

Appendix

Overview of power dynamics through the new (re-)regulation of global supply chains

State of research perspective	Analytical questions for studying new regulation	Private regulation (voluntary certification)	Public supply-chain-related laws	Hybrid transnational governance
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(1) Globalization and the withdrawal of the state led to a new private *power over* nation-states at the expense of environmental and social considerations.

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| <ul style="list-style-type: none"> • Does the regulation comply with WTO rules: And if yes, how does it comply? | <ul style="list-style-type: none"> • WTO acknowledges technical regulations so long as they do not discriminate against products with a different country of origin, or form an unnecessary obstacle to free trade. | <ul style="list-style-type: none"> • Mandatory requirements for importers are based on due diligence (or due care), i.e., the principle of disclosure. • Timber laws rely on definition of legality by exporting country. • Liability is attached for false statement. | <ul style="list-style-type: none"> • EU-RED reflects both the shadow of the WTO (no ban) and the UNFCCC (need for GHG emission reductions). • Mandatory share of biofuels in the overall energy mix, and these biofuels have to comply with meta-standard (proven by certification). • Lack of market incentive makes private certification de facto mandatory for biofuels in the EU. |
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	<ul style="list-style-type: none"> • Does the regulation support a race to the bottom regarding environmental and social considerations? 	<ul style="list-style-type: none"> • Governments use voluntary certification to compensate for a lack of environmental regulation, e.g., Austria financing Forest Stewardship Council (FSC). • Public regulation is limited to voluntary use of term <i>organic</i> (e.g., EU Organic Regulation, US NOP) and protection of trademarks (e.g., FLO label). • Privatizing <i>up</i> in market niches occurs. 	<ul style="list-style-type: none"> • Public laws change the rules of the game for all companies (race to the top). • Environmental and social considerations fall behind earlier ambitions of private regulation in voluntary niches (legal and/or conflict-free instead of sustainable and/or organic production; race to the bottom). 	<ul style="list-style-type: none"> • EU-RED makes certification de facto mandatory for all biofuels; there is no dependence on individual consumers. • New private schemes are less ambitious compared to earlier schemes in defining sustainability standards. • New public schemes of exporting countries only verify legality (instead of sustainability).
	<ul style="list-style-type: none"> • Does the regulation lead to further centralization, or fragmentation and polycentrism of global governance? 	<ul style="list-style-type: none"> • WTO faces an increasingly fragmented landscape of certification schemes. 	<ul style="list-style-type: none"> • Further fragmentation is due to diverse domestic laws in addition to existing and new certification schemes 	<ul style="list-style-type: none"> • Further fragmentation is due to additional private certification schemes to prove compliance and new public schemes from exporting countries in response.
	<ul style="list-style-type: none"> • Is there a zero-sum power shift to TNCs or other private actors? 	<ul style="list-style-type: none"> • New authority of private collective and individual actors in defining standard contents (“sustainable forestry,” “better cotton”) occurs. 	<ul style="list-style-type: none"> • Shift of regulative authority to the private importers who are supposed to enforce rules extr territorially occurs. 	<ul style="list-style-type: none"> • Shift of regulative authority to the private certification schemes occurs.

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	<ul style="list-style-type: none"> • Are NGOs a counterpart to TNCs and/or are they themselves subject to a neoliberal discourse? 	<ul style="list-style-type: none"> • NGOs is counterpart to businesses. • Ethically conscious consumerism replaces political activism. 	<ul style="list-style-type: none"> • The laws depend on NGOs and their capacities to monitor and control the business sector abroad. • The laws are based on disclosure and partly depend on consumers' demand for environmentally and/or socially conscious products. 	<ul style="list-style-type: none"> • NGOs are a counterpart to TNCs and state actors in producing countries.

(2) There are increasing asymmetries between actors in consuming countries of the Global North and actors in producing countries of the Global South.

	<ul style="list-style-type: none"> • Are the regulations and/or WTO rules favoring countries of the Global North? 	<ul style="list-style-type: none"> • Voluntary certification allows consuming countries to bypass the opposition of the producing countries in intergovernmental negotiations. • WTO nondiscrimination principle does not recognize North-South inequalities. 	<ul style="list-style-type: none"> • Public supply-chain-related laws allow consuming countries to enforce rules in producing countries • Increasing interest in VPAs demonstrates that market incentives of the Global North work to strengthen public institutions in the Global South. • De facto embargo against countries with weak institutions and/or areas with armed conflicts in the Global South occurs. 	<ul style="list-style-type: none"> • Request for sustainability certification limits access to Northern markets. • Southern countries warned to file a WTO complaint over unfair barriers against their biofuels.
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State of research perspective	Analytical questions for studying new regulation	Private regulation (voluntary certification)	Public supply-chain-related laws	Hybrid transnational governance
	<ul style="list-style-type: none"> • Are NGOs or other actors speaking on behalf of the Global South? 	<ul style="list-style-type: none"> • NGOs speak on behalf of people in Global South but are accountable to donors in the Global North. • Certification depoliticizes resource flows from the South to the North. 	<ul style="list-style-type: none"> • Governments adopting supply-chain-related laws and businesses, especially those selling certified products from the Global South, claim to benefit local people. 	<ul style="list-style-type: none"> • NGOs and marginalized groups in the Global South gain new resources and capabilities for agenda-setting and stating grievances. • Private schemes, including grievance procedures, strengthen NGOs vis-à-vis public authorities of the Indonesian nation-state.
	<ul style="list-style-type: none"> • Is there self-determined agency among actors of the Global South? 	<ul style="list-style-type: none"> • Political pioneer schemes are able to unite, engage, educate, and inspire people. • Developing countries' self-determination is further undermined, if their citizens turn to the private sector for governance instead of to their own governments. 	<ul style="list-style-type: none"> • By building upon legality defined by exporting countries, the laws support state actors in the Global South. 	<ul style="list-style-type: none"> • No, RED meta-standard is purely defined by Europeans, and private schemes are dominated by actors from the Global North.
	<ul style="list-style-type: none"> • Do actors in the Global South gain new resources and capacities from the regulation? 	<ul style="list-style-type: none"> • Individual producers and certification initiatives gain additional resources and capabilities (e.g., farmers through training provided by certification initiatives). 	<ul style="list-style-type: none"> • Law-abiding and/or certified actors gain market advantages. 	<ul style="list-style-type: none"> • Actors in line with RED-defined sustainability gain additional resources and capabilities.

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(3) State and nonstate actors are not continuously selfish but exercise power with others to pursue collective norms of environmental sustainability and social justice.				
	<ul style="list-style-type: none"> • For which norms and values does the regulation stand? 	<ul style="list-style-type: none"> • Movements and NGOs initiated certification schemes for collective norms of environmental protection and fairness in world trade. 	<ul style="list-style-type: none"> • Countries of the Global North enforce the implementation of collective norms (international peace; forest and biodiversity conservation; climate mitigation; legality). 	<ul style="list-style-type: none"> • NGOs exercise normative power by pursuing environmental protection and social justice (land reform). • EU pursues sustainability with a focus on climate change mitigation. • ISPO also aims for sustainability (while equating the concept to legality).
	<ul style="list-style-type: none"> • Are these commonly generated and shared norms (power with)? 	<ul style="list-style-type: none"> • Private regulations generally pursue universal norms but also take a stance with regard to controversial issues such as GMOs. 	<ul style="list-style-type: none"> • Ending blood consumption serves the people in resource-exporting countries. 	<ul style="list-style-type: none"> • EU enforces international norms in the Global South but based on predefined interpretation.
	<ul style="list-style-type: none"> • Do actors that are more capable coerce and manipulate others in finding only supposedly common ground? 	<ul style="list-style-type: none"> • Private regulation does not recognize unequal starting positions of companies in the Global North and South. 	<ul style="list-style-type: none"> • Southern governments and TNCs are coerced to cooperate by means of market power. 	<ul style="list-style-type: none"> • Southern governments and TNCs are coerced to cooperate by means of market power.
	<ul style="list-style-type: none"> • Is market power used to pursue environmental and social norms? 	<ul style="list-style-type: none"> • Although certification is voluntary and hence soft power, it effectively limits Southern producers' access to global markets. 	<ul style="list-style-type: none"> • Public supply-chain-related laws are hard power and effectively limit market access. 	<ul style="list-style-type: none"> • RED (and US RSF) is hard power and effectively limits market access.

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	<ul style="list-style-type: none"> • Do universal norms and ethical values serve trade discrimination of Southern countries? 	<ul style="list-style-type: none"> • Businesses accept voluntary mechanisms to prevent state regulation, and this affects in particular countries with weaker regulation (in the Global South). 	<ul style="list-style-type: none"> • De facto discrimination of Southern producers—in particular, small businesses without legal status occurs; there are also additional compliance costs for businesses from importing countries. 	<ul style="list-style-type: none"> • Certification requirements impede access to the European market for producers from the Global South (but same requirements for producers inside the EU).

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By: Lena Partzsch

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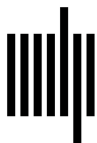
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