

Reviews by Sheelagh O’Reilly

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At a time when the United National Forum on Forestry has indicated that it will work towards a non-legally binding instrument on forestry (for report from UNFF6
as approved by ECOSOC in July 2006 see http://www.un.org/esa/forests) and when the International Tropical Timber Organization (2006) publishes a report indicating that only 5 per cent of topical forests are managed sustainably these two books present material on alternative approaches to forest management led by citizens, consumers, non-governmental organizations (NGOs) and industry rather than by states and international organizations.

Cashore et al. indicate that the scope of their publication, focusing on forest certification in North America (Canada and United States) and Western Europe (UK, Germany and Sweden) is based on the premise that ‘if non-state market-driven governance fails to institutionalize fully in developed countries, it could very well disappear as an innovative policy instrument to address forest deterioration globally. And the inverse may be true – institutionalizing certification in the North may create the strongest and most effective way of developing certification institutions in the global south.’ (p. 6) Besides a short introductory chapter highlighting the emergence of Non-State Market-Driven Authority which leads into an explanation of the approach used for their study, this book does not situate these approaches to forest management within a wider context. For that it would be appropriate to turn to the book byKirton and Trebilcock. This has a much broader focus and examines a range of ‘soft law’ issues globally many of which are directly relevant to forestry and the forest industry. It does contain three case studies regarding Forest Certification, including one co-authored by Benjamin Cashore the senior author of the other book in this review.

Kirton and Trebilock provide an overview of ‘hard’ and ‘soft’ law including some of the difficulties associated with the formation of binding international law which may have led to the development of soft law. Their book covers forestry, as trade in timber and forest products as well as a wide range of local, regional and global ecosystem services, including possible climate change mitigation increase the forest sector profile in the global arena. Case studies cover forestry, labour, corporate responsibility and well as trade and environmental issues. All these topics should be of interest to managers in forest companies, as these businesses are increasingly operating in an international market that is subject to calls for Corporate Social and Environmental Responsibility (CSER). One of the processes through which businesses and consumers are responding to these CSER issues, especially for timber, is through Forest Certification. Forest governance and the control of illegal logging is a topic of growing importance globally, not least because of the rise of forest certification organizations, initiates e.g. through the EU Forest Law Enforcement, Governance and Trade (FLEGT) to establish public procurement processes for legal timber.

The two books under review have chapters on British Columbia, Canada, which highlight the complexity of certification processes and the difficulties of achieving agreements between highly disparate stakeholders. These stakeholders can range from indigenous peoples, forest companies and environmental NGOs. It furthermore shows how, especially in the discussion in Kirton and Trebilock, the development of forest certification does not take place in a vacuum. Certification processes take place within national and international human rights law (including treaty law) that are developing a range of standards including that of Free Prior Informed Consent for Indigenous Peoples in relation to activities on land to which they have claims. In addition, forest companies often operate in a global context where setting of environmental, human rights and labour standards may affect profitability but which could be manipulated for strategic gain including access to certain markets. Cashore et al. focus on the development of support for the Forest Stewardship Council (FSC) in British Columbia from the perspective of forest companies highlighting the finding that ‘an imperative of non-state market driven systems if that they maintain economic incentives for profit-maximizing firms’ (p. 61).

The lessons learnt from the case studies in Cashore et al. provide some interesting pointers for efforts to increase support for FSC initiatives in the tropics including the positive statement that “race to the bottom” effects of economic globalization can be reversed by efforts to link access to these markets with environmental performance requirements’ (p. 224). However, the practical reality of undertaking FSC processes in tropical forests and countries without good governance structures is illustrated by de Azevedo’s Brazilian case study in Kirton and Trebilock. It highlights the extra costs which might be incurred by community forestry projects seeking certification, even as these projects are attempting to contribute to local livelihood development through finding market niches. The implementation of formal forest management plans, their monitoring and evaluation may be a new concept in many countries where there is a low capacity among government officials whose responsibility is this. Combined with out of date laws and regulations (legality issues), corruption, low formal education and remoteness the day-to-day application of certification requirements can be problematic. In the short term, it is possible that forest certification processes may have a more significant impact on national and international policy arenas and help to create a better overall governance arrangement through which forest-land management can contribute to local economic development.

Academics and forest management practitioners would do well to read these two books in tandem to get an overall picture concerning the complexity of forest certification processes and the changing use of soft
approaches in areas where environmental, human rights and trade law intersect. These books are well referenced and therefore provide an important statement concerning forest certification processes in the early part of this century. Understanding the tensions highlighted in these works can provide an important understanding of how the certification, and wider FLEGT debate is moving. Forest management has global implications and forest policy makers, as well as forest managers need to see how their sector links to wider development in international law, and importantly international lawyers and academics need to grasp the complexities associated with the practical application of principles, norms and criteria for management. Without this dual understanding there is a danger that strategic decisions relating to forest protection and production globally will be ill informed and possibly contribute to the ongoing reduction in the quality and quantity of all types of forests.

Reference