# TRANSNATIONAL ARENAS, PUBLIC POLICIES AND THE ENVIRONMENT: THE CASE OF PALM IN THE AMAZON

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## 1. Introduction

This work is the result of field research conducted between January and March 2012 in the main palm oil producing region in Brazil, situated in the State of Pará and encompassing the municipalities of Moju, Tailândia and Acará. Its scope also included Belém, the state capital, where a company, after extracting the crude oil in the areas where palm is cultivated, refines the palm oil. Semi-structured questionnaires were applied to a number of stakeholders directly involved in the palm oil value chain, such as small producers, workers' unions, suppliers, NGOs, and the state of Pará's governmental agencies, as well as local authorities, namely the governments of the three municipalities where palm oil is cultivated.

This work has two main objectives: firstly, to highlight the influence of transnational arenas in the context of International Relations. It is well-known that the 21st century marks the emergence of non-State actors in a context where, traditionally, the State has exclusively exerted its sovereignty (Hall and Biersteker, 2002; Pattberg, 2005; Cafaggi et al., 2011). These actors set up arenas which are truly transnational, since decision-making processes involve the creation of standards and the implementation of agreements that are not under the control and influence of States and International Organizations (IOs) (Cashore, 2002; Büthe, 2010). In the case of palm oil, the transnational arena is defined by a multi-stakeholder initiative (Hale and Held, 2011), where adopted regulations are enforced through market incentives. Compliance is monitored through auditing and socioenvironmental certification schemes (Perosa, 2010).

Secondly, this case study allows us to understand the relationship between the private sector and the influence it has on public policies in the domestic (national) sphere, through the corporate strategy of a company acting within the Palm Oil Sectorial Chamber. The public-private synergy, fruit of the leadership of public managers in conjunction with that company, resulted in high socioenvironmental standards for palm oil

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cultivation in Brazil. Since palm oil cultivation is associated with deforestation and the loss of biodiversity in Asia, this commodity's main export and region of production, Brazil has stood out due to its control over palm oil cultivation in regions of native forest. At the same time, Brazilian environmental and social regulation strengthened the position of the company in the transnational arena that regulates the global palm oil market. Similarly, it allowed the Brazilian company to develop a competitive strategy based on the adoption of labels and certifications that provide market access and ensure higher prices for the Brazilian palm oil. This overlapping between the 'domestic' and the international spheres fostered the projection of Brazil's soft power through socioenvironmental regulation and strengthened the Brazilian palm oil company in the commodity value chain, with the acknowledgement that vegetable oil production in Brazil not only respects the environment, but also the social and labor rights enshrined in the legislation.

Despite the apparent success of the Brazilian palm oil production, the current article highlights some important issues. Without real market power, how can the prominent position of the Brazilian company be explained, if production costs are higher in Brazil? Why did this Brazilian company decide on a competitive strategy involving adherence to socioenvironmental standards? How did the synergy between its corporate strategy and the Brazilian government's policy for promoting palm oil emerge, in view of the fact that palm is an alien commodity, with no cultivation tradition in Brazil? Section 2 provides the bases for the arguments introduced here, while Section 3 discusses the competitiveness of the Brazilian palm oil. That is, how did this Brazilian company, with high production and logistics costs manage to compete in the international market? Section 4 discusses the impact of certifications and labels for palm oil production in Brazil and section 5 explores the relationship between public policy and the company's corporate strategy, and how this public-private synergy has impacted the transnational arena. Finally, Section 6 analyses how the Brazilian company influences the private transnational system for the global governance of palm oil, the RSPO (Round Table on Sustainable Palm Oil).

## 2. The argument

There is synergy between the Brazilian company's corporate strategy for palm oil production and the public policy stimulating this strategy. Joint action on palm oil is promoted by the government and non-state agents, establishing a space for bargaining and dialogue - a negotiation arena - the so-called Sectorial Chamber, set up in 2010 within the Brazilian Ministry of Agriculture (MAPA). From the government's point of view, public policies to promote palm oil are an incentive to sustainable production, based on environmental regulation (and a ban on deforestation), in conjunction with social development and the inclusion of small family-based growers. Governmental agencies provided scientific knowledge to underpin this public policy (EMBRAPA[i] and the INPA[ii]). From the business sectors' point of view, the work within the Sectorial Chamber was essential to establish the minimum socioenvironmental standards for production and trade, decided upon by the governmental agencies and other stakeholders.

The synergy between the corporate strategy of the leading company and the objectives of public policy resulted in 1. High socioenvironmental standards for palm oil production in Brazil, where the company made use of certifications to ensure access to new foreign markets and to demand premium prices from clients sensitive to the world criticism against palm oil production; 2. The Federal Government has incentivized the production of palm oil as a mechanism to reduce deforestation in the Amazon forest and promote social inclusion. Other objectives are to make Brazil self-sufficient in this important input for the food industry, as is promoting biodiesel as an alternative energy source, given that palm oil is also used in its production; and 3. Through social inclusion and environmental and labor standards, the Federal Government and the company project a vision of Brazil as a country that assertively responds to criticisms about deforestation and the loss of biodiversity in the Amazon biome.

It is worth highlighting that in the case of palm oil, there are no multilateral intergovernmental regulations[iii]. Global regulation/governance of this commodity occurs via a private institutional arrangement operating in the transnational arena, as is the case of the RSPO. As governments do not participate in the RSPO, it is the reputation of a company committed to practices that are environmentally and socially correct and respect labor legislation that projects the national government's policies to Asian competitors. Given that, since the end of the 1990s, the Brazilian company's corporate strategy has been to internalize the costs of adhering to Brazilian environmental, social and labor regulations, it ended up 'lending' its reputation to the RSPO, created primarily by Asian companies, traders and palm oil manufacturers with a 'reputation deficit', a result of the deforestation of tropical forests in its production chain.

At the same time, despite the fact that public-private synergy promotes the high levels of the Brazilian regulatory standards, it has no impact on the fact that production costs in the country are very high. The hypothesis expounded here is that Brazil 'exports' its domestic socioenvironmental regulation not through external policy (diplomacy), but via the commitments made by a Brazilian company at the RSPO. This is the result of the public-private synergy articulated among business leaders and public administrators within the Palm Oil Sectorial Chamber between 2010 and 2011. It reveals Brazil's soft power (Nye Jr, 2004) as the socioenvironmental commitments assumed by the company in the country provides credibility or a positive reputation to the global production chain, constantly criticized due to the fact that palm cultivation occupies areas of tropical forest.

## 3. The competitiveness of Brazilian palm oil

Palm oil is the most produced and consumed vegetable oil in the world (Oil World, 2012), with 80% of its production destined for the food sector and 20% for the chemical industry and the bioenergy and biofuel sectors. Palm oil also makes up 60% of the international trade in vegetable oils (idem). The global palm oil production is concentrated in tropical climate with high temperatures and rainfall rates. Palm oil originated in the West Coast of Africa, and its cultivation prospered in Asia, especially in Malaysia and Indonesia, the two main producers. In these countries, a palm oil production model was

developed where small producers are integrated to processing and refining companies that receive strong governmental incentives. This model originated in Malaysia in the 1960s and was later adopted by Indonesia and Thailand (Table 1).

Palm oil productivity depends on high temperatures and high rainfall. According to Embrapa's agroecological zoning (2010), suitable areas for palm cultivation are found in the Amazon region and, to a lesser extent, the Northeast of Brazil. Traditionally, the state of Bahia dominated the production of *dendê* oil. Approximately 90% of national production derives from the Amazon region, in particular the state of Pará, although there are isolated cultivation areas in the states of Amapá, Amazonas and Roraima. Given climate and soil conditions, the Brazilian Amazon region was targeted by the Federal Government in the form of incentives to palm production comprising funding lines, social inclusion programmes, as well as stricter social and environmental regulation.

The production of *dendê* oil and refined palm oil in Brazil represents less than 1% of the world's production. The company responsible for almost 65% of Brazilian production has its headquarters in the state of Pará (2011). Table 1 shows Brazil in the eleventh position, behind Asian countries, accounting for 80% of palm oil production, and Colombia, the largest producer in the Americas. Palm oil production is expanding across the world. With the exception of the two leading countries (Malaysia and Indonesia), there are five American countries among the main producers, with Colombia in the first place, well ahead of Ecuador, which in turn is ahead of Honduras, Costa Rica and Brazil. The latter produced 270,000 tonnes in 2011. Brazil imported an additional 214,000 tonnes of palm oil and palm kernel oil in the same year. This means that Brazil is a net importer since it produces approximately half of its consumption needs. In 2011, the leading Brazilian company produced approximately 176,000 tonnes of palm oil and palm kernel oil. That is, approximately 0.35% of world production, 65% of the Brazilian production and 34.5% of the sales in the country.

**Table 1: Palm Oil: World production (1000t), 2009-2011**

| **Country** | Harvest | 2009 | 2010 | 2011 |
|---|---|---|---|---|
| Indonesia | Jan-Dec | 21000 | 22100 | 24100 |
| Malaysia | Jan-Dec | 17566 | 16993 | 18912 |
| Thailand | Jan-Dec | 1310 | 1380 | 1530 |
| Colombia | Jan-Dec | 802 | 753 | 941 |
| Nigeria | Jan-Dec | 870 | 885 | 930 |
| Papua New Guinea | Jan-Dec | 478 | 500 | 520 |
| Ecuador | Jan-Dec | 429 | 380 | 495 |
| Ivory Coast | Jan-Dec | 345 | 330 | 400 |
| Honduras | Jan-Dec | 280 | 275 | 320 |
| Brazil | Jan-Dec | 240 | 250 | 270 |
| Cameroon | Jan-Dec | 238 | 250 | 254 |

| | | | | |
|---|---|---|---|---|
| Costa Rica | Jan-Dec | 220 | 230 | 250 |
| WORLD TOTAL | | 45265 | 45829 | 50518 |

Source: Oil World, 2012.

It is important to consider that oil palms demand intensive labor. They are produced in a system involving the integration of production chains with social inclusion programmes and/or corporate policies and actions. Despite governmental incentives for social inclusion, production costs associated with labor and environmental regulations in Brazil represent 40% of the final costs of the crude oil production (data from the leader company). In addition to production costs, there are logistics and shipping costs, as well as taxes on the refined product. The inevitable conclusion is that the Brazilian refined palm oil cannot compete with the Asian product in the international market (Table 2).

The Brazilian company's production costs for crude oil are between US$720.00 and US$750.00, that is, twice as much as crude oil extraction costs in Malaysia and Indonesia, the two main palm oil producers (respectively U$400.00 and US$ 300.00, 2012 data). The price of CIF Rotterdam crude oil (including freight and insurance), the best indicator of palm oil price, was around US$1.060/ton[iv] in 2012. Therefore, when analysing the gross margins of palm oil processing companies before the refining and production of the various derivatives, it can be observed that crude palm oil in Brazil is twice as expensive as in Asia.

**Table 2: Palm Oil Production Costs (in US$ per ton)**

| Country | Malaysia | Indonesia | Brazil* |
|---|---|---|---|
| Cost | 400.00 (2012) | 300.00 (2012) | 720.00 – 750.00 ** |
| Price CIF Rotterdam | 1060.00*** | | |
| Margin | (660.00) | (760. 00) | 321.00 – 291.00 |

*Figures provided by the Brazilian company in November 2012;
**Variation is due to seasonal factors;
***Corresponds to the price per ton of CIF Rotterdam crude oil in January 2012.
Source: leading company

In terms of transport, logistics and tax costs, Brazilian palm oil is even less competitive when compared to the Asian product. According to the working group on taxation in the Palm Oil Sectorial Chamber, the freight for transporting refined oil and taxes (ICMS and Pis/Cofins[v]) and binding contributions are the two factors reducing the competitiveness of this commodity in Brazil. Transporting palm oil from Pará for refining and distribution in the main consumer centres, in the Southeastern region, is more expensive than importing Asian oil and distributing it in São Paulo, through the Port of

Santos. Thus, even with import taxes at 10%, the Brazilian palm oil is taxed at source (12% ICMS, for Pará), whereas oil imported from Oceania, if it is refined in Paraná, is only taxed 3% ICMS (or 7% in São Paulo). Pis/Cofins rates remain the same (9.25%), but the calculation base is higher for national palm oil (Table 3). Given the lack of taxation parity, the Sectorial Chamber working group suggests the creation of a label, the "Social Palm Oil label", exempting it from Pis/Cofins.

**Table 3: The Brazilian Palm Oil Logistics and Transport Costs**

| Cost Breakdown | Value (in R$ - average price 2010) | |
|---|---|---|
| | Imported* | National |
| FOB price | 1,485.80 | 1,718.75 |
| International freight and insurance | 124.14 | 0 |
| SUBTOTAL | 1,609.94 | 1,718.75 |
| Import Taxes (II) | 160.99 | 0 |
| ICMS | 146.67 | 300.00 |
| PIS/COFINS | 177.79 | 231.25 |
| Customs costs | 43.00 | 0 |
| Freight | 60.00 (port of Santos – São Paulo) | 250.00 (Belém – São Paulo) |
| Price per ton of palm oil sold in São Paulo | 2,198.39 | 2,500.00 |

Source: MAPA, Palm Oil Sectorial Chamber.

*Exchange rate in 09/05/2011 (US$ 1= R$ 1.615)

With such high production costs, how is it possible for Brazil to compete with Asian countries? Why did Brazil launch a public policy to stimulate the cultivation of this crop in the country? Despite the merits of a social inclusion policy and the upscaling of environmental regulation, it could be counterproductive to offer incentives for a crop which does not provide comparative advantages for Brazil, differently from soy, maize or ethanol, whose costs are counterbalanced by the high levels of productivity of the Brazilian agribusiness.

In the academic literature there is a fine line drawn between the so-called traditional domestic arena and international policy. Büthe and Mattli (2011) argue that synergy between public policies and the competitive strategies of a sector/company, and the resulting transnational policy, depends on institutional complementarity between the domestic and international spheres. The RSPO, as a multi-stakeholder initiative, promotes governance and the regulation of the palm oil production chain and is the result of synergies among governments and the private sector in countries where the absence of international regulations imposes high distributional costs. In the absence of IOs regulation, it is up to private actors to define the minimum level of accepted commitments by the market. That is, the socioenvironmental rules that guarantee production/export

from the main producing countries. If Brazil was a large producer/exporter of palm oil, the above argument would be adequate, that is, a case of transnational private regulation where market agents define the regulatory framework and promote governance.

However, Brazil is not a large player in the global palm oil market. One Brazilian company is responsible for 65% of national production and 34.5% of national sales and it operates in an environment where, nationally, almost 50% of palm oil is imported. One of the ways this company found to address its lack of power in the market was to adhere to higher socioenvironmental standards and to compete in niches, providing services to more demanding clients concerned with the negative reputation of palm oil production. The following section explains, from the private sector point of view, the reasons why Brazil became a more prominent player.

## 4. Corporate Strategy and Socioenvironmental Standards

Economic sociology suggests that the private sector's new forms of value chain are a reaction to pressures on the global civil society to promote environmental protection and development in poor countries (Gereffi et al., 2005; Keck and Sikkink, 1998; Cashore and Bernstein, 2007). Regulatory demands are incorporated by companies which begin to operate according to a political agenda that forces them to make commitments and internalize socioenvironmental standards. This movement brings the private sector closer to other stakeholders acting outside the target activities of the company, as well as involving them in public policies to promote social inclusion and environmental preservation (Perosa, 2010; Keck and Sikkink, 1998).

The activities of the Brazilian palm oil company in the Amazon region began with fiscal incentives provided by Sudam[vi] to attract investments to the region in the 1980s. The company was then called Crai (Real Agroindustrial Company) and it started its operations at the beginning of the 1980s in an area encompassing 5,000 hectares where the first oil palm seeds were planted. In 1997, in Belém, the group opened its first crude oil refinery and, at the beginning of the 2000s, production expanded to higher value-added derivatives such as vegetable creams and ingredients/input for the food industry in the form of fats and margarines (Marcovitch, 2011:108).

The company's main activity is to produce crude palm oil and palm kernel oil, as well as other derivatives. Between 30% and 40% of the production is destined for niche markets demanding higher standards and different characteristics. They are corporate clients in the Brazilian food and cosmetic industries such as Yoki (General Mills), Unilever (ice creams), Ferrero Rocher (chocolats), Nestlé (ice creams), Natura (the Ekos line) and Cargill (soy).

In contrast to their Asian competitors, the Brazilian company anticipated the impacts of global civil society pressure on palm oil cultivation as early as the 1990s. According to one of the company's directors, palm oil operations in the Amazon region would not have been feasible without a commitment to social and environmental legislation requirements. In particular, the Forestry Code and environmental licensing. They also had to show a commitment to the legalization (property rights) of cultivation areas. The

company director reiterates that the firm does not cultivate oil palms in areas without the appropriate documentation as required by law.

During the field research in the first quarter of 2012, the company produced approximately 176,000 tonnes[vii]. According to the accounts gathered by researchers, this firm is recognised by the government, NGOs and local unions as a company that internalizes the negative social and environmental impacts of cultivating and refining palm oil in the country. All union leaders interviewed representing rural workers in Moju, Acará, and Tailândia were unanimous in acknowledging the company's good reputation in terms of its compliance with Brazilian labour laws, as well as Fetagri (Pará Federation of Agricultural Workers), whose leaders were interviewed in Belém.

In the case of environmental NGOs, based in Belém, and the State of Pará's Public Prosecutor's Office, there was some questioning of the environmental impacts of this monoculture in the Amazon region; the business model based on large rural properties; some of the aspects associated with the exclusive contracts signed between rural smallholders and the company; and the smallholders' almost exclusive commitment to oil palm cultivation - in particular during the trees' first three years of life. For some, these demands were considered a threat to the food security of rural workers[viii].

During the 2000s the company obtained 12 certifications and labels issued by governments and private organizations, associated with factors such as socioenvironmental attributes, organic farming and quality standards related to environmental management. As the literature shows, the strategy pursued by the company can be classified in different ways:

*a) Preventive* 'Prevention' theories point to the anticipation of a trend in the private sector so as to avoid or delay top-down public regulation, which would involve greater operational costs, given that companies will eventually have to compulsorily adopt these rules (Gereffi et al., 2005);

*b) Diversification* It guarantees access to niche markets such as those of organic and Kosher products and demonstrates a company's commitment through the diversification of its product portfolio; 'club theory' explains the behaviour of companies that share goods and have a restricted access and unlimited consumption, as in the case of certifications and labels, that is, 'club' goods (Prakash and Potoski, 2010);

*c) Entry barriers* Socio-environmental regulation that is hard to comply with creates an entry barrier for foreign companies that may want to enter the Brazilian market. As this company is a leader in Brazil, its commitment to labels and certifications signals to newcomers the higher entry costs (Porter, 2004).

Labels and certifications adopted by the Brazilian company have different attributes and scopes in relation to the local or global spheres. They also vary in terms of the institutional profile of organizations issuing instruments and third parties monitoring and validating adherence to the criteria and indicators verified (compliance). Thus, the effectiveness and legitimacy of labels and certification varies.

## Chart 1: Labels and Certifications obtained by the Brazilian palm oil company

| Certification | Area | Profile |
|---|---|---|
| Round Table on Sustainable Palm Oil (RSPO) | . Environmental Labor | Certification approved and verified by an independent third party. The production process is assessed according to 8 principles,39 criteria, involving over 120 indicators addressing environmental, technical, economic, social and labour standards, as well as business best practices. |
| ISO 9001 | Quality | This certification assesses 'quality' and was produced by ISO (*International Organization for Standardization*); it is internalized by the company's management. |
| ISO 14001 | . Environmental Management | Environmental management certification, issued by ISO. Its aim is to minimise the environmental impact of the production process and force the company to comply with legislation. This certification is issued to each production unit and not to the company as a whole. |
| ISO 22000 | Quality | Food safety management certification. Standard created by ISO. The company's certified units are the refinery, the vegetable fat and margarine processing unit, as well as the commercial office. |
| OHSAS 18001 | Social | This certification regulates health and safety standards in the workplace at all stages of the production process based on local/national and international regulations so as to reduce occupational illnesses and accidents at work. |
| EcoSocial | . Environmental Social | Fair Trade and organic food certification promoting local socioenvironmental development. IBD Certifications monitors and issues this certification. |
| Organic Label | Organic | Organic certification based on the Brazilian regulatory framework and standards recognised by IBD Certifications, an institution accredited by IFOAM (International Foundation for Organic Agriculture). |
| BioSuisse | Organic | Label issued by the Swiss Federation of Organic Producers, a private association operating under rigorous codes for producing, processing and importing food. |
| Japanese Agriculture Standard | Organic | Organic Certification issued by Japan's Department of Agriculture, based on specific food legislation. |

| | | |
|---|---|---|
| United States Department of Agriculture | Organic | United States' Department of Agriculture Certification and programme for organic food, based on this country's legislation. |
| Korean Certified Organic | Organic | The Korean regulatory agency's certification for food based on standards defined by the Korean government. |
| Kosher | Organic, Quality | Certification based on religious standards that identifies food produced according to 2regulation established by the Jewish religion, based on the *kashrut*. |

Source: Sheppe et al., Columbia University, 2012.

Certification schemes allow the company to access new markets and clients and obtain higher prices for higher added-value products. Prices vary between 10% and 15% above those in the commodities and futures market[ix] and 30% of the company's production and almost 100% of its palm oil exports go to clients that demand labels and certificates. In the case of organics, prices vary between 40% and 50% of the price of the conventional product.

A further aim of this aggressive policy of adhering to certification and labels is to reduce operational risks in a complex and sensitive biome such as the Amazon forest. By internalizing environmental and social costs and by seeking a more expressive share of the market in the production of refined oil, the Brazilian company establishes a 'model' of production in the north region of Brazil that cannot be disregarded by Asian newcomers, if they wish to compete with this leading Brazilian firm.

However, this strategy is worthless if it is not accompanied by policies that produce a regulatory framework to project the image of the company and, at the same time, put in place obstacles to the entry of new competitors. Socioenvironmental regulation does both, it boosts the reputation of the company and acts as an entry barrier in the market (Porter, 2004). This corroborates the arguments expounded by Büthe and Mattli (2011). In order to have institutional complementarity between the domestic and international spheres both the government and the private sector must adhere to socioenvironmental regulation at the domestic level. If only governments are involved, the result would be a new multilateral, international, intra-governmental agreement. If only the companies created rules, the result would be global self-regulation.

## 5. Public policy and palm oil production in the Brazilian Amazon region

The Palm Oil Sectorial Chamber was set up by MAPA based on the 2010 Decree--Law that institutionalized the policy that regulates the whole palm oil production chain in the country. The leading company has been an active member of the Sectorial Chamber since its first formal meetings and is able to influence the topical agenda and policy priorities for the sector. As already highlighted, this is not a case of traditional rent-seeking

behaviour. It is also not the case that the government decided to have a 'national champion'. In Brazil, refined palm oil production at the industrial scale is recent, and it is almost entirely located in the state of Pará, a state known for land conflicts, deforestation due to cattle farming, as well as the presence of big businesses in other agribusiness sectors, mining and large hydropower plants projects.

To change these adverse conditions, the Brazilian government launched a program to define a positive agenda to counteract controversies involving palm oil in the Amazon biome. Known as the "Program for the Sustainable Production of Palm Oil in Brazil" its main objective is to regulate the expansion of palm cultivation so it is socially and environmentally sustainable. The obvious concern with the preservation of the forest led EMBRAPA to develop ecological agro-zoning, banning deforestation of the native forest and restricting cultivation areas to 31.8 million hectares (from a potential 232.8 million). The programme provides incentives in the shape of technical assistance to families (via Emater[x]), funding by the PRONAF-Eco[xi] (PROFLORA and PRODUSA, both for producers and cooperatives) programme for cultivation in collective settlement areas, as well as rural credits through the investment banks (*Banco do Brasil* and *Banco da Amazônia*).

Areas defined by Embrapa's ecological agro-zoning used criteria such as land use, rainfall rate and average temperature for the cultivation of the crop. It also bans cultivation in indigenous, quilombola (former slave settlements) and forest reserves. Thus, this policy identifies suitable areas for production, according to the criteria defined by Embrapa. Results point to the state of Pará as offering the best conditions for production[xii]. Of the eight states comprising the Amazon Region, Pará has the largest number of municipalities that meet the established criteria. Approximately120 of the state's 143 municipalities are entitled to cultivate palm. It is worth highlighting, however, that this study does not consider which areas are highly suitable, suitable or not fully suitable. It only considers generic suitability. It is up to the investor to analyze other issues associated to the region's micro-climate, which can be highly variable in the Amazon biome.

Although governmental policies for the cultivation of palm seem to point to a clear division between the role of governmental agencies and the private sector, it is the definition of the Sectorial Chamber's agenda that reveals this company's influence over governmental actions. Decree-Law 7.172 (07/05/2010) approved agroecological zoning and defined regulation regarding funding operations, whilst Ordinance 592 (MAPA) created the Palm Oil Sectorial Chamber, instituted by the Ministry of Agriculture (MAPA) in partnership with the private sector.

During the first Sectorial Chamber meeting, the company's director was responsible for presenting the main challenges to the palm oil production chain in Brazil, a clear sign of agenda setting. That is, the company defined the priorities by negotiating with the government. During the second meeting, the leader company's delegate was the only private sector representative to talk and, at that time, expressed a position that palm oil policy had been developed by "many hands" and its success was due to the commitment of the authorities and the private sector's engagement with the proposed aims. The leader company was also the only one to develop a partnership with Embrapa to promote research and development initiatives to improve the genetic material of oil palm hybrids so as to

avoid bud rot, the main disease affecting the palm crop. This new hybrid was announced during the second meeting of the Sectorial Chamber, in which former President Lula was present, clearly lending his personal prestige to all members. The former president's presence was seen as an indication that this policy provided positive results, along with the engagement of the private sector in partnership with a governmental agency (Embrapa).

During the third meeting in May 2011, Conab[xiii] presented preliminary data on palm oil production and planted area for 2010. The company's representative questioned whether the area comprising 72,000 hectares of crop. Still in its developmental stages, and the 57,000 hectares of fruit bearing crop were in fact under-estimated. Indeed, the numbers presented by Conab were dismissed by the members of the Chamber and the numbers brought forward by the leading company were used to define land regularization actions as set out by this policy. Land regularization involved another governmental agency, Incra[xiv] - the National Institute for Colonisation and Agrarian Reform - not present in all the Sectorial Chamber's meetings, but whose main initiatives and policies were fundamental in order to get palm oil cultivation with the integration of family-based agriculture (PRONAF-Eco) off the ground.

The land regularization programme was set up during the fourth meeting of the Chamber and involved mainly areas in the state of Pará. During the same meeting, the leading company formally presented a management system for palm oil pest and disease control, and the 'integrated' production model was officially presented by MAPA[xv]. During the last meeting in 2011 (October), members discussed strategic planning for palm oil production in Brazil for the next decade. At the time, the company expressed its concern with the importation of palm oil, stimulated by the disparity between the taxation regimes of different Brazilian states. As the state of Pará has the highest palm oil ICMS, importers bring commodities to other states where taxation is lower, negatively impacting local palm oil producers in Pará.

In each Sectorial Chamber meeting, the company behaved as a strategic actor and constructed, together with governmental agencies, a policy for palm oil in Brazil. As we have seen, there is sufficient empirical evidence of its prominent role, and a further sign of this is the fact that this firm is the only one with appropriate technical expertise. It also has a competitive strategy to operate in the vegetable oil segment in the international market for food industry raw materials. This company was also the only one to participate in all five Sectorial Chamber meetings (between 2010 and 2011) and was always in a position to define the sectorial agenda, addressing, in particular, three main concerns: 1. Logistics and regulatory challenges to the competitiveness of palm oil production in Brazil; 2. Research and Development in biotechnology to improve the genetic material of oil palm hybrids; and 3. Parity in the taxation regime between the different Brazilian states that produce and refine palm oil so as to promote domestic production and, in this way, strengthen the palm oil value chain in Brazil.

The governmental programme to promote palm oil - funding policies for producers and family farmers, ecological agro-zoning, and the Sectorial Chamber - promoted the synergy between the government and the Brazilian company's corporate strategy, based on social and environmental certifications and labels. This corroborates the theory of

Büthe and Mattli (2011) on institutional complementarity between the domestic and international spheres. The result is the creation of a private transnational arena where market agents act whilst being indirectly based on public regulation. In the case of Brazil, public policy and socioenvironmental regulation project the country's soft power and ensure the position of the Brazilian company in the RSPO, despite lacking market power - the production of the Brazilian company is equivalent to less than 0.5% of global palm oil production.

## 6. The private transnational arena - RSPO

The specialized literature points to the importance of non-State agents in developing governance and regulation instruments for some commodity chains outside the scope of States and International Organizations (Cashore, 2002; Büthe, 2010; Held and Hale, 2011). Indeed, the object of this study does not involve the direct participation of governments and formal international organizations. The so-called multi-stakeholder initiatives are negotiation arenas set up to organise production and trading between the different parties of the main producing and consuming countries such as the Better Cotton Initiative for cotton, Bonsucro for sugar and ethanol, RTRS (Round Table on Responsible Soy) for soy and RSPO for palm oil (Held and Hale, 2011).

For some authors, this is a sign of 'privatization' of the international authority and the decline of the sovereign State. For others, it is a new 'division of labor' promoted by the reduction of transaction costs (Gilligan, 2009), and with the delegation of the authority of States and IOs to private organizations (Abbott and Snidal, 2009; Büthe and Mattli, 2011). In fact, orchestration theorists (Abbott and Snidal, 2009) and those that believe in institutional complementarity (Büthe and Mattli, 2011) are concerned with the efficacy of cooperation and so-called 'focal point' authority, that is, without competitors. Market agents operate in the shadow of States (Börzel and Risse, 2010) because they indirectly incorporate the regulatory framework of governments where the main players in the global production chain are based. Governments use this as a means to indirectly project their influence on the political arenas occupied by non-State actors.

There are many examples. In the case of labor regulation, all multi-stakeholder initiatives refer to the so-called core labor standards, or fundamental labor rights as defined by the International Labour Organisation (ILO, 1998). In the case of Bonsucro, a substantial number of standards relate to European directives for biofuels. The RSPO and the RTRS recognise the environmental legislation of their main stakeholders' countries of origin.

Indeed, multi-stakeholder initiatives are private because market incentives drive the participation of actors, such as those that react to a commodity's global supply, the accredited organisations that conduct auditing and issue certifications, as well as consumers. There is still room for institutional creation, where there are no pre-established rules for the membership of political representation in transnational arenas, or when there are no previously established decision-making processes, as is the case of international regimes and multilateral intergovernmental arenas. Thus, actors who are directly involved in the

value chain - producers, processers, traders, civil society and financial institutions - are always called upon when regulation is created.

Oil palm is one of the most controversial crops due to its environmental impacts. Various ONGs developed a number of campaigns and reports questioning the sustainability of the oil palm crop, in particular, its association to deforestation and the loss of biodiversity in tropical forest areas in Asia, Africa and Latin America. WWF and Greenpeace promoted a number of campaigns to make consumers aware of food products from large brands such as Nestlé and Unilever that buy palm oil through their supply chains. It was precisely due to the reaction of global civil society that WWF, in cooperation with multinational companies, started a discussion on the minimum standards that should be internalized by the value chains of all palm oil producing countries.

In 2002, an informal committee was set up, and in 2003 discussions started on the creation of an instrument to regulate the palm oil supply chain through transnational governance and regulation. This committee involved nearly 200 participants from 16 countries. At the end of this process, a private transnational arrangement was formally established in 2004 with headquarters in Zurich (Switzerland), and a General-Secretariat in Kuala Lumpur (Malaysia). In comparison with other multi-stakeholder initiatives, the RSPO has the largest number of interested parties: a total of 712 across the entire value chain (Table 6). According to RSPO participants, approximately 14% of the global palm oil supply received the RSPO certification, that is, approximately 7 million in a global market of 50 million tonnes. The Brazilian leading company is the only one that has an RSPO certification issued by an accredited institution in Brazil[xvi].

**Table 4: Distribution of members between the various transnational arrangements**

| Private Transnational Arrangement | Type of Member | | | |
|---|---|---|---|---|
| | Civil Society | Producers | Distributors | Others* |
| BONSUCRO (62) | 4 | 24 | 12 | 22 + IFC (IBRD)** and Rabobank |
| BCI (165) | 10 | 9 | 23 | 123 |
| RTRS (118) | 16 | 29 | 73 | |
| RSPO (712) | 30 | 388 | +10 banks | |

Source: BONSUCRO (Global Sugarcane Platform), BCI (Better Cotton Initiative), RTRS (Round Table on Responsible Soy), RSPO (accessed on 04 December 2013)

* Suppliers, traders, processors, banks

** International Finance Corporation (IFC) and International Bank for Reconstruction and Development (IBRD)

The Brazilian company is considered a 'leader' in Latin America, and the certification obtained in 2011 was welcomed by the RSPO Secretary-General, Darrel Webber, as an important incentive to the sustainable production of palm oil and an example that should be followed by other companies across the world. The sustainability director of the Brazilian company claimed that the certification was a "new paradigm" for Brazilian palm production in a sensitive biome, as is the case of the Amazon region. A representative of the Ministry of Agriculture, Denilson Ferreira, also said that the company's certification is an "historical gain" for the Brazilian agribusiness (rspo.com, accessed on 26/04/2013).

## 7. Conclusion

The salient position attained by the Brazilian company in the RSPO does not only depend on a corporate strategy aligned to social and environmental standards. The reputation of the Brazilian firm is the result of a synergetic alliance between public policies for palm oil and the relationship built between the company and government and direct administration agencies in Brazil. Indeed, this synergy is based on public domestic regulation, driving the company's operations in the transnational sphere. These are regulations on the agro-zoning of areas for oil palm cultivation, social inclusion programmes and production incentive credits, as well as environmental legislation that have projected Brazil in the international market. Compliance with the Brazilian legislation, considered rigid in comparison to that of Asian countries, transforms the Brazilian company into a Latin American leader.

The synergy between the Brazilian company and the government is based on two fundamental pillars. First, it is clear that the Brazilian company lends its reputation to a sector that is severely criticized by the global civil society through NGOs and social movements, with the pursuit of a corporate strategy based on complying with environmental and labour legislation since the 1990s. The apex of this process is the RSPO certification obtained by the company in August 2011. Despite the fact that Brazil has only six members in the RSPO, the performance of the Brazilian company is recognized and valued in the agribusiness sector in which it operates where, in general, standards are lower than those established by RSPO. This recognition can be seen, for example, in the participation of the "rest of the world" in the RSPO Executive Board.

At the same time, the Brazilian company does not intend to directly compete with the Asian companies in the international palm oil market. Its aim is to occupy market niches, where a premium is paid for certified products, and obtain gains in terms of reputation, in order to access new markets in the vegetable fat derivatives segment. Brazilian corporate clients are the company's main target, because it can provide customised products, despite Brazil's higher transport and distribution costs.

The second pillar, from the governmental perspective, shows that to be able to project a high level of social and environmental protection is an important asset for emerging economies, like Brazil. As a member of the BRICS, it is a strong demonstration of Brazil's vibrant soft power (Nye Jr., 2004), recognized in the field of social policies and social inclusion. At the same time, Brazil promotes social changes and environmental

preservation through standards considered to be high by the international community and indirectly participates in private transnational arenas by strengthening Brazilian companies in multi-stakeholder initiatives such as the RSPO.

## Notes

i Empresa Brasileira de Pesquisa Agropecuária (EMBRAPA).
ii Instituto Nacional de Pesquisas Espaciais (INPE).
iii As is the case with coffee and cocoa, both commodities are regulated by dedicated formal international organizations (ICO – International Coffee Organization and ICCO – International Cocoa Organization, respectively).
iv According to Dow Jones News Wires, January 2012.
v Tax on Merchandise and Services Circulation (Imposto sobre a Circulação de Bens e Serviços), Program on Social Integration (Programa de Integração Social) and Contribution for Social Security Funding (Contribuição para o Financiamento da Seguridade Social).
vi Regulatory body for the sustainable development of Amazônia (Superintendência do Desenvolvimento da Amazônia – SUDAM) under the authority of Ministry of National Integration (Ministério da Integração Nacional).
vii 160,000 of refined palm oil and 16,000 of palm kernel oil.
viii Data from the Interview with prosecutors in the Belem, march, 2012.
ix The price range is different for crude oil, refined and fractionated products.
x State Agency for Technical Assistance in Rural Extension (Empresa de Assistência Técnica e Extensão Rural).
xi National Program for Familiar Agriculture (PRONAF) with compliance on environmental standards.
xii Ministry of Agriculture: Ordinance 416, 2010.
xiii National Supply Company (Companhia Nacional de Abastecimento).
xiv National Institute for Colonisation and Agrarian Reform (Instituto Nacional para a Colonização e Reforma Agrária).
xv Interview with Sidney Medeiros.
xvi IBD certifications, the certification was issued in August 2011 and is valid for five years.

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# TRANSNATIONAL ARENAS, PUBLIC POLICIES AND THE ENVIRONMENT: THE CASE OF PALM IN THE AMAZON

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**Abstract**: This paper discusses the emergence of non-state actors involved in developing rules on environmental and social standards in transnational arenas that are outside the control of governments and International Organizations. This work is the result of a field research conducted between January and March 2012 in the main palm producing region of Brazil, located in the state of Pará, encompassing the municipalities of Moju, Tailândia and Acará. It comprises a case study of a palm oil producing company based in the Amazon region. The synergy of this company with governmental policy has projected Brazil's soft power, not through foreign policy and diplomacy but by influencing transnational private regulation with the use of labels and certification schemes recognized by stakeholders engaged in the palm oil global chain. The authors use the academic literature on regulation and private governance to highlight the rise of non-state actors as rule-makers in contemporary international relations.

**Keywords:** Environmental Standards, Palm Oil, Public Policy, Certification, Regulation.

**Resumo:** O artigo discute a ascensão de atores não estatais na produção de regras e normas ambientais e sociais em arenas transnacionais que escapam ao controle de governos e Organizações Internacionais. O presente trabalho é resultado de uma pesquisa de campo realizada na principal região produtora de palma do Brasil, entre janeiro e março de 2012, localizada no Estado do Pará - municípios de Moju, Tailândia, e Acará. Trata-se de um estudo de caso de uma empresa produtora de óleo de palma na Amazônia cuja sinergia com as políticas públicas acaba projetando o *soft Power* brasileiro, não através da política externa e da diplomacia, mas influenciando a regulação transnacional privada através de selos e certificados socioambientais, reconhecidos pelos *stakeholders* presentes na cadeia produtiva da *commodity*. Utiliza-se a literatura acadêmica sobre regulação e governança privada para realçar a ascensão de atores não estatais como produtores de regras nas relações internacionais contemporâneas.

***Palavras-chave***: Padrões Ambientais, Óleo de Palma, Política Pública, Certificação, Regulação.

***Resumen:*** Este documento analiza el surgimiento de actores no estatales involucrados en la elaboración de normas ambientales y sociales en espacios transnacionales que están fuera del control de los gobiernos y las organizaciones internacionales. Este trabajo es el resultado de una investigación de campo en la principal región productora de palma en Brasil, ubicada en el estado de Pará. Se compone de un estudio de caso de una empresa productora de aceite de palma con sede en la región amazónica. La sinergia de esta empresa con la política gubernamental ha proyectado el poder blando del Brasil por influencia de regulación privada transnacional con el uso de los esquemas de certificación reconocidos por los actores involucrados en la cadena mundial de aceite de palma. Los autores utilizan la literatura académica sobre regulación privada para resaltar el surgimiento de actores no estatales em las relaciones internacionales contemporáneas.

***Keywords***: normas ambientales, aceite de palma, política pública, certificación, reglamento.