote better on-the-ground practices. Another important aspect I

al. 2011). The growing literature on transnational business governance interactions shows that interactions between state and private actors are key to the dynamics of governance fields, national uptake of transnational private programs, and their on-the-ground impact, as this paper will also argue (Cashore et al. 2004; Eberlein et al. 2012; Gulbrandsen 2010, 2012; Overdevest/Zeitlin 2012).

address is the temporal dynamics of the interactions between transnational standards and domestic institutions and regulations. Domestic regulations change and may have a different impact on certification over time. I adopt a dynamic approach in my analysis and trace how changes in a domestic regulatory framework reinforce old challenges and create new ones.

The central argument of the paper is that national regulations and certification's compliance assessment practice affect the effectiveness of forest certification. National regulations can affect forest certification in two ways. First, since certification principles commonly require compliance with all national laws and regulations, national certification requirements have to be adapted to national legislation. A given national certification standard might not challenge certain environmentally unsound practices already prescribed by law. There could be different reasons for this: in some cases, challenging certain prescribed practices would lead to serious contradictions between national regulations and certification standards and increase certification costs. This in turn could decrease the willingness of forestry operations to pursue certification. Second, national regulations and enforcement practices may create significant institutional challenges for non-state market- and NGO-driven initiatives. For example, certification as a non-state regulatory instrument primarily affects individual private enterprises. At the same time, however, such enterprises are not the only organizations that may be responsible for environmental management. In the forest sector, some forest management practices may be conducted in privately managed, certified forests by other organizations, including national or local forest services, and may turn out to contradict the certification standard. NGOs and companies negotiate exemptions from domestic regulations or use existing law that is ignored by state authorities in order to justify new practices in forest management. In this way they are able to introduce new practices into their management systems, including conservation of high-conservation-value forests (HCVFs) and biodiversity protection.

In the second part of the paper, I examine how this legal complexity interacts with the ways that certification compliance assessment and auditing is applied in practice. Previous studies have focused mainly on auditing procedures and an assessment system setup (Kalfagianni/Pattberg 2013), whereas I focus on the application of these elements in practice. I examine how competition between organizations that offer certification services to enterprises and other factors related to auditing will affect certification effectiveness. Certified companies bear direct certification costs (e.g., the costs of assessment, accommodation and transportation costs for the assessment team, and fees charged by the certification organization). Since there is more than one certification organization in the market, they compete with one another to win business from companies seeking certification. This may lead to lower certification costs, but at the same time it may also decrease the quality of compliance assessment. In order to generate an advantage in the market for forest certification services, certification organizations may try to cut costs by reducing the staff or hours required for a compliance assessment. This lack of time and/or personnel, however, may cause compliance assessment to be less thorough, and

noncompliance may be overlooked. Other factors that may also influence the relative thoroughness of assessments include the monitoring agencies' and stakeholders' lack of resources to control certifier performance and motivate better outcomes.

I examine these propositions by evaluating how national regulations and certification assessment practices have shaped the effectiveness of forest certification by the Forest Stewardship Council in Russia. The paper is based on an in-depth qualitative case study of the development and practice of forest certification in Russia conducted in 2006–2008 and 2011. After a brief section on the relative effectiveness of transnational non-state governance, I introduce forest certification as a case study. I then describe the case selection and methods, followed by an exploration of how national regulations and compliance assessment procedures influence forestry practices. In the conclusion, I relate my findings to the broader debates on how the domestic institutional environment and the practice of compliance assessment in certification systems influence the effectiveness of certification and labeling.

2 Effectiveness of transnational non-state governance: Uptake and behavioral change

The concept of effectiveness has received considerable attention in the literature on international environmental regimes. Scholars of effectiveness agree that it is an elusive multidimensional concept “whose separate dimensions ... frequently do not co-vary in any simple way” (Young 1994: 142). Generally speaking, effectiveness describes the degree to which an institution or a regime contributes to solving or ameliorating the problem that motivated its establishment (Miles et al. 2002: 4). This definition is vague, however, and masks the complexities of the operation and the impact of environmental regimes (Young 1994; Young/Levy 1999). One way to deal with this vagueness is to distinguish between “simple” effectiveness and the broader consequences of a regime (Young 2004: 5–9). Broader consequences refer to the effects of a regime beyond its motivating problem or issue area and include cross-regime interactions, effects on domestic politics, broad societal transformations, and effects on international society and politics. Scholars who go beyond motivating problems in their studies of the impact of certification and labeling report positive results, including public policy improvements and the diffusion of environmental norms and multi-stakeholder deliberative forms of governance (Pattberg 2006a; Rametsteiner/Simula 2003).

“Simple” effectiveness, in contrast, refers to the direct effects of a regime on a given issue area or motivating problem. When discussing direct effects, it is common to distinguish between outputs, outcomes, and impacts representing a chain of consequences (Underdal 2004: 34). In general, output refers to the development of regulations and policy instruments to address a specific problem (Young 2004: 12). Similarly, in studies of the

effectiveness of non-state certification and labeling, output is measured with a set of indicators ranging from the stringency of norms and rules and the strictness of auditing procedures to the adoption rates and general public support of programs and initiatives (Fuchs/Kalfagianni 2012). Outcome, in contrast, refers to behavioral changes that can be attributed to the implementation of and compliance with the regime's outputs, e.g., regulations and policy instruments (Young 2004: 12). Behavioral changes may refer to specific improvements in practices, environmental planning, and management systems and performance. The last element in the chain of consequences is regime impact, defined as the extent to which the behavioral changes triggered by a regime contribute to solving or ameliorating the motivating problem (Young 2004: 12–13).

Since the impact of a regime often cannot be clearly identified and attributed to the regime operation because of the complexity of the issue and the considerable methodological difficulties,² my definition of effectiveness focuses on the output and outcome aspects. I define effectiveness in this paper as the degree to which certification recognizes and rewards good on-the-ground practices and helps to identify and modify unsound practices in ways that are likely to improve the environmental, social, and economic impact of the management and use of natural resources. This means that I focus mainly on behavioral outcomes, i.e., changes in specific operational, social, and environmental practices at the level of an individual enterprise. The advantage of this definition is that it does not exclude problem-solving or focus exclusively on compliance, but addresses more broadly the behavioral changes in certified operations that are likely to produce positive change in forest management.³

Most research on the effectiveness of private governance has focused on the output of private certification and labeling. Fuchs and Kalfagianni (2012) reviewed the emerging literature and identified numerous factors shaping the output of non-state governance initiatives. These include institutional and organizational characteristics of programs (participation structures, information strategies, private actors' preferences and capaci-

2 It is difficult to distinguish between the effect of the regime operation and other factors – e.g., the global market dynamics or the financial crisis (Fuchs/Kalfagianni 2012: 300). Moreover, whether or not behavioral changes contribute to achieving prespecified goals or alleviate a problem in a complex natural system may become visible decades after a regime has been established. Finally, the definitions of problems and goals are socially constructed, change over time, and “there is generally a substantial scope for judgment in specifying the boundaries or individual regimes” (Young 2004: 5). Therefore, judgments of regime impact may vary. For example, Marx and Cuypers (2010) have argued that the impact of forest certification has been limited, since it been unable to reduce the rates of deforestation and biodiversity loss that they defined as motivating problems. At the same time, the judgment may be different if the motivating problem is defined as unsustainable forest management. From this perspective, forest certification has promoted responsible forestry practices (Newsom et al. 2006; Rametsteiner/Simula 2003) and can be described as an effective instrument.

3 Regimes can also produce negative effects that worsen environmental or social conditions (Young/Levy 1999; Belton et al. 2011). In this paper, I focus instead on positive effects that occur or do not occur as a result of certification.

ties, ability of programs to reduce transaction costs and provide benefits, and involvement of various stakeholders, in particular NGOs), structural characteristics of sectors and global value chains, problem characteristics (e.g., nature of the problem and the characteristics of the solutions, in particular the existence of win-win situations). The explanations based on these factors – both endogenous and exogenous to certification programs – are relevant and important, but they ignore the implementation dynamics and the interactions between actors in a multilevel certification system in a specific national context. In contrast, the emerging literature on international regime complexity suggests that it is important to take the implementation dynamics into account in order to explain specific policy results (Alter/Meunier 2009; Dobusch/Quack 2013). Several studies on non-state certification and labeling do take domestic factors into account, including the organizational capacities of supporting coalitions (Espach 2009) and the structure of domestic production and domestic policy (Cashore et al. 2004; Cashore et al. 2007), but they explain certification and labeling output (such as uptake and support) rather than behavioral changes (such as improvements in production and management practices).

In comparison to the research on output, research on outcomes is relatively scarce. Fuchs and Kalfagianni (2012) and Kalfagianni and Pattberg (2013) have argued that outcomes depend on the quality of output (stringency of standards and compliance assessment methods, uptake and support, etc.), the institutional and organizational characteristics of programs (e.g., information and transparency strategies), and the structure of the problem. The more malign the problem is, the less effective the non-state governance is likely to be (Kalfagianni/Pattberg 2013). While these are important factors, institutional design features alone may not be sufficient to explain the outcomes of private certification and labeling regimes. Procedures and standards are important not only in and of themselves, but in how they are applied in practice. I therefore examine how two factors that have been largely neglected in the literature on environmental certification have shaped the implementation and impact of forest certification as a private regulatory tool: domestic regulations and compliance assessment. The first factor deals with the institutional and legal context in which certification standards are implemented. The second describes the ways that the system of assessing compliance with certification standards is organized and applied in practice.

3 The Forest Stewardship Council and its certification program

The Forest Stewardship Council (FSC) was the first organization to launch an international program of forest certification and certifier accreditation. As an international nongovernmental organization seeking to promote responsible forest management of all types of forests in all regions of the world, the FSC defines responsible forest management as environmentally appropriate, socially beneficial, and economically viable.

The organization has developed a set of global Principles and Criteria (P&C) for good forest management and a third-party system to verify compliance with these, in which independent certification organizations accredited by the FSC assess the compliance of forest operations with the FSC's P&C. If compliance is verified, the independent certification organizations issue FSC certificates to the operation. Certified forest operations can label their products as coming from well-managed forests. Since the establishment of the FSC in 1993, over 147 million hectares of forests in 80 countries have been certified as well-managed, and over 21 thousand chain-of-custody certificates that enable the tracing of the timber in a supply chain have been issued (FSC 2011). Between 2005 and 2008, the size of the FSC market grew from an estimated \$5 billion to \$20 billion (FSC 2008a: 13).

Shortly after the establishment of the FSC, a range of certification programs emerged worldwide as a reaction and alternative to the FSC's forest certification program. Most of these programs were business-led initiatives, and most of them, including the Sustainable Forestry Initiative founded by the American Forest and Paper Association, the certification program of the Canadian Standards Association, and the national certification schemes in most European countries and several developing countries (Brazil, Chile, and Malaysia), joined an international umbrella organization for national certification programs called the Program for the Endorsement of Forest Certification (PEFC). The PEFC was able to become a global competitor to the FSC (Auld et al. 2008: 191–192). Approximately 237 million hectares of forests are currently certified under the PEFC (PEFC 2012). Together, the FSC and the PEFC have certified approximately 9.5 percent of the world's forests (calculations based on FAO 2011: 118). For many environmental groups, however, "the FSC remains the only credible scheme" (Ozinga 2005: 38). Scholars have also shown that FSC standards are more prescriptive than PEFC standards (Auld et al. 2008: 192).

The question is, then, what the broad adoption of forest certification standards means in practice, at least in certified forests. To what extent does forest certification require real change, and how is the extent of the change required determined? And finally, what does the prescriptiveness of standards mean in practice? In this paper, I focus on the impact of the FSC on forestry practices in Russia and examine how national regulations and certification practices shape the outcomes of the implementation of FSC standards. In the next section, I will justify my case selection and describe the sources of data.

4 Sources of data and case selection

Russia is a promising case for studying the implementation and impact of FSC forest certification standards, not only because of its environmental and economic importance, but also because of the gap between concurrent high certification rates, con-

traditions between FSC standards and domestic forest regulations, and widespread unsound forest management practices that negatively affect the condition of forests (Dudley et al. 1995).

In 2003–2012, approximately one-fourth of Russia’s total privately managed forest land, or 30.6 million hectares, was certified by the FSC as well-managed (calculations based on data from the Federal Forest Service Agency (Federalnoe Agentstvo Lesnogo Khozyaistva 2009) and the Russian Office of the FSC (FSC Rossiya 2013)). The high level of acceptance of forest certification in the Russian forest sector per se is not surprising, mainly because a significant portion of producers depend on exporting common timber products to European markets (Malets 2013: 306). Pressed by broad environmental campaigns, international buyers have begun requiring certification from their Russian suppliers (Tysiachniouk 2006). Moreover, although illegal logging, unsuccessful forest governance reforms, and corruption represent serious problems for Russian forests (Lehmbruch 2012; McDermott et al. 2010: 197, 200–204, 213), they are less prominent in the certified segment of the Russian forest sector and do not represent a significant challenge to Russian companies’ compliance with FSC standards (Tysiachniouk 2006; Malets 2011: 36). Enforcement of basic forest regulations, such as regulations related to land ownership and tenure, is not problematic either. As a result, it may appear that certification has not been particularly difficult for Russian timber producers to attain.

The major challenge for complying with FSC standards and improving forest management, however, is implementing requirements that either contradict or exceed already extensive and prescriptive national forest law. These requirements include mitigating the impact of forest use on the environmental condition of forests, protecting HCVPs (e.g., primary undisturbed forests), and conserving biodiversity in managed forests. They are essential to ensuring the ecological functions and integrity of forests and the protection of endangered species, ecosystems, and landscapes. Investigating how such requirements are implemented when they contradict national law helps us to understand whether and to what extent forest certification is likely to improve the compliance of forest operations with internationally recognized forest management standards and facilitate the emergence of more environmentally sound forest management practices. The role of auditing and compliance assessment is critical here and allows us to study the impact of certification auditors on company practices: since the Russian certification market has several auditors, we can analyze how competition between them affects the thoroughness of compliance assessment.

FSC forest certification, particularly in Russia, represents a promising case for evaluating the effectiveness of non-state environmental governance. Forest certification is one of the oldest and most advanced global certification programs. Several certification programs, including the Marine Stewardship Council, have been modeled on it (Auld/Gulbrandsen 2010). Understanding the system of forest certification may offer further insight into whether certification and labeling can successfully promote environmental and social change. Furthermore, Russia represents a group of understudied cases, since

most research on forest certification focuses on advanced industrial countries, including the United States, Canada, and Sweden. Less is known about so-called developing and emerging market economies, which are characterized by weak enforcement of domestic regulations, poor environmental conditions, and weak engagement by civil society. Yet Russia has been quite successful in adopting forest certification requirements, as the data above suggest. Now the question is how requirements are actually being translated into practice.

I use a qualitative case-study approach that is largely based on extended semi-structured interviews with global and local actors that have been actively involved in the FSC's forest certification program in Russia and at the global level. I conducted 47 interviews in 2006–2008, with FSC officials in the FSC International Center in Bonn, representatives of NGOs, certified company managers, forest scientists, officials from various certification bodies, auditors, certification consultants, and members of the Russian national initiative. Additional three interviews with FSC staff members and members of the Russian national initiative were conducted in December 2011. Interviews were combined with my observations of various official meetings and FSC seminars in Russia and at the FSC's International Center in Germany. In addition, I analyzed position papers and internal documents from the FSC and other organizations.

5 The effect of domestic regulations

In this section, I examine the institutional challenges that national laws and regulations – primarily old and new forest laws – pose for forest certification in Russia, and whether certified companies are able to deal with them. First, I identify fundamental institutional challenges that certified operations, auditors, and certification proponents face. I focus on the structural problems that the national regulatory environment, constituted by national laws and regulations (law on the books) and their implementation (law in practice),⁴ creates for forest certification. Second, I explore whether the FSC standard challenges the unsound forest management practices prescribed by law or those actually occurring on the ground. The FSC forest certification system requires specifying and adapting their relatively broad global P&C of good forest management into a set of regional or national indicators that can then be used as a basis for standards implementation by enterprises and compliance assessment by certification organizations. In the FSC system, these indicators are designed either by certification organizations or by FSC national initiatives. I therefore examine whether the Russian national standard that includes the indicators challenges “bad” forest practices. Third, I assess the extent to which certified operations are actually able to implement FSC requirements in a challenging regulatory environment when the requirements contradict national law or exceed it.

4 See Halliday and Carruthers (2007:296) on law on the books and law in practice.

Domestic institutions and regulations, as well as their implementation in practice, are a fundamental influence on the effectiveness of FSC certification and labeling. Russia has developed a highly complex, detailed, and prescriptive set of forestry and environmental regulations (McDermott et al., 2010: 201; interview with national initiative executive). The country is also a signatory to the International Biodiversity Convention and several other international environmental treaties. Yet the overall institutional environment and forest governance practice have not encouraged the efforts by companies and environmental activists to promote responsible forest management through forest certification.

Traditionally, Russian forest governance was strongly centralized. In Soviet times, the Federal Forest Service – Rosleskhzoh – was a dominant actor in forest policy and practice. Industrial logging was separated from silviculture (Lehmbruch 2012). Silvicultural activities were carried out by the Forest Service through its local branches – *leskhozy* – whereas industrial logging was performed by for-profit forest enterprises – *lespromkhozy*. Industrial logging and silviculture remained separate even after the free-market reforms of the early 1990s. Forest enterprises were privatized, but forest land continued to be federal property. The Federal Forest Service retained most of its powers and continued to be responsible for forest monitoring and inventory, development of forestry regulations, forest management planning, reforestation, forest land leasing, regulation enforcement and control, logging permits, oversight and inspection, designation of protected areas, forest protection, and a significant set of silvicultural practices, including sanitary harvests and forest thinning.

Forest enterprises would lease forest land or purchase standing trees on a specific site for logging, but they were not actual forest managers. As users of forest resources, they had to coordinate their management plans and forest operations with the forest authorities. The forest authorities allocated logging sites, issued logging permits, designated protected areas, defined reforestation quotas, determined harvest volume and annual allowable cut, and conducted sanitary harvests and forest thinning in the forests leased by private enterprises. They also followed numerous, often ambiguous and contradictory regulations that many environmental organizations, forest scientists, and companies found outdated, economically inefficient, and environmentally inappropriate. But the enterprises had to comply with the authorities or risk incurring penalties and having the extension of their lease contracts denied, even though it was difficult “for even the most legally conscientious forest operator to conduct operations without any violations of the law” because of a lack of clarity in the regulatory framework (McDermott et al. 2010: 203).

Particularly worrying is that forest authorities conducted silvicultural operations, including sanitary harvesting (also called salvage logging) and intermediate thinning (also called maintenance logging), in forests leased by certificate holders who had no control over these operations. Many environmentalists, company managers, and national and international forestry experts consider sanitary harvests and intermediate logging to

be one of the most widespread illegal and environmentally unsound practices in Russia (Lehmbruch 2012; Newell and Lebedev 2000). Intermediate thinning refers to the removal of certain trees from regenerating forests in order to increase the future value of these forests and to shape their structure. Sanitary harvest (or salvage logging) is the removal of old, damaged, or ill trees that constitute a threat to the forest (e.g., increased fire risk) as a result of a natural disturbance, disease, or insect invasion (Newell/Lebedev 2000: 20). The forest authorities, however, removed not old and ill trees in their intermediate logging operations, but commercial grade trees that could be later sold at a higher price for the production of more valuable sawn wood. Some observers estimate that in Khabarovskiy Kray in the Russian Far East, the fourth largest federal region in Russia and an illegal logging hot spot, “82 % of the logs harvested under ‘salvage logging’ licenses were commercial grade timber” (Newell/Lebedev 2000: 20).

The free market reforms of the early 1990s left local forest service departments systematically underfunded. Sanitary and intermediate maintenance harvesting helped to increase forest service revenues, but also bred corruption and facilitated shady relationships between the forest authorities and the private firms contracted to perform sanitary and maintenance harvesting. A new wave of forest governance reforms was begun in 2006, motivated in part by the growing corruption among forest authorities, but so far seems to have been unable to reduce the pressure of sanitary harvesting on forests: in early 2012, environmental groups were alarmed to find that the area of Korean pine forests in the Republic of Khakasia (South Siberia) allocated for sanitary harvesting in 2012 was 13 times greater than the area allocated for sanitary harvesting in 2011. The Russian government prohibited industrial logging in Korean pine forests in November 2010 (Lesnoy Klub 2012).

Certified enterprises have also been affected by the semi-legal sanitary and maintenance harvesting being performed by local forest service departments. Certified companies and environmental NGOs in the Republic of Karelia (northwest Russia) expressed concern about the extent of sanitary harvesting in their forests. They felt that they did not have full control over the forests they had leased and were losing timber from these forests. A certified large pulp and paper mill leasing more than 2 million hectares of forest confronted federal, regional, and local forest service units with their unsound practices and organized a field experiment to demonstrate that the mill was able to perform the types of logging in question more efficiently and environmentally appropriately than the local forest service or external contractors. The results of the experiment were confirmed by the NGO representatives I interviewed, including Greenpeace, which was also present at the experiment (interview with industry executive; interview with forest worker; interview with NGO representative). Yet sanitary logging by local forest services persisted.

Despite Russia’s detailed and prescriptive environmental regulations and international commitments (McDermott et al., 2010: 201; interview with national initiative executive), many regulations are not integrated well into forest legislation, for example the

protection of biotopes and endangered species. This is especially true of so-called production forests (as opposed to protective and reserve forests), the type of forest in which forest enterprises most frequently operate (interview with national initiative executive). As a result, a “full utilization”⁵ approach predominates: clear-cutting remains the most widespread logging technique. Forest officials tend to require the removal of all trees from a logging site, regardless of their environmental value and ecological functions, and to impose heavy fines for noncompliance (interview with NGO activist; interview with national initiative executive). This creates pressure on certified companies to follow domestic regulations at the expense of certification, the latter of which requires them to minimize the impact of forest management, particularly logging, and to protect key biotopes, ecologically important structural elements at the logging site, and environmentally valuable forests.

The enactment of the new forest code in December 2006 was the start of substantial reforms in Russian forest governance that many environmental activists, forest policy experts, and scholars have deemed a failure (Lehmbruch 2012; Yaroshenko 2011; Yaroshenko et al. 2009; Hitchcock 2010). The 2006 forest code created a new structure of forest governance and redistributed powers throughout the federal, regional, and local levels. The Federal Forest Service (Rosleskhoz) retained regulative functions (forest inventory, development of forest regulations, research and education, and budget distribution), whereas leasing, forest law enforcement, forest protection, and forest management planning were transferred to the level of a federation unit (e.g., Oblast, Republic, or Kray). Local forest service branches were restricted to administrative and forest management functions. Their staffs were significantly reduced (Yaroshenko 2011). At the federal level, a new State Forest Inventory was established in order to provide the forest service agencies of federal units with reliable information on forests. The agencies were then expected to develop a regional forest management plan based on this inventory. District forest service agencies, now called *lesnichestvo*, were to develop local forestry regulations – a forestry *reglament*. Based on the *reglament*, enterprises would then develop a ten-year forest use plan. Forest management and silviculture were transferred to enterprises, which were no longer obliged to obtain logging permits (these were replaced by logging declarations) and consequently became responsible for forest planning and for management and silvicultural measures, including intermediate and sanitary logging, in their leased forests. Lease licenses for 10–49-year periods were now to be sold at open auctions (see McDermott et al. 2010: 202–203).

Environmental activists, forestry experts, and forest managers were initially optimistic that the introduction of a new forest code would help enterprises better comply with the FSC requirements. They expected that forest enterprises would become the actual forest managers, rather than mere leasers, and hoped that enterprises would be able to select logging techniques and reforestation measures, develop their forest management strategies and plans, and conduct logging in ways that would be more appropri-

5 I borrow this term from McDermott/Cashore/Kanowski (2010: 213)

ate to their short- and long-term environmental and economic goals (interview with NGO activist). However, it soon became clear that the federal and regional authorities would not be able to complete regional forest management plans and the subsequent district *reglaments* based on them within the two-year period prescribed by the new forest code (Hitchcock 2010: 31). Pressed by the delay and the upcoming deadline, the forest authorities and forest enterprises developed their respective forest management plans simultaneously. This caused a significant number of discrepancies and contradictions between and within them. By the time all three types of forest management plans were expected to have been enacted or approved, the old forest management plans had ceased to be effective, but the new ones were largely either incomplete or not harmonized (Yaroshenko et al. 2009: 16–17).

Moreover, contrary to early expectations that lease license holders would be granted more flexibility in managing their forests, forest management planning by forest enterprises remained relatively rigidly regulated and inflexible. Enterprises were no longer obliged to obtain logging permits, according to the new forest regulations, but they still had to submit a forest declaration for the upcoming year listing all silvicultural activities and wait for it to be approved by the district forest service. No changes could be made in the forest declaration after approval. In addition, silvicultural activities could no longer be transferred to the next year, including logging, even though unexpected weather conditions, forest fires, and insect infestations could make the implementation of a forest declaration problematic and might require changing the initially planned measures or relocating logging sites on a short-term basis. These problems were not explicitly addressed in the new regulations, and short-term changes were directly prohibited. More importantly, the designation of high conservation value areas and their protection for forest certification often occurs spontaneously and requires immediate or short-term action, which the new regulations do not allow, since any short-term changes in plans or logging declarations are prohibited (Yaroshenko et al. 2009: 50–51).

Environmental considerations were not included in the new forest code either. The primary objectives of the forest code do refer to sustainable forest management, non-depleting use, and the conservation of the environmental functions of forests as fundamental principles, but “there is little follow-up in subsequent parts of the code” (Hitchcock 2010: 21). Excluding biotopes and endangered species from logging, therefore, continues to contradict national regulations and persists as a problem for certified companies. Finally, while the new forest code creates a State Forest Inventory, the inventory will not become fully active until 2020.

Five years on from the start of reforms, the new system essentially does not work. Moreover, during the intervening years, the old inventory system that had been severely underfunded after the economic and political turmoil of the 1990s was completely abolished. The current forest management plans at the federal, regional, and local levels are based on incomplete and outdated information about the condition and the development of forests. This information dates back fifteen to thirty years, when the last

comprehensive inventory was conducted (Yaroshenko 2011). In these circumstances, it is unlikely that forest enterprises will be able to develop accurate and precise long-term forest management plans that will guide their logging and other forestry operations in the coming years. This in turn will likely make assessing the economic viability, environmental appropriateness, and other aspects of these plans highly problematic, since certification auditors must also rely on the outdated information of the old forest inventory system.

The FSC's Russian office, the national initiative, and several NGOs supporting FSC, including World Wide Fund for Nature (WWF), have endeavored to include several requirements in the forest code and supporting laws and regulations that would make these compatible with forest certification. But the preliminary negotiations over the forest code were extremely controversial. Parliamentary and public debates focused primarily on forest ownership issues. The draft prepared by the Ministry of Economic Development and Trade allowed the privatization of forest land, and as a result faced severe resistance from an unusual ad hoc coalition comprised of several members of Parliament, various members of government, environmentalists, and the president himself. The privatization clause was therefore removed from the draft forest code (Hitchcock 2010: 26).

At the same time, members of Parliament and government officials did not give any serious consideration to other important issues, including environmental considerations, public participation, and mechanisms to reward voluntary forest certification (Hitchcock 2010). Neither environmental NGOs nor forestry and ecology experts were consulted during the drafting process (Hitchcock 2010: 24). NGOs reported an inability to lobby Parliament or the ministry because of their lack of access to traditionally closed, top-down administrative and legislative systems (interview with NGO activist). Neither do the new forest code and supporting regulations include any mechanisms to ensure public participation and consultation in their implementation, so the system remains closed and does not allow for effective participation in forest management planning and forest law enforcement. Despite this, in the period from 2008 to 2011, the FSC's Russian office, the national initiative, and various NGOs established a joint commission with representatives from the Ministry of Natural Resources to discuss the possibilities of including FSC-compatible environmental and social requirements into the new forest legislation. Several meetings took place. However, these attempts have not yet led to a harmonization of FSC requirements and national legislation (interviews with national initiative executive and FSC Russia executive).

In summary, the recent reforms in forest law and policy have created an extremely challenging environment for forest certification in Russia. They have made it difficult to translate certification requirements that contradict national law into on-the-ground practices, and they have slowed down the development of enterprises' forest management plans. The lack of inventory data complicates long-term planning and management. Sanitary logging and other practices have not been stopped in certified forests.

Biodiversity conservation measures are not reflected in the new forest code; rather than forest protection and conservation, the code emphasizes forest resource utilization and investment. The current developments in Russian law and enforcement practices present important challenges that forest certification, as a private regulatory instrument, can hardly address. They will likely impede the implementation of certification standards.

How persistent are these challenges? Will they disappear once the difficult transition to the new forest code has taken place? This remains to be seen, but so far the introduction of the new code has been very slow, incomplete, and underfinanced. Many forestry experts, environmental groups, and policy experts evaluate the prospects for the new forest code rather pessimistically (Lehmbruch 2012; Yaroshenko 2011). Hitchcock (2010) has suggested that the forest code is extremely weak legislation: badly designed, inconsistent, and poorly framed. She argues that adequate implementation of the new forest code requires the introduction of numerous amendments and the development and enactment of a significant number of supporting laws and regulations, which would likely take at least another several years. Illegal logging continues in the meantime, and has even increased since the new forest code was introduced (Hitchcock 2010: 38). According to Lehmbruch (2012), the weakening of the forest service system was a contributing factor in the severe forest fires in central Russia in summer 2010.

Some of the Russian challenges have been difficult to address, including the lack of independent and reliable forest inventory data, ambiguities and inconsistencies in the new forest code, and the lack of accurate regional forest plans and poor forest management practices by state authorities, but forest certification has been able to deal effectively with a number of other problems. These problems are associated not with the law on the books, but with the interpretation of existing regulations by certified companies' forest management and forest officials at the local and regional level. These parties have been able to activate and selectively use pieces of the existing forest regulations to allow them to implement contradictory FSC requirements and state provisions at the same time. In the remaining paragraphs of this section, I first show that the FSC standard indeed exceeds national law. I then evaluate how certified companies have successfully dealt with the requirements that exceed or contradict national forest regulations.

The FSC national standard for Russia consists of a list of national indicators specifying global principles and criteria, along with several annexes that include basic compliance guidelines. The Russian standard was accredited by the FSC in 2008 after almost a decade of numerous lengthy rounds of negotiations and revisions. Before it was approved, six certification organizations working in Russia each used their own interim standards. The differences in interim standards caused concern among NGOs and even the certification organizations themselves (personal communication with NGO activist). In contrast, most NGO activists approved of the introduction of the national standard, according to a national initiative executive (interview with national initiative executive). The accreditation manager for ASI (Accreditation Services International), an accreditation body for sustainability standards systems founded by the FSC to provide

independent accreditation of national initiatives, national standards and certification organizations in its own and other certification programs (e.g., the Marine Stewardship Council and Aquaculture Stewardship Council), considered the FSC national standard to be well-designed and strong (interview with ASI accreditation manager).

Although the majority of national requirements are not believed to present a serious challenge for implementation in Russia, several key criteria and indicators do exceed or contradict national law and practice and have required significant implementation efforts (interview with NGO executive, see also Malets 2011: 34–36). One of the important issues here is the “full utilization” approach encouraged in national regulations and traditional forestry practice. Forest certification standards, on the other hand, support minimizing the impact of forest management, particularly logging, on forests and require the protection of key biotopes, ecologically important structural elements on logging sites, and environmentally valuable forests, all of which contradict the “full utilization” paradigm. The FSC standard promotes at least two alternatives to the “full utilization” approach: one is the transition from large-size clear-cuts (removal of all trees on a relatively large logging site) to narrow strip cuts, multi-stage cuts, and selective cuts (“softer” logging techniques that are believed to reduce the negative impact of logging on forests). The other alternative is the exclusion of key biotopes, rare and endangered species and ecosystems, and valuable forests (e.g., old-growth forests) from clear-cutting.

As far as the first alternative is concerned, the national standard requires the forest companies to develop a program to gradually transition from clear-cutting to “softer” logging techniques (see Indicators 6.3.7 and 6.3.8 in FSC 2008b: 44). However, the Russian standard does not specify what such programs should include and how they should be evaluated, but merely that the program should exist and that the percentage of forest being harvested with “softer” techniques (compared to clear-cuts) should be documented. The evaluation of such programs is left to certifiers: certification organizations are entitled to judge whether companies have made enough progress toward “softer” harvesting.

The second alternative requires excluding ecologically valuable parts of logging sites (e.g., key biotopes) from logging. Russian forest regulations allow certain trees or parts of a logging site to be excluded from logging, but these must be documented in a logging permit or declaration before logging begins otherwise the majority of forest service officials will consider the conservation of ecologically important sites a violation of domestic regulations and penalize logging enterprises accordingly (interview with national initiative executive). Neither does the national standard specify how to comply with both national regulations and FSC requirements. Forest enterprises take different measures in order to fulfill FSC requirements and avoid penalties from the local forest service. In Arkhangelskaya Oblast, for example, a large industrial logging group negotiated general exemptions from logging rules with the regional forest service (interview with industry executive). The local forest service officially permitted the company’s log-

ging units to exclude certain trees or key biotopes from logging without penalties. In the Republic of Karelia, a large paper mill hired a group of young foresters and trained them to identify key biotopes and other types of trees that required special protection according to FSC standards (interview with company manager). This group joins forest service officials when they inspect logging sites before issuing logging permits. The foresters negotiate individual exemptions to be documented in each logging permit and help forest officials to identify trees that should be left on a particular site (interview with forest worker). They assist inspectors in formulating exemptions in a way that does not contradict legal requirements.

Certification also requires certified companies to conduct an inventory on their own (interview with national initiative executive). They must protect ecologically valuable forests, including ecologically important old-growth forests, as well as endangered ecosystems and habitat areas for endangered species. Several companies have declared a moratorium on logging in the old-growth forests that they otherwise would most likely have cut down, since the forests in question are not protected by law. Certified companies commission field studies to identify, map, and protect valuable forests, ecosystems and endangered species habitats (Malets 2011).

As shown above, forest certification promotes a number of forest practices that are likely to improve the condition of certified forests and protect some of their ecological importance (protection of biodiversity and HCVMs). While there is no universal solution that can be added to the national standard to resolve the contradictions between national regulations and FSC requirements concerning biodiversity, individual companies have been successful in finding compromises on their own. At the same time, the features of the Russian forest law outlined in the first part of this section are likely to limit the effective translation of FSC forestry requirements into on-the-ground practices: the state remains unable to provide reliable information on forest resources, bureaucratic obstacles to short-term identification of protected areas persist, legislation is incomplete, and ambiguities in regulations and forest management plans continue to exist at various levels.

With such severe legal uncertainty, the role of assessment procedures and certification auditors becomes crucial to understanding the impact of certification: how do certification auditors assess compliance with FSC requirements in these difficult circumstances? I deal with this question in the next section.

6 The effect of compliance assessment in practice

In contrast to a number of international NGO and media reports (Counsell/Terje Loraas 2002; Böttcher 2012), my interviews suggest that the FSC forest certification program enjoys the support of many Russian stakeholders, most notably environmental groups. These supporters are convinced that despite numerous difficulties, the program has successfully identified and rewarded enterprises whose forest management is in accordance with most FSC requirements (interview with FSC Russia executive; national initiative executive). Certification also gives activists, forest managers, local communities, and stakeholders leverage to influence enterprises' forest management and planning, even as they draw attention to the problems and weaknesses of the FSC assessment system, namely the legal uncertainty that may restrict behavioral change from forest certification. Many auditors employ a flexible approach to evaluating compliance and many forest managers remain at the lowest margin of change necessary to qualify for a certificate (interview with NGO executive). Problems with the compliance assessment practice have been identified by auditors, certification bodies, and stakeholders. These findings will have implications for the evaluation of FSC effectiveness in Russia.

Even though forest certification auditors must regard the FSC standard as a set of strict prescriptions enterprises have to follow, they also perceive certification as “a process of moving in the right direction” (interview with certification auditor): a beginning of forest management reforms at the enterprise level, rather than a final destination. Auditors assess companies' performance not only against the certification standard, but also in view of the unfavorable circumstances in which they operate, as well as their progress, efforts, and attitudes:

... we see that people actually work [to achieve certification]. We do not expect them to do everything perfectly. But we see that they are trying to act as international standards prescribe. ... When we see these positive developments, we realize that the system works. (Interview with certification auditor)

This suggests that the efforts and intentions of forest managers are taken into account alongside their compliance. This does not mean that auditors can certify any company regardless of its performance, but it shows that compliance does not have to be “perfect” in the eyes of auditors.

Auditors rely on reason and common sense when making decisions about compliance. They are aware that forest enterprises cannot be held responsible for everything that they do in the forests they lease, since domestic regulations are often overly rigid and do not necessarily stimulate environmentally appropriate forest management. Forest managers may want to protect some parts of their forests as high conservation value areas or leave certain trees on a logging site, including ecologically valuable seed trees and dead trees, but they know that the local forest service will sanction such behavior:

And forest companies are not the ones to solve it [this problem]. We can't require the impossible from them. So we use our common sense to make a decision. (Interview with national initiative executive)

Auditors thus become responsible for controlling the implementation over time:

He [an auditor] sees that a company should have a certain document, for example a forest management plan. But it cannot develop it before certain governmental regulations are in place. ... The auditor has to issue a corrective action request, but if a company does everything right without this plan, the auditor cannot suspend the certificate. If there are no governmental regulations, the auditor has to control for it. (Interview with FSC Russia executive)

An auditor must use his or her own judgment to make a decision in such a situation. There are no documents or guidelines to aid decision-making because there is no forest management plan and no federal or local regulations in place.

The system gives auditors some discretion in interpreting standards and making certification decisions; they will not withhold issuance of a certificate until companies can radically reform their forest management over a short period of time. This is partly because "forest certification is for advanced companies" (interview with national initiative executive), but certification organizations will also grant certificates provided that enterprises have demonstrated reasonable progress toward better forest management as compared to their situation before certification, keeping in mind the difficult context in which forest enterprises operate. Not only is actual compliance rewarded, but "good intentions" are as well (interview with national initiative executive). The goal is to motivate enterprises to improve their practices:

Companies that wanted a certificate and got it in advance ... have to confirm that they have improved within the few years that follow. If they cannot, they will lose their certificates. ... And I expect that some companies will lose their certificates. (Interview with national initiative executive)

Indeed, in 2007–2012 several certificates were suspended by certification organizations because of significant noncompliance with FSC standards. In March 2012, 10 out of 214 certificates issued in Russia were marked as suspended in the FSC Certificate Database (<http://info.fsc.org/>, accessed on 6 March 2012).

From my observations, it seems plausible that a certification system based on stringent, yet relatively broad principles and criteria and giving discretion to certification organizations and auditors is likely to be perceived as credible and effective if (1) major stakeholder groups are convinced that certification organizations and auditors are able (and willing) to assess forest management properly and detect noncompliance and (2) if the FSC, as a standard-setting organization, is able to monitor and control certification organizations effectively. The FSC enjoys relatively broad support among environmental and social activists and nongovernmental organizations (Ozinga 2005: 38), but there has

also been criticism suggesting that FSC certification system is riddled with corruption and abuse and crippled by a lack of monitoring capacity (Counsell/Terje Loraas 2002). Although I was unable to detect corruption or fraud, my data indicates that the competition between certification organizations over certification price and the continuous rapid expansion of certified forest areas does undermine the ability of stakeholders to monitor certification organizations and has a negative impact on the quality of compliance assessment. Here quality is defined as the thoroughness of compliance assessment; a lack of quality increases the likelihood of noncompliance being overlooked.

Many experts have observed that since forest certification began in Russia, around 2003, the certification organizations, auditors, and stakeholders involved have experienced a significant learning curve, developed auditing skills, and accumulated new knowledge and experience (personal communication with an NGO executive, see also Malets 2011). Price competition among certification organizations has also intensified, however, and this has affected the quality of compliance assessment (interviews with certification organization executive; NGO executive; FSC Russia executive; national initiative executive). Certification organizations calculate the cost of certification based on the area to be certified, auditors' fees, the number of auditors in an assessment team, and the number of days that the assessment is expected to take. To minimize costs and attract more clients, certifiers will decrease number of auditors and experts in an assessment team and the number of days designated for each assessment. According to an early supporter of the FSC in Russia who participated in several early audits, in 2003–2004 there were up to ten auditors and experts attending each assessment. This number has gradually decreased to two to four auditors, while the amount of work that auditors have to do has steadily increased (interview with NGO activist). As a result, the thoroughness of audits is likely to decrease. Auditors risk overlooking noncompliance, and companies may then choose to avoid the changes in practice that otherwise would be required for certification. An auditor reports:

The problem is that we now have many certification bodies in Russia. ... On the one hand, competition is good. But on the other hand, it is bad, since the price goes down. The price depends on the amount of people [in an assessment team]. This is why the quality is going down. ... We are trying [to maintain the quality], but we have lost several tenders lately because of it. ... Here is a company in Siberia, 1.5 million hectares. Our offer was to assess it with three people in five days, and I think that's not enough. We calculated the budget using our profit margin, which is close to zero, but we lost. This means that someone offered an even lower price. The quality is decreasing, that's for sure. (Interview with certification organization executive)

Five certifiers currently operate on the Russian market for certification services.⁶ It would be reasonable to believe that the growing demand for certification should either attract more certifiers to the Russian market or drive the price of certification services

6 Three certification bodies dominate the market: NEPCon (partner of the Rainforest Alliance's SmartWood) issued 38 out of 75 certificates, or 51 percent; the GFA issued 11 certificates, or 15 percent; OOO Lesnaya Sertifikatsiya issued 21 certificates, or 28 percent. Soil Association and SGS issued two and three certificates respectively (Malets 2012).

up. Yet even as more enterprises have become interested in forest certification,⁷ the pool of available certification auditors and certification bodies has not seen any significant growth. The most likely reason seems to be the substantial cost of entry into the certification market: certification bodies are required to complete a time-consuming and costly accreditation process; auditors are recruited from among experienced high-profile forest management experts, but before they can act as auditors, they must complete at least one year of training and several internships. At the same time, it appears that certifiers are not using their advantage in the market: it seems likely that the structural and power asymmetries between relatively small certifiers and large companies are impeding price increases.

As a result, the number of clients per auditor has increased. Many clients have considerable areas to assess and monitor. Certified forest areas range from 8 thousand to 1.6 million hectares, with about 150 thousand hectares per enterprise on average (FSC Rossiya 2013). In addition, the FSC standards, policies, and procedures are growing in number, are continuously being revised, and are becoming more complex and formalized. This makes it harder for auditors to keep track of new developments and effectively implement them in practice (interviews with NGO staff member; certification body executive; FSC Russia executive). An NGO activist perceived the situation in the following way:

The auditor comes to the forest management unit, and he already has ten of those [forests to audit]. And he has to monitor each of them: he has to follow corrective action requests, deal with the correspondence, follow the implementation of the requirements, and so on. ... And he has another ten applications. So he starts to hurry it up. He has ten thousand hectares to assess in two days. He quickly collects materials, does not have time for personal interviews, and then he leaves. And then there is the certificate. This is decreasing quality. (Interview with NGO staff member)

The FSC, ASI, and various environmental experts have also drawn attention to the lack of well-trained and experienced auditors and experts in ecology, social issues, worker rights, and biodiversity conservation in the rapidly growing certification market in Russia (interviews with NGO staff member; FSC Russia executive). At a meeting with representatives from certification organizations in Russia in April 2007, a representative from ASI addressed the systematic inadequate assessment of firms' compliance with FSC principles relating to worker rights and community well-being (Principle 4), environmental impact of forest management (Principle 6), forest management plan (Principle 7), monitoring of the social and environmental impact of management activities (Principle 8), and HCVPs (Principle 9; ASI 2007). The head of the FSC national office for Russia also acknowledged the lack of qualified experts and consultants as a problem and reported that only a handful of certified enterprises had actually improved their forest management, while the rest had not demonstrated any progress (FSC Rossiya 2007).

7 In 2004–2012, the total area of certified forest grew from approximately 4 to 30 million hectares (FSC Rossiya 2013).

The skeptical attitude that many environmental and social activists involved in forest certification have toward auditing has been reinforced by their own diminishing capacity to monitor and control assessments. Environmental NGOs' resources are limited. This makes it difficult for them to participate in the growing number of audits and to monitor an increasing number of enterprises between annual audits. NGO staff members reported that they used to closely follow the certification process for a handful of the first certified enterprises, but could no longer do so because of the lack of necessary resources and the greater number of certified areas (interviews with NGO executive; NGO staff member). Some activists also perceived that the role and status of external assessment observers had changed over time. Initially all observers were welcome at assessments and were able to take part in them without approval, whereas now independent observers are required to obtain permission from both the certifying organization and the enterprise. In 2009, this rule was codified by the FSC in an FSC Advice Note (FSC 2009b). Certification bodies are required to comply with formal advice notes.

We noticed that observers were always present at the first assessments in Russia, while today the participation of observers has to be approved by both certifiers and certified companies. If it is approved, they like to say: good, now you find your own transportation and accommodation. We have just been in Visinga [a village in the Komi Republic, 88 km south of its capital] but when you go just fifty kilometers further – where are the observers going to stay? There is nowhere to stay, and the observers don't come. ... So the formally open system becomes closed. (Interview with NGO staff member)

In addition, NGOs complain that the comments reviewers make on auditors' assessment reports are no longer taken seriously. FSC rules hold that assessment reports – the basis of a certification organization's decision to certify an enterprise – are subject to peer review by independent experts who did not take part in the assessment, often members of environmental NGOs. Certification bodies are required to respond to reviewer comments and to take them into account when finalizing an evaluation report (FSC 2009a). The reviewers, however, felt that certification organizations often did not take reviewers' comments into serious consideration (interview with NGO staff member).

In response to the growing concerns environmental and social stakeholders have expressed about their decreasing control over certifiers' and producers' performance, and the competition among certification bodies – not only in Russia, but worldwide (e.g., FERN et al. 2008; Boström 2012: 11) – ASI and the FSC introduced a set of measures aimed at strengthening monitoring and control in the certification program. In 2007–2008, the ASI began conducting short-notice audits. These complement annual surveillance audits of certification bodies' performance and are intended to evaluate certifiers and producers with little lead time. For example, in 2007 the ASI conducted 14 short-notice assessments in China, where environmental organizations considered the situation surrounding forest certification to have become challenging. The ASI also included Russia in its so-called high visibility regions, producing additional short-notice audits (ASI 2007). Recent short-notice audits took place in June 2011 and March 2012.

The FSC and ASI also organized meetings in Bonn, where the two organizations are located, and in major forest regions of the world, including a meeting between certification bodies and major environmental organizations, in order to discuss the most challenging global issues in the development of the FSC forest certification program. These meetings resulted in a set of agreements and recommendations addressing the problem of credibility that the environmental organizations raised. In cooperation with national initiatives, ASI has also organized training courses aimed at improving auditors' qualifications and fostering the development of national indicators for the FSC's generic P&C. The FSC has improved its dispute resolution mechanism and reformed its financial and administrative system to increase financial resource inflow and improve its standard-setting and accreditation services (interview with FSC executive). Over time, the FSC has also intensified its efforts in developing and providing guidance to certifiers, companies, and stakeholders in how to interpret and implement the FSC's standards and criteria.

In Russia, the FSC national office together with the national working group, environmental organizations, and ASI have organized a series of meetings and training courses for auditors and stakeholders. In August 2007, the FSC Russia organized the first two-day training seminar for certifiers and auditors addressing the most problematic aspects of forest certification: HCVPs, new forest legislation, social aspects of forest certification, and environmentally appropriate forest planning and management. The aim of these seminars was to improve the qualification of auditors and provide guidance to certification bodies and their auditors on the interpretation of standards, thereby harmonizing certifiers' diverging approaches to certification. Training seminars and meetings still take place regularly.

These measures indicate that the FSC takes the credibility issues and other challenges raised by stakeholders seriously. Unfortunately, to date there have been no systematic studies of the performance of certification bodies in a cross-national perspective or of the effectiveness of the measures introduced by the FSC and ASI to improve the reliability of the certification system. NGO statements and media reports represent the only sources of information on the poor performance of certification organizations and certified enterprises in various parts of the world and do not permit conclusions as to whether the poor performance is systematic and should cause concern among decision-makers, retailers, and consumers. Scholars also rely on interviews with environmental groups and other stakeholders (Boström 2012: 11). My data suggests that the performance of certification bodies and auditors should remain under the close scrutiny of the FSC, ASI, and stakeholders. At the same time, these data should also be reviewed in the context of the emerging debates about the role of trust and distrust between certifiers, FSC executives, and stakeholders. Moreover, relating these findings to the perspectives on effectiveness may highlight even more the complexity of implementation and of on-the-ground interactions among standards, national regulations, and various stakeholders. I address these issues in the conclusion.

7 Conclusion

My study takes into account the complexities of the interactions among transnational sustainability standards and procedures, local actors, and their institutional environments when analyzing the effectiveness of transnational non-state market-based governance. The results presented in two of the sections above, for example, challenge the findings of Marx and Cuypers (2010), who tested the relationship between FSC certification density (the proportion of FSC-certified forests in a country's total forest area) and governance institutions statistically and found no correlation between certification and the institutional setup of a country. They argued that "from an institutional point of view, there are fewer obstacles referring to institutional characteristics" (Marx/Cuypers 2010: 422–423). My results, however, suggest that the relationship between domestic institutions and certification is more subtle. Contrary to some expectations, an extensive, complex, and prescriptive set of domestic regulations, as in the Russian case, may restrict the impact of certification on the ground if these regulations are not coordinated and consistent and/or if their implementation and enforcement is weak. In Russia, this restriction has been reinforced by ineffective institutional reform.

Yet this argument does not render a complete picture either: my findings do suggest that Russian forest law and its implementation pose several serious challenges for the implementation of certification requirements, but domestic actors may deal successfully with at least some of them. They can activate the existing laws and regulations (law on the books) that are not used in action, in order to justify the implementation of certification requirements that contradict existing forest management practice. By doing so, they introduce and establish new practices at the level of an individual enterprise that may potentially trigger incremental gradual changes in both forest management practice and law over time, as the recent historical institutionalist literature suggests (Streeck/Thelen 2005; Thelen 2002; Djelic/Quack 2003). More research is needed to understand under what conditions this occurs. Particularly important here is the role of the creative actors who are able to make strategic use of the resources offered by law on the books to pursue their goals and to introduce forest management practices, including biodiversity protection on logging sites, that are likely to improve the state of certified forests in the long run.

The second proposition put forward in the beginning of this paper is that the operation of the FSC compliance assessment system through independent certification organizations has a restricted impact on the outcomes of certification standards. First, my data suggest that auditors are flexible in interpreting the standard and will evaluate not only compliance, but also the performance of certified operations given the difficult context in which they operate. Second, the data indicate that key stakeholder groups, including environmental activists but also auditors, certification organization executives, and executives of FSC Russia, perceive the quality of certification audits as problematic. Whereas the national standard for Russia is considered sound, the ways it is implemented in practice do not always match stakeholder expectations. Moreover, auditors and

certification bodies report that they operate under the pressure of price competition in the market for certification services. The lack of well-trained auditors also contributes to concern over the “thoroughness” (quality) of certification audits on the ground.

How unique is the case of Russia? Can the results of the study be generalized? Forest certification is difficult everywhere and entails significant costs. In some contexts it may be easier than in others, but generally forest certification standards exceed domestic regulations and require changes in existing forest management practices (Newsom et al. 2006). What’s more, the inconsistencies in forest law, its orientation toward the use and exploitation of forest resources rather than their protection and conservation, and the weak enforcement of domestic law are not only typical of Russia, but also exist in many other countries other than the advanced industrial economies of the Global North. Major forest law reforms have also occurred in other settings: in 2012, Brazil adopted a new forest code that some observers fear is likely to interact in unexpected ways with transnational state and non-state rules and institutions of forest governance (Adelmann et al. 2011). Difficulties with compliance auditing and assessment represent a recurrent theme in public debates about certification and labeling (FERN et al. 2008; Boström 2012; Böttcher 2012). The challenges described in the paper may therefore significantly affect the implementation of transnational standards in other countries as well. In general, my study points out the need to take the implementation dynamics and interactions between certification and labeling standards and domestic norms and transnational and domestic actors into consideration in order to explain the specific on-the-ground changes in forest management.

The negative effects that price competition among certifiers and other factors have on certification effectiveness deserve our attention, but the interpretation of my data also depends significantly on the definition of impact and effectiveness. If effectiveness is defined as a forestry firm’s compliance with the pre-specified standard and consequent behavioral change (provided there is a gap between the standard and behavior), the inability of auditors and certification bodies to effectively enforce the implementation of the standard and control for the quality of their performance may be interpreted as restricting the potential of forest certification to trigger environmental and social change. This legalistic approach, however, overlooks an important aspect of effectiveness – its uptake. Stringent and rigidly enforced standards may in fact lead to a weakening of the effectiveness of certification and labeling. They would likely increase implementation costs and discourage companies from improving and certifying their forest management. Cashore, Auld, and Renckens (2011: 352) call this a “high standards, low support; low standards, high support” dilemma.

More stringent standards could also lead to the emergence of competitor certification schemes that would offer lower standards and less strict assessment procedures. This in turn would restrict the uptake of more prescriptive standards and undermine their diffusion. Research on forest certification has shown that in regions where FSC stakeholders developed particularly demanding standards, the industry’s initial interest in the

FSC declined. Instead, the industry supported certification programs that offered lower standards and less strict compliance assessment (Cashore et al. 2011: 352). From this perspective, a more flexible evaluation approach might indeed lead to less significant behavioral changes immediately, but could foster certification uptake and industry support for higher standards and trigger incremental change in environmental and social practice over time.

In addition, the pressure for more formalized control of certifiers' performance and behavior may be counterproductive, as demonstrated by a study in British Columbia on the role that certifiers, and firms' trust and distrust of them, have in shaping certification standards and outcomes (McDermott 2012). McDermott (2012) showed that social ties among environmental groups, certifiers, and enterprises facilitated trust and cooperation among them. The more rationalistic system of compliance assessment based on formalized control, technocratic competence, and independent certifiers fostered distrust in the FSC system, demotivating producers interested in forest certification and increasing concerns about the credibility of the FSC system among environmentalists (McDermott 2012: 642). Silva-Castañeda (2012), in her study of the third-party auditing of oil palm plantations in Indonesia, came to a similar conclusion: a legalistic approach to auditing did not allow auditors to take into consideration the evidence of unresolved land conflicts that local communities brought forward, because the standard and compliance system was based on the rationalistic understanding of evidence and did not acknowledge other types of evidence.

My data show that as certified areas increase and the number of certified operations grows, environmental groups are no longer able to participate personally in on-the-ground audits or to observe them. They also feel that their comments and suggestions are no longer taken seriously. This may lead to FSC stakeholder frustration and disappointment in the FSC system. Yet the right solution is not to increase formalized control, but to enable effective communication and exchange between enterprises, certifiers, and stakeholders during on-the-ground audits.

The conclusions from my study indicate that we must take the interactions between various local actors and their institutional environment into consideration in order to understand the impact and effectiveness of non-state market-driven governance on the ground (Dobusch/Quack 2013; Bartley 2010). Several recent studies of the interactions between governance initiatives and various actors point out the importance of such interactions, but these have focused mainly on transnational standard-setting and domestic responses and less on standard implementation (Overdevest/Zeitlin 2012; Gulbrandsen 2012). More research is needed if we are to understand local dynamics. The role of certifiers, auditors, and auditing in particular has been insufficiently studied, even as the emerging literature on environmental certification and labeling suggests that all three are critical in shaping governance outcomes (McDermott 2012; Silva-Castañeda 2012).

We must pay more attention to the interactions and processes that generate numerous credibility issues for certification and labeling, as well as the impact that certification and labeling can have on the environmental and social practices of enterprises. Many environmental groups and scholars have called for greater emphasis on the performance of certifiers (FERN et al. 2008; Boström 2012: 11). More radical organizations have even warned that a “race to the bottom” among certifiers is occurring (Counsell/Terje Loraas 2002). We should critically examine the roots of these perceptions (as my study does) and acknowledge that they may be due not only to the problems with certifier and producer performance or the political agenda of NGOs, but also to the “spiral of distrust” reinforced by increasingly formalized and bureaucratized systems of standard-setting and compliance assessment (McDermott 2012).

Observers have also stressed that not all certifiers are created equal: where some demonstrate better compliance assessment, others are believed to be weaker (Maletz/Tysiachniouk 2009). More systematic research is necessary to understand whether the choice of certifiers and certification auditors matters for the quality of forest certification or, in other words, whether certification impact depends on who is assessing firms’ compliance with a certification standard. Do profit or nonprofit certifiers perform better? Are there other motivators of a certifier’s behavior? Do certifiers only aim for the lowest price, or do they also have different strategies concerning the quality of their performance? It would be also helpful to compare the performance of certification organizations in countries where the market for certification services is captured by several certification organizations (e.g., Russia) with certifiers’ performance in countries where there is no competition. Finally, to test the claims of this study, more research is needed that compares certification and labeling in different issue areas.

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