

Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (NSMD) Governance Systems Gain Rule-Making Authority

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In recent years, transnational and domestic nongovernmental organizations have created non-state market-driven (NSMD) governance systems whose purpose is to develop and implement environmentally and socially responsible management practices. Eschewing traditional state authority, these systems and their supporters have turned to the market's supply chain to create incentives and force companies to comply.

This paper develops an analytical framework designed to understand better the emergence of NSMD governance systems and the conditions under which they may gain authority to create policy. Its theoretical roots draw on pragmatic, moral, and cognitive legitimacy granting distinctions made within organizational sociology, while its empirical focus is on the case of sustainable forestry certification, arguably the most advanced case of NSMD governance globally. The paper argues that such a framework is needed to assess whether these new private governance systems might ultimately challenge existing state-centered authority and public policy-making processes, and in so doing reshape power relations within domestic and global environmental governance.

In the last decade, two related developments have confronted traditional domestic and international policy-making processes: the increasing use of procedures in which state policy-making authority is shared with (or given to) business, environmental, and other organized interests (Clapp; Coleman and Perl); and the increasing use of market-oriented policy instruments with which to address matters of concern to global civil society (Bernstein 2001a; Howlett 1999). Partly as a result, political scientists have been turning increasing attention to the apparent "privatization" of governance (Cutler, Haufler, and Porter 1999b; Haufler), while other social scientists, in a related vein, have examined the role of market-oriented consumerism in forcing policy change (Micheletti).¹

This paper argues that while important, these literatures, for the most part, fail to identify, conceptualize, or theorize about a startling new phenomenon within these broad trends: the emergence of domestic and

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TABLE 1
Comparison of NSMD Sources of Authority

Features	NSMD Governance	Shared Private/Public Governance	Traditional Government
Location of authority	Market transactions	Government gives ultimate authority (explicit or implicit)	Government
Source of authority	Evaluations by external audiences, including those it seeks to regulate	Government's monopoly on legitimate use of force, social contract	Government's monopoly on legitimate use of force, social contract
Role of government	Acts as one interest group, land-owner (indirect potential facilitator or debilitator)	Shares policy-making authority	Has policy-making authority

transnational private governance systems that derive their policy-making authority not from the state, but from the manipulation of global markets and attention to customer preferences. From forestry (Forest Stewardship Council 1996) to fisheries (Simpson) to coffee (Fair Trade.org) to food production (Food Alliance) and even tourism, nongovernmental organizations (NGOs) have developed governance structures and social and environmentally focused rules concerning the production and sale of products and services.

The state's traditional sovereign decision-making authority is not granted (or ceded) by the state to these new systems (Table 1), and is not used to enforce compliance. Rather, under non-state-market-driven (NSMD) governance, the relatively narrow institution of the market and its supply chain provides the institutional setting within which governing authority is granted and through which broadly based political struggles occur. When NSMD conditions exist, compliance results from market incentives and involves an evaluation on the part of those audiences the NSMD systems seek to rule, as well as other key audiences, such as environmental groups.

If compliance incentives are different, just how do NSMD governance systems gain rule-making authority? What organizations and actors are key to granting authority? How durable is the authority? These questions have important substantive consequences. If private NSMD governance systems gain significant policy-making authority, they could potentially reduce or alter the scope and authority of traditional domestic and international *public* policy-making processes (Meidinger 2001, 64).

The purpose of this paper is to develop an analytical framework designed to facilitate future research into the dynamics behind the emergence of NSMD governance systems and the conditions under which they may gain authority to create policy. The underlying argument of this paper is that the viability of any NSMD governance system will be largely determined by whether it can achieve “legitimacy” to operate² in the domestic and international spheres. However, the term “legitimacy” is applied differently in this paper than in state-centered Weberian and Gramscian approaches. Instead, I turn to innovations in organizational sociology that identify three distinct forms of legitimacy that may be granted to NSMD governance systems. These distinctions are important because they reveal that NSMD governance programs gain legitimacy from external audiences who are guided by a complex interplay of motivations. The market provides the context within which material and short-term self-interest motivations intersect with moral and cognitive elements, which together determine whether and how different NSMD governance systems gain authority to make rules. A focus on material/profitability incentives alone fails to uncover these dynamics.³

In order to illustrate NSMD governance and to build an analytical framework, I draw primarily on the case of forest certification (ecolabeling) in Canada and the United States. Forest-certification programs recognize officially those companies and landowners who *voluntarily* operate “well-managed” or “sustainable” forestlands according to predefined criteria. I have chosen forestry because it arguably represents the most advanced case of NSMD dynamics, and thus provides the most empirical data. The forest certification case also reveals a competition among different NSMD governance systems over which program has the right to set the rules and whether the rules ought to be detailed and prescriptive or flexible and goal-oriented (Elliott). The forestry case illustrates the need to develop an NSMD analytical framework that is sensitive to such competitions.

It is expected that this heuristic framework will facilitate the development of a nuanced theory of the way civil society (as consumers and supporters of organizations) shapes the content of ecolabeling/private governance rules, and how this influence intersects with the companies being regulated, companies that purchase the regulated industry’s products, organized environmental groups, and other social organizations. It will also facilitate comparative exploration of NSMD legitimation dynamics in different regions and countries, thus permitting inquiry into why divergence in support may occur.

This paper proceeds in four analytical steps. First, it reviews the context in which NSMD forest certification emerged in Canada and the United States and the key dynamics surrounding this privatization of environmental forestry governance. Second, it places special attention on distinguishing the NSMD phenomenon from other traditional state-centered and governance processes, and the resulting authority-granting role of

governmental, business, environmental, and other nongovernmental organizations. Third, it reviews existing international-relations and public-policy literature on the privatization of environmental governance and market instruments for the insights and limitations this literature provides in addressing the NSMD phenomenon. Fourth, and as a result of these limitations, the paper develops a framework for analyzing how NSMD governance systems gain support, drawing heavily on Mark Suchman's seminal 1995 work within organizational sociology on organizational legitimacy. The paper concludes with discussion of the implications of this research project for NSMD theory and the conditions under which more durable forms of NSMD governance might emerge.

THE EMERGENCE OF FOREST CERTIFICATION AS NSMD GOVERNANCE

The development of NSMD governance systems owes its origins to economic and political trends in the last ten years that have given market-oriented policy instruments increasing salience. Originally, research on economic globalization found that increased capital mobility, international trade, and foreign direct investment appeared to reduce or constrain domestic policy choices, sometimes leading to downward protection in environmental and social standards (Berger, 12). However, other scholars noted that a parallel process was taking place in which domestic policy arenas were facing increasing scrutiny by transnational actors, international rules, and norms (see Keck and Sikkink; Risse-Kappen), sometimes leading to a reversal of the "downward" effect of globalization, a process Steven Bernstein and Benjamin Cashore (2000) refer to as "internationalization."⁴ In these cases, market-based boycott campaigns were often used to force "upward" governmental and firm-level environmental protection. These internationalization efforts were often deemed easier than attempting to influence domestic- and international-business-dominated policy networks, providing important lessons to environmental NGOs about the power of using market forces to shape policy responses. This recognition increased the salience of market-manipulation campaigns generally, but also of forestry specifically (Stanbury, Vertinsky, and Wilson).

These international trends were mirrored by increasing domestic interest in the use of voluntary compliance and market mechanisms generally (Harrison; Rosenbaum; Tollefson). Innovative market-based solutions, including trading of pollution credits and wetlands (Voigt and Cubbage), are ever more popular with governments attempting to address environmental problems. Likewise, U.S. federal agencies such as the Environmental Protection Agency permit business to escape some regulatory requirements if they can devise innovative measures that address fundamental environmental goals. In the U.S. forest sector, voluntary "Best Management Practices" (Alabama Forestry Commission) and habitat-conservation plans are an example of this flexibility.

Benjamin Cashore and Ilan Vertinsky have noted that in the late 1990s, policy-makers in Canada and the U.S. often faced the competing pressures of reductions in resources available to combat environmental problems and increasing demands from civil society to address environmental protection. The privatization of environmental governance appears to have been an implicit way out of this conundrum, creating a domestic policy climate in the late 1990s in Canada and the U.S. that was hospitable toward expanding market-based environmental governance (Fletcher and Hansen).

Conceptions of Forest-Certification NSMD Governance

These international and domestic trends towards more flexible and market-oriented policy instruments coincided with increasing scrutiny and concern by environmental groups and other actors, initially over tropical forests but later expanding to temperate and boreal-forest harvesting practices. The failure of the Earth Summit in 1993 to sign a global forest convention (Bernstein and Cashore 1999, 2000) provided environmental NGOs with the lesson that the time was ripe to develop their own private regulation scheme. As a result, transnational groups, led by the World-Wide Fund for Nature (WWF), helped create an international Forest Stewardship Council (FSC) program that turned to the market for influence by certifying forest landowners and forest companies who practiced "sustainable forestry" according to FSC rules, thus expanding the traditional "stick" approach of a boycott campaign by offering carrots as well.

The FSC created nine "principles" (later expanded to ten) and more detailed "criteria" that are performance-based and broad in scope, including tenure and use rights, community relations, workers' rights, environmental impact, management plans, monitoring, and preservation of old growth forests (see Forest Stewardship Council 1999; Moffat, 44). The FSC program also mandated the creation of national or regional working groups to develop specific standards for their regions based on these broad principles and criteria.

The FSC program is based on a conception of NSMD governance that sees private-sector certification programs forcing worldwide and domestic standards upward (Table 2). This conception envisions new policy-making structures in which social, economic, and environmental interests compete equally in the (private) policy-making process (Meidinger 1997). As such, procedures are developed with a view to eliminating business dominance and encouraging strict standards with limited discretion, in order to promote on-the-ground implementation.

Equally important for understanding forest-certification NSMD governance—and, arguably, other NSMD cases as well⁵—the FSC certification program was quickly matched by forest-industry and forest-landowner programs in Canada, the U.S., Europe, and many other

TABLE 2
Comparison of FSC, SFI and CSA Forest-Certification Schemes

	Program		
	FSC	SFI	CSA
Original Conceptions about Forest Certification			
Who makes rules	Business cannot dominate	Business dominated	
Rules—substantive	Moderate non-discretionary	Discretionary flexible	
Rules—procedural	To facilitate implementation of substantive rules	End in itself (procedural rules alone will decrease environmental impact)	
Policy scope	Broad (includes labor, indigenous, social, and wide-ranging environmental rules)	Narrow (forestry management rules, continual improvement)	
Descriptions			
Origination	Environmental groups, socially concerned retailers	Industry	
Performance- or systems-based	Performance	Combination	
Chain of custody	Yes	No	Developing
Territorial focus	International	National/binational	National
Verification options	Third-party	First-, second-, or third-party	Third-party
Ecolabel or logo	Label and logo	Logo, label emerging	Logo, label emerging

Source: Adapted from Moffat (152) and Rickenbach, Fletcher, and Hansen.

countries in which the FSC is active (Cashore, Auld, and Newsom). In the U.S., the FSC competitor program is the American Forest and Paper Association's (AFPA) Sustainable Forestry Initiative (SFI) program; in Canada, it is the Canadian Standards Association (CSA) program initiated by the Canadian Pulp and Paper Association (CPPA; now the Canadian Forest and Paper Association).

Both the SFI and the CSA programs emphasize organizational procedures and discretionary, flexible performance guidelines and requirements (Hansen and Juslin, 19). Performance requirements include following existing voluntary "best management practices" (BMP) programs, legal obligations, and regeneration requirements. Procedurally, member companies are required to file a report with the SFI regarding

their forest-management plans and the objectives they are addressing. Specific company data are not reported. Instead, information is aggregated and given to a panel of experts for review.

The CPPA turned to the reputable CSA to develop a certification governance program. As with the SFI, the focus began as “a systems-based approach to sustainable forest management” (Hansen and Juslin, 20), in which individual companies are required to establish internal “environmental management systems (EMS)” (Moffat, 39). Overall, the CSA emphasizes firm-level processes and continual improvement. The CSA program actually contains two standards: one explains how to develop an environmental forest-management system, and the other focuses on auditing requirements (Hansen and Juslin, 20).

These FSC competitor programs operate under a different conception of NSMD governance from that of the FSC, one that has a fundamental belief that business should dominate rule-making, while other NGOs and governmental organizations act in advisory, consultative capacities. Underlying these programs is a strongly held view that there is an incongruity between existing forest practices and the civil society’s perception of these practices. Under the SFI and CSA conceptions, certification is, in part, a communication tool that allows companies and landowners to better educate civil society. With this conception, procedural approaches are ends in themselves and individual firms retain greater discretion over implementation of program goals and objectives. This conception of governance mirrors private governance systems that have developed at the international regulatory level (Clapp; Cutler, Hafler, and Porter 1999b).

CHARACTERIZING NSMD GOVERNANCE

NSMD governance systems comprise four related characteristics that together render a new form of governance that existing political science literature has largely failed to uncover (Table 3).

TABLE 3
Key Conditions of NSMD Governance

Role of the market	Products being regulated are demanded by purchasers further down the supply chain
Role of the state	State does not use its sovereign authority to directly require adherence to rules
Role of stakeholders and broader civil society	Authority is granted through an internal evaluative process
Enforcement	Compliance must be verified

No Use of State Sovereignty to Force Compliance

The Westphalian sovereign authority that governments possess to develop rules and to which society more or less adheres (whether it be for coercive Weberian reasons or more benign social contract reasons) does *not* apply. There are no popular elections under NSMD governance systems, and no one can be incarcerated or fined for failing to comply. In the case of the FSC NSMD governance system, for example, governments are expressly forbidden from being members or voting in decision-making processes.

This point is an important one that requires elaboration, as there are conditions under which the state can act as another “external audience” in accordance with NSMD dynamics and other cases where the state uses its sovereign authority to force compliance, thus removing the external-audience evaluations as important explanatory factors in the granting of rule-making authority.

Government Acting in Ways Consistent with NSMD

There are a number of governmental activities that are consistent with NSMD. First, existing rules and policies beyond the NSMD program itself—from rules governing contract law to common-law issues regarding property rights—play an important background role. Markets never operate in isolation from a broad array of governmental policies, and the same is true of an NSMD system. Second, the government can act as a traditional interest group attempting to influence NSMD policy-making processes, from offering advice to asking to help write specific rules. Just as interest groups do not have direct policy-making authority in state-sanctioned processes, the fact that governments seek to influence and shape NSMD rules does not mean they are the source of authority. Third, governments can act as any large organization by initiating procurement policies and other economic actions that may influence the market-driven dynamics. Fourth, in the case of forest certification, governments can act as landowners; indeed, in many countries worldwide, public land ownership is a key part of forest policy and, to the extent that governments are persuaded to attempt to adopt certification on their lands, they are drawn into an NSMD system on a basis that is similar to other landowners.

Government Acting in Ways Inconsistent with NSMD Dynamics

When governments do use their sovereign authority to require adherence to NSMD rules, the logic of market-driven support no longer explains why the certifying group is complying, and thus falls outside my definition of NSMD governance. Governments may also use their policy authority to influence only a key target audience of an NSMD governance program, thus creating a hybrid effect in which NSMD logics apply to

some audiences but not others. In such a case, it is crucial that the policy analyst understands and explores whether compliance of a key audience is a result of NSMD dynamics or is a result of state authority. For example, a government law requiring that all forestland owners become certified according to the FSC would negate any need to understand landowner evaluations of the FSC, as they would be doing it as a matter of law, rather than through individual calculations. However, if there was no similar requirement for value-added manufacturers or retailers, then NSMD logic would apply to these other important audiences, rendering crucial an understanding of their evaluation process.

Authority Granted through External Audience Evaluations

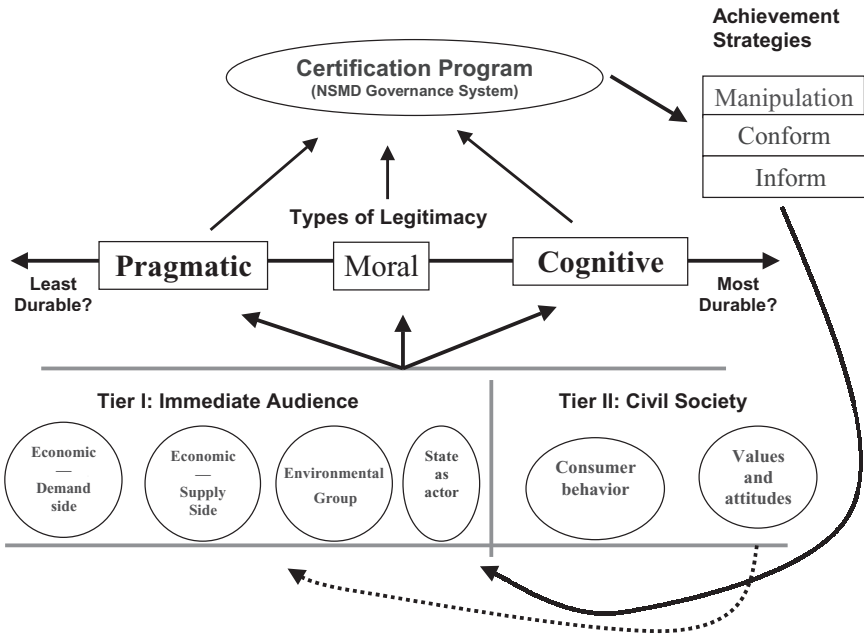
Authority is granted to NSMD governance systems by “external audiences,” who are encouraged to accept the NSMD governance system based on economic material benefits (market access, price premiums), moral suasion (the right thing to do), or because it has become an accepted and understandable practice.

Drawing on understandings of “organizational audiences” developed within organizational sociology (DiMaggio and Powell, 64–65; Jennings and Zandbergen), I identify four broad sets of organizational stakeholders: the state as actor, supply-side economic interests (those firms that have to implement the rules), demand-side economic interests (customers, suppliers, and other organizations in the supply chain who put pressure on producers to accept the rules), and social interests (environmental groups, the media, and organized labor).⁶ I make these distinctions because I reveal below that supply- and demand-side pressures may support different NSMD governance systems for very different reasons, with fundamental implications for the nature of NSMD governance. For example, in the case of FSC certification, producers (forest companies and landowners) will operate under different constraints than demand-side audiences such as forest-product-purchasing firms (home builders, lumber dealers, publishers, retailers) who do not actually have to implement the ecolabeling requirements themselves.

Following organizational sociology’s distinction between organizational fields (a firm’s immediate audience) and societal fields (a firm’s general audience), I refer to “Tier I” audiences as those organizations that have a direct interest in the policies and procedures of the organizations they legitimate.⁷ “Tier II” are those audiences within civil society that have a less direct but equally important role in granting legitimacy (Figure 1).

In forest-certification governance systems, Tier I audiences would include those with a direct interest in an organizational mandate in the forest sector, such as forest companies, industry associations, forest landowners, environmental groups, and consuming businesses (wholesalers, dealers, forest-product companies). Tier II is distinguished by the values and attitudes of civil society (Frizzell), as well as the more pur-

FIGURE 1
Legitimacy-Granting Model for NSMD Governance Systems



Source: Adapted from Suchman.

poseful actions (or lack of action) of individuals as consumers. The tiers are linked, which is most clearly illustrated by those who have found a strong correlation between increasing societal values about environmental concerns and increasing environmental group membership (Dunlap). I distinguish between values held by individuals within global civil society and the purchasing habits of these same individuals (Hansen and Juslin). This is an important distinction, because values and behaviors affect different legitimation logics, denoted below. Students of firms tend to focus mostly on Tier I audiences, but Tier II logics appear important, especially when examining the long-term durability of organizational legitimacy (Figure 1).

Authority Granted through a Supply Chain

Under NSMD, the location of authority is grounded in market transactions occurring through the production, processing, and consumption of economic goods and services. The supply chain directs and frames political struggles of the external audience detailed above. At each stage of the economic production chain, economic actors make choices as to whether they support and are willing to operate under the rules and procedures of the NSMD governance system. Many of the FSC’s efforts to promote and encourage sustainable forest management (SFM) on the part of forest

owners and forest managers are focused further down the supply and demand chain, on those value-added industries that demand the raw products and ultimately on the retailer and its customers (Bruce, chapter 2; Moffat, 42–43). To expedite this demand, the FSC grants not only “forest land management” certification but also “chain of custody” certification for those companies wishing to purchase and sell FSC products.⁸ An external audience’s position on the supply chain clearly influences the types of economic pressures and legitimation evaluations that occur. While landowners may be appealed to directly with the lure of a price premium, environmental organizations may act to force large retailers such as B&Q and Home Depot to adopt FSC-favorable purchasing policies, thus placing more direct economic pressure on forest managers and landowners. While the ultimate goal is for individual consumers to be able to purchase FSC-finished products, this is not necessary for NSMD dynamics to exist, as long as there is some demand along the supply chain.

Compliance Is Verified

Fourth, and related, NSMD governance systems must involve a verification procedure to ensure that the regulated entity actually meets the stated standards. In the case of the FSC and CSA, external auditing companies conduct a mandatory auditing process. The SFI originally developed looser verification procedures, but voluntary independent third-party auditing is now the method of choice for most companies operating under the SFI. Verification is important because it provides a validation necessary for legitimacy to occur, and to distinguish products to be consumed in the marketplace.⁹

These four characteristics distinguish NSMD processes from both shared governance procedures, in which the state gives its authority to the new organization, and business “self-regulation” approaches, in which a firm is motivated in its efforts either to avoid governmental regulations or to be seen as a good corporate citizen. For example, the chemical industry’s voluntary program to reduce its impact on the environment is not a case of NSMD, because there is no attempt to recognize its program along the chain of production as being environmentally beneficial. Instead, it rests as a code of conduct to which the industry adheres in order to be viewed as socially responsible (Gunningham, Grabosky, and Sinclair, chapter 4; Prakash). There is no direct-market mechanism at play, but rather the more abstract desire to obtain a “social license to operate.” Importantly, my classification of NSMD governance systems purposely avoids a discussion of specific rule content, which I argue is more the result of political legitimation dynamics, discussed below.

EXISTING POLITICAL SCIENCE RESEARCH

Existing political science research has addressed the broad issue of “private” governance but has failed to specifically identify the unique

NSMD governance phenomenon. One of these literatures operates from a decidedly international relations perspective, focusing on the role of “private authority” and the “privatization of environmental governance” in international spheres (see Clapp; Cutler, Haufler, and Porter 1999b; Haufler; Lipschutz; Lipschutz and Fogel). The other literature has been developed by students of policy instrument choices and treats market initiatives as one kind of instrument among many available to governmental decision-makers (Howlett 1999).

Cutler, Haufler and Porter’s (1999b, 3) project is to understand why and how “the framework of governance for international economic transactions increasingly is created and maintained by the private sector and not by state or interstate organizations.” Their project seeks to better understand why private governance emerges and the ways in which it operates. Its strength is in identifying a broad range of private organizations with growing influence both in interstate rule-making procedures and in the development of firm-level collaborative relationships that undertake functions historically accomplished by state actors. However, for the most part their approach excludes the case of NSMD governance. They (1999a, 19) argue that private international authority only exists when “private sector actors” are “empowered either explicitly or implicitly by governments and international organizations with the right to make decisions for others” (emphasis added). This may explain why their project on international private authority focuses on cases in which business creates the rules, neglecting cases such as forestry, fisheries, tourism, coffee, and food production where *nonbusiness* interests hold, or compete for, private governance decision-making authority.¹⁰

Public-policy scholars tend to make the same assumption about the central role of the state.¹¹ This literature is preoccupied with whether and when markets can be relied upon to provide public goods (Wolfe) and with the complex range of substantive policy instruments that policy-makers have at their disposal (Hood; Howlett 2000). In a sophisticated, wide-ranging review of this policy-instrument literature, Michael Howlett (1999) makes the same assumption that the state retains ultimate authority. While acknowledging that “[T]ruly voluntary instruments are totally devoid of state involvement” (Howlett 1999, 8), he sees them as the product of “negative” public-policy decisions in which governments consciously decide to “rely” on these measures, a choice largely influenced by the nature of the subsystem and state capacity. As a result of this approach, the public-policy literature also limits its discussion on whether and how *governments* maintain, achieve, or lose legitimacy. Both literatures inadvertently ignore the unique evaluative aspects crucial to the emergence and legitimacy of NSMD governance.

Indeed, the lack of attention by political scientists to consumerism issues has led Micheletti (3, emphasis added) to develop a similar theoretical perspective, noting, in her study of consumerism as a political activity, that “the difference between these [existing political science] the-

oretical frameworks and the one suggested here is that *the state is neither necessarily the moderator of nor the institution that initiates cooperative endeavors. Nor does it need to sanction actions for citizen well-being.*" However, Micheletti's work, like other literature on political consumerism, collapses an array of processes that are not united in their NSMD logic per se, but instead are united around the issues of consumer labeling and auditing (Power).

LEGITIMACY DYNAMICS AND THE GRANTING OF NSMD RULE-MAKING AUTHORITY

Since the political science literature seems ill-equipped to address NSMD governance where external audience motivations appear central, I turn to research on legitimation dynamics within organizational sociology, which provides a broader approach, one that looks at the way different organizations—particularly firms—may gain legitimacy (Jennings and Zandbergen; Oliver). I focus on Suchman's work in this regard, because his seminal 1995 review essay explicitly systematized different legitimation logics.

Suchman focuses on the process through which external audiences grant some degree of approval to organizations, and on the implications of different types of legitimacy on organizational activity. He (574) defines legitimacy as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions." According to Suchman (574), legitimacy is given by an external audience and "represents a reaction of observers to the organization as they see it." While organization sociologists such as Suchman focus on firm-level dynamics, I apply this framework to understanding sectoral level NSMD governance systems. Suchman's seminal review of organizational legitimacy uncovered three types of legitimacy external audiences may grant to an organization: an interest-based pragmatic legitimacy; a value-oriented moral legitimacy; and a culturally focused cognitive legitimacy (Table 4).

Suchman argues that each type of legitimacy-granting rests on a different logic, rendering these distinctions crucial for understanding how

TABLE 4
Types of Legitimacy External Audiences May Give to Certification Programs/NSMD Governance

Type	Source
Pragmatic	Narrow self-interest
Moral	Guiding values about the "right thing" to do
Cognitive	From a cognitive evaluation that something is "understandable" or "to do otherwise is unthinkable"

TABLE 5
Examples of Legitimacy and Achievement Strategies

Achievement Strategies	Types of Legitimacy		
	Pragmatic	Moral	Cognitive
Conforming	<i>Offering external audience's substantive needs.</i>	Addressing <i>principled ideals</i> <i>Adjusting organizational goals</i>	<i>Codifying informal procedures, linking activities to external definitions of authority and competence</i>
Manipulating	<i>Molding constituents' tastes through such things as advertising (easiest type of legitimacy to manipulate)</i>	Undertaking <i>activity</i> that then has important <i>spill-over effects</i> to moral ideas (difficult to do) <i>Identifying constituents</i> who value the sorts of exchanges that the organization is equipped to provide	<i>Promotion of comprehensibility (popularization) or taken-for-grantedness (standardization)</i> Organizations could also choose to <i>"remake others in their own image"</i> (most difficult to do)
Informing	<i>Get word of program out to non-core-audience members who have a self-interest in supporting organization</i>	Reach out to organizations who ought to be in Tier I core audience but do not know about it Explain to civil society that program's values match societal concerns	<i>Relate governance system to external programs that themselves possess cognitive legitimacy</i>

Source: Adapted from Suchman (1995).

each type is granted. Just as important, in addition to the type of legitimacy, two other factors are key for Suchman: first, recognition that the organization seeking legitimacy is often not passive, but actively seeks legitimation through "achievement" strategies that conform to the external audience, manipulate the external audience, or inform unaware audience members of the organization's activities¹² (Table 5); second, that each category of legitimacy brings different levels of durability, with pragmatic being the easiest to achieve but also the easiest to lose, and cognitive the hardest to achieve but the easiest to maintain (Figure 1).

Pragmatic Legitimacy

Suchman (578) argues that *pragmatic legitimacy* rests on the "self-interested calculations of an organization's most immediate audiences," what I refer

to above as the Tier I audience. Under this process of legitimation, "[A]udiences are likely to become constituencies, scrutinizing organization behavior to determine the practical consequences, for them, of any given line of activity." For Suchman (589), the key here is that legitimacy-granting rests on some type of exchange between the grantor and the grantee that affects the audience's "well-being," giving it a direct benefit.¹³

Examples of pragmatic legitimacy abound when NSMD governance systems are emerging, because firms choosing to comply want to know "what is in it for them," while the governance systems themselves apply achievement strategies by addressing the issue of material self-interests. In the case of the FSC, firms that have opted to operate under FSC governance have almost always done so by evaluating whether their participation can improve market access or reduce market decline. The commitment of MacMillan Bloedel (now Weyerhaeuser) in British Columbia to follow FSC certification came only after the FSC's environmental-group supporters launched intense market campaigns against forestry practices in British Columbia (Cashore, Vertinsky, and Raizada; Zietsma and Vertinsky). Such material incentives are found all along the supply chain. For instance, Home Depot committed to purchasing wood from FSC sources (Home Depot) only after a two-year campaign on the part of the Rainforest Action Network (RAN) (Carlton; Rainforest Action Network 1999; Sasser). This campaign set the stage for the RAN to obtain commitments to purchase FSC-certified wood from a number of homebuilders and retailers even before they were the targets of direct action (*Forestry Source*; Hannigan; Rainforest Action Network 2000).

These cases illustrate the importance of Suchman's call to focus on achievement strategies, since all of these announcements were followed by carefully thought-out plans to force external audiences to grant policy-making authority to the FSC. In the absence of these achievement strategies, firms were likely either to support no certification program or to support FSC's competitor programs created by companies and landowners (Auld, Cashore, and Newsom; Newsom, Cashore, Auld, and Granskog). The examples above illustrate Suchman's "manipulation" category, in which NSMD programs and their allies manipulate demand within the supply chain. Likewise, the FSC and the WWF have been actively involved in the *creation* of new interests in Tier I through their facilitation of "buyers groups" (Hansen; Rametsteiner, et al. 1998) now operating in Europe (World Wildlife Fund United Kingdom), North America (Certified Forest Products Council), and globally through the recent creation of a global forest and trade network (Global Forest and Trade Network).

In addition to manipulation, NSMD governance systems can attempt to achieve pragmatic legitimacy by conforming to external audiences. For example, the FSC has attempted to make its program easier to attain for small landowners, who fear excessive bureaucracy and high per-unit costs. It has done so by taking a conforming approach in two ways. It has

created a program in which small landowners can choose to become certified by agreeing to be part of a larger management plan administered by an FSC-accredited forester, substantially reducing landowner obligations and costs. Alternatively, nonindustrial private-forest (NIPF) landowners can ask for group certification through such initiatives as forming cooperatives, which also reduces costs of FSC certification.

In another example of conforming, the FSC has relaxed its principles governing old-growth harvesting and the creation of plantations in order to achieve pragmatic support from companies operating in British Columbia's old-growth forests and places such as the U.S. South, where plantation forestry is dominant. Likewise, there are cases in which no conforming or manipulating develops *per se*, but in which the FSC is actively engaged in informing techniques, often turning to popular press and enlisting the support of movie actors in efforts to get Tier II general-public members aware of the FSC. This is arguably done because civil society tends to trust environmental groups ahead of industry, thus giving indirect moral legitimacy to the FSC. This indirect legitimacy might be turned into direct legitimacy through these information campaigns.

Finally, pragmatic legitimacy can also refer to environmental groups' evaluations. That is, Suchman's pragmatic-legitimacy category can refer not only to choices stemming from material/profitability motivations that are often used to describe those engaged in profit-maximizing behavior,¹⁴ but also to narrow self-interested calculations on the parts of environmental groups and other social organizations that, while arguably motivated by altruistic goals, make choices to support organizations or rules that fall outside of their moral goals because they deem them to be "better than nothing." Thus, pragmatic legitimacy as defined in this paper also includes those cases in which environmental groups support policy choices by multistakeholder consensus processes that do not address environmental groups' fundamental critiques or concerns. Depending on the extent of future changes, current efforts by the SFI in the United States to change its program and wean itself from the AFPA could conceivably lead some environmental groups to grant the SFI pragmatic approval if they felt that doing so would keep certification alive.

Moral Legitimacy

In contrast to short-term incentives associated with pragmatic legitimacy, *moral legitimacy* reflects a "positive normative evaluation of the organization and its activities. It rests not on judgments about whether a given activity promotes the goals of the evaluator, but rather on judgments about whether the activity is 'the right thing to do'" (Suchman, 579). Suchman (579) asserts that "At its core, moral legitimacy reflects a prosocial logic that differs fundamentally from narrow self interest." It is therefore difficult for an organization to achieve moral legitimacy through "false statements" or lip service without either being denied such support

in the end or “buying into their own initially strategic pronouncements” (Suchman, 579).

In the case of forest certification, the granting of moral legitimacy plays two different roles, depending on which NSMD conception is being evaluated. For the FSC’s core audience of most major environmental groups in Canada, the U.S., and elsewhere, moral legitimacy is not only given, it appears to be a requirement of their participation. Since these groups exist to promote environmental protection, they will only grant moral legitimacy to an NSMD system that reflects their overall values. The logic of this is that those granting moral legitimacy act as a brake on what NSMD governance systems can do—or not do—to achieve pragmatic legitimacy from noncore economic audiences. The Sierra Club’s opposition to FSC certification on U.S. National Forest lands illustrates this point. The Sierra Club supports the idea of certification for private and state-owned lands, but is opposed to certification on National Forest lands (MacCleery) because it fears that its successful efforts in the 1990s to reduce harvesting on these lands might be reversed. While the FSC itself and many U.S. forest companies support certifying national forest lands, the need for FSC to maintain the Sierra Club’s moral legitimacy has blocked preliminary efforts to have U.S. national forest lands certified. For some companies contemplating joining FSC, this decision appears to have tipped the scales against joining the program.

Likewise, research by Newsom and colleagues has revealed that many landowners’ moral views about property rights and distaste for government intervention play a key role in their decisions to support an NSMD forest-certification program. If the rules are seen as contrary to their own moral values, they are less likely to grant the program even pragmatic legitimacy—in some cases even if it might be in their material interests to do so.

Moral legitimacy finds its roots in values developed within Tier II audiences, but is often expressed in Tier I through different ideas about what is morally acceptable or unacceptable. For instance, environmental organizations such as the RAN will use media campaigns to appeal to popular support in their efforts to force those in the supply chain, such as homebuilders and lumber retailers, to adopt environmentally friendly purchasing policies. As Suchman (579) says, the judgments about “the right thing to do” are made by Tier I audiences, but they “usually reflect beliefs about whether the activity effectively promotes societal welfare, as defined by the audience’s socially constructed value system.” Achieving moral legitimacy by conforming often means “addressing principled ideals, rather than instrumental demands” (Suchman, 579). *Manipulating* for moral legitimacy might entail an organization undertaking an activity that then had important spillover effects to moral ideas in both Tier I and Tier II.

Recognition of the special role of core audiences in granting moral legitimacy and in serving to influence legitimacy-granting by noncore

audience members highlights the importance of further research into these dynamics, and the relationship of Tier I and Tier II audiences in this regard.

Cognitive Legitimacy

Finally, *cognitive legitimacy* is based neither on interests nor on moral motivations, but rather on “comprehensibility” or “taken-for-grantedness.” In the former case, legitimacy is given because the actions of an organization are understandable; in the latter case, it is given because “for things to be otherwise is literally unthinkable” (Suchman, 583). NSMD governance systems may *manipulate environments* to obtain cognitive legitimacy when they “intervene preemptively in the cultural environment to . . . actively promulgate new explanations of social reality” (Suchman, 591). Citing DiMaggio (15), Suchman claims that this involves an organization “recruiting or creating an environment that can act on their claims.” He (595) notes that “When the focus of environment manipulation turns from moral to cognitive legitimacy, the need for collective action becomes even more apparent.” Thus, cognitive- and moral-legitimacy dynamics appear to go beyond immediate Tier I audiences and focus more on broader civil-society mobilization (Figure 1).

Although organizational persistence itself could lead to cognitive legitimacy, this passive form does not fit well with those firms attempting to achieve legitimacy through proaction. Instead, popularization (promoting comprehensibility) or standardization (promoting taken-for-grantedness) might be expected. Organizations could also choose to remake “others in their own image, either through success and modeling or through coercion and regulation” (Suchman, 593). The key element here is that regardless of the mechanism chosen, successful manipulation efforts to achieve cognitive legitimacy would have to result in new myths at the Tier II level.

Arguably owing to the relatively new NSMD phenomenon, there appear to be few examples of cognitive legitimacy being granted, but there are some hints that strategies are being used to prepare for such granting. For example, the SFI and CSA are both modeled on the International Organization for Standardization’s (ISO) environmental-management system’s model. With the World Trade Organization accepting ISO rules as appropriate and compatible with its own rules, the SFI and CSA may be receiving indirect cognitive legitimacy in that their programs follow internationally understandable and accepted approaches (Clapp; Meidinger 2001, 251). Following Suchman, other future avenues to achieving cognitive legitimacy might be gained by conforming to established modes or standards, such as codifying informal procedures or pursuing “professionalization,” linking activities to external definitions of authority and competence.

Legitimacy and Durability

Implicit in Suchman's review (583) is a "durability" pendulum, with pragmatic legitimacy revealed to be the least durable owing to its emphasis on short-term material incentives, moral legitimacy "more resistant to self-interested manipulation," and cognitive legitimacy asserted to be the most durable: "[I]f alternatives become unthinkable, challenges become [virtually] impossible, and the legitimated entity becomes unassailable by construction." The issue of legitimacy and durability is crucial to the research framework outlined here, because it directly addresses whether NSMD governance may have long-term impacts on environmental governance or whether it is more likely to be a short-term phenomenon.

There is some evidence that pragmatic legitimacy does appear easiest to achieve, as many of the commitments by homebuilders and retailers were made quickly in an effort to fend off negative boycott campaigns. Certainly, if the source of this boycott pressure dissipates, or if it is difficult to live up to one's commitment due to factors such as limited supply,¹⁵ then a firm might indeed consider ending its granting of pragmatic legitimacy fairly quickly. The decision of the Irving Lumber Company to give back its FSC certification in the Canadian Maritimes Provinces following the development of strict draft regional standards illustrates the fragility of pragmatic approval (Lawson and Cashore).

At the same time, the relationship between durability and types of legitimacy appears more complex than asserted by Suchman. First, just because it was easy to grant pragmatic legitimacy does not mean it is as easily withdrawn. This is because companies who reverse their pragmatic decisions to support a certification program may suffer *more* boycotts and societal scrutiny than if they had never committed at all. Second, the durability of this legitimacy may be a function as much of the type of external audience granting the legitimacy as of the type of legitimacy itself.¹⁶ For example, pragmatic legitimacy granted by forest-management companies may be more durable than moral legitimacy granted by them, but the reverse might be true for landowner and environmental groups' evaluations. Time or degree of pressure may also be a factor in understanding which type of legitimacy is stronger. For instance, forest landowners' moral views on regulation appeared to have strong roots that are not easily swayed by short-term market pressures, but what will happen in the face of sustained economic pressure may be a different story. My research in British Columbia indicates that sustained economic pressure may have an effect on even the most intransigent companies. If this is the case, pragmatic legitimacy may become more durable if the pressure on companies or landowners to change is sustained over a period of time.

On the other hand, it appears that when environmental groups grant moral legitimacy, it is always more durable than pragmatic legitimacy.

This is because the creation of most environmental groups can be traced back to core values within civil society. As a result, environmental groups appear far more likely to remove pragmatic legitimacy from a certification program than to remove moral legitimacy.

Clearly, more research needs to be done into cases in which moral and pragmatic evaluations produce conflicting support in order to understand, for each type of external audience, which type of legitimacy “trumps” the other. Similarly, we need to better understand how moral and pragmatic legitimacy might lead to cognitive legitimacy. Given the very nature of NSMD governance systems, is pragmatic legitimacy always required by the supply side (those having to implement the rules) before any audience will grant cognitive legitimacy? At what point does self-interested material-based pragmatic legitimacy give way to cognitive legitimacy through routinization? While this is a passive form that does not capture the achievement strategies of today’s certification power struggles, it may be an important area of inquiry in the future.

CONCLUSION

This article has focused on the important methodological step of presenting a framework for analyzing the emergence of NSMD governance systems and raising theoretical issues regarding legitimation dynamics. It revealed that a focus on material-based profit-maximizing motivations alone, while significant, misses a more complex dynamic among NSMD governance systems’ external audiences and the types of legitimacy-granting evaluations that occur. The review lends support for the development of new approaches and hypotheses generally found outside of traditional political science literature on state-centered legitimacy issues.

The framework is expected to facilitate future research focusing on explaining why different conceptions of NSMD governance are emerging in different jurisdictions. In this regard, the role of “core audiences” in constraining and influencing attempts for competing NSMD governance systems to gain legitimacy from other key Tier I and Tier II audiences needs to be better understood. The review above reveals that environmental and other social organizations form a core audience supporting the FSC for moral reasons, while the CSA and SFI also have a core audience of forest companies who appear to support these programs for both pragmatic and moral reasons. These findings mirror research by Paul Sabatier and colleagues on environmental policy (Mazmanian and Sabatier; Sabatier and Jenkins-Smith) in which coalitions (usually between “environmental” and “development”) compete for policy influence. In Sabatier’s conception, unchangeable “core values” structure and mediate tactics, strategies, and public-policy dynamics. Initial efforts to bring Sabatier’s ideas to private-sector governance have failed to theorize about the specific and unique nature of NSMD governance systems

(Elliott), but they do reveal promising lines of inquiry that could help us better understand the relationship between core audiences and legitimation granting.

If NSMD governance structures emerge in forestry and alter existing power relationships among environmental, social, business, and traditional governmental interests, there may be profound effects on other policy arenas and traditional domestic and international *public* policy-making processes. The framework presented here is designed to be a crucial first step in conducting rigorous empirical and theoretical research on this poorly understood but potentially significant phenomenon.

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NOTES

1. Drawing on Peters and Savoie, Michele Micheletti (5) notes the distinction between traditional state-centered governmental processes, on the one hand, and "governance" processes, on the other hand, defined as "the joint role of governmental, semigovernmental, nongovernmental, and private institutions in providing for the well-being of citizens."
2. A similar term, "social license to operate," has been raised by forest industrial officials (Stephens) and conservation organizations such as the World Resources Institute.

3. Research findings within the economics literature on the part of Sethi and Somanthan (767) that humans are also guided by “codes of conduct” and “social norms” that fall outside of “an exclusive concern with their own material interest” lend support to developing these moral and cognitive dimensions. See also White and Runge, Mansbridge, and Human and Provan.
4. Doern, Pal, and Tomlin first offered a similar definition.
5. The aquaculture industry has recently created the Global Aquaculture Alliance as an alternative NSMD program to the Marine Stewardship Council (MSC), which industry organizations feel is too prescriptive and onerous (Global Aquaculture Alliance).
6. Workers and their unions hold overlapping positions in the economic and social categories. They are in the economic category insofar as they work to achieve high wages and improve working conditions in their individual firms. When sector-wide and intersector unions join forces to influence public and corporate policy changes that transcend individual self-interest issues, I place them within the social category.
7. A large literature within organizational sociology, including stakeholder, neo-institutional, and resource dependency theory, informs and/or details the influence of organizational and societal fields. For a broad review, see Jennings and Zandbergen.
8. Likewise, in the case of the MSC, sustainable aquaculture is promoted by offering market demand that can be accessed by companies adhering to their rules through a chain-of-custody provision (Simpson).
9. Similar verification procedures exist under other NSMD systems, such as the case of socially and environmentally responsible coffee production, in which producers are audited to ensure they are following the program’s rules and label is given to firms that sell this certified coffee (Transfair USA 2000a). Here, the desire to be seen as a good corporate citizen is linked to a market advantage—Starbucks and Peets can sell their coffee as socially responsible, allowing them to maintain or increase market access and perhaps to charge a price premium compared to what other coffee retailers are able to charge (*Seattle Post-Intelligencer*; Transfair USA 2000b, 2000c).
10. Ronnie Lipschutz and Cathleen Fogel diverge from Cutler, Haufler, and Porter in that they do invoke a wider definition of private governance that would encompass the NSMD category analyzed here, but they have not located NSMD as a unique category operating under quite different logics from other forms of private or shared governance. Legal analyses (e.g., Meidinger 1997) have also made this distinction.
11. For exceptions, see Gunningham, Grabosky, and Sinclair and Gereffi, Garcia-Johnson, and Sasser.
12. I have modified this third category, which Suchman identified as “selection strategies.” Since manipulation and conforming usually have a “selection” aspect to them, I felt this third category did not capture a distinct achievement strategy well. Much of what is in Suchman’s “selection” category fits my “informing” label.
13. The definition of “pragmatic legitimacy” falls outside existing political science international-relations work on legitimacy (for a review, see Bernstein 2001b), which sees it as entailing a “logic of appropriateness” supported by moral or cognitive dimensions and standing in contrast to rational self-interested support for governance structures (March and Olsen).
14. For a classic treatment of narrow self-interest, see Hardin. As Sethi and Somanthan (766) explain, under this “tragedy of the commons” treatment, “[T]he assumption [is] that human behavior is driven by a particular, nar-

rowly defined conception of self-interest: the degree of resource exploitation undertaken by each individual is assumed to be that at which marginal private material gains are brought into equality with the marginal costs of the extractive effort."

15. Limited supply of FSC-certified wood has already caused companies like the British Broadcasting Corporation to change suppliers (interview).
16. The author is grateful to an anonymous reviewer for making this point.

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