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Legitimacy and the Privatization of Environmental Governance: Exploring Forest Certification (Eco-labeling) in the US and Canadian Forest Sectors

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Legitimacy and the Privatization of Environmental Governance: Exploring Forest Certification (Eco-labeling) in the US and Canadian Forest Sectors

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In the last 10 years, numerous international relations and comparative public policy scholars have documented a trend toward to the use of the private sector and market-oriented solutions to address matters of concern to global civil society. From aquaculture to climate change to forestry, the private sector is increasingly relied upon at the domestic and international levels to implement and create rules for addressing policy problems. While important in pushing forward an understanding of these trends, existing literatures have failed to explicitly conceptualize or theorize, within this broad trend, what may prove to be one of the most important developments in the field of comparative public policy and international relations in latter half of 1990s and the beginning of the 21st century: the emergence of domestic and transnational private governance systems which locate their coercive force, not from implicit or explicit state sanctioned authority, but from, in the first instance, the manipulation of global markets.¹ The state has no authority to give or revoke in these non-state sanctioned market driven (NSMD) governance systems, and may even be excluded from their internal policy making processes. A renewed emphasis on the more general topic of private regimes within international relations scholarship has moved slightly to fill this gap, but I argue below that this literature, still locked within a Westphalian conception of governance, collapses different phenomena into one dependent variable, creating significant epistemological and theoretical hurdles.

How do these new governance systems gain authority to make rules? Who gives them such authority?² These are important questions because if NSMD governance systems gain significant policy making authority, they could affect the scope and authority of traditional

domestic and international *public* policy making processes. In order to address these questions, this paper develops a theoretical framework with which to understand the dynamics behind the emergence of NSMD private governance systems, and the conditions under which they may gain authority. The central argument of this paper is that the viability of any NSMD private sector governance system will be largely determined by whether it can achieve “legitimacy” to operate³ in the domestic and international sectors. However, legitimacy in this paper is applied differently than Weberian and Gramscian analyses in which the state remains the ultimate locus of authority.⁴

Instead, I turn to innovations in organization sociology that identify three distinct forms of legitimacy external audiences, including (but not limited to) state officials and state agencies, may grant to NSMD governance systems. These distinctions are important because, as I show below, they reveal that NSMD governance programs in general, and private eco-labeling programs in particular, gain legitimacy from external audiences who are guided by a complex interplay of motivations. Market dynamics/motivations are crucial because they provide the initial incentives for suppliers and consumers of forest products to accept NSMD governance systems. However, these market factors intersect with moral/normative and cognitive elements that together, determine whether and how different NSMD governance systems gain authority to make rules.

This paper focuses on the case of certification (eco-labeling) governance in the forest sector for three reasons. First, forestry represents a substantive world-wide policy issue that transcends the traditional interests and concerns of business interests, professionals and other technical experts in this sector. A number of highly publicized reports have pointed to increasing

evidence that the world's natural forest ecosystems are under stress (World Wildlife Fund for Nature 1999), in part owing to economic development and industrial activity associated with increasing economic globalization. It now appears that the very nature of functioning ecosystems depends on developing innovative policy options, rendering this case of interest to a wide range of scholars, policy participants, and global civil society.

Second, and related, forestry has become one of the most advanced cases of private sector forest certification (green labeling) programs, as it has been actively promoted as a key policy instrument with which to address ecological concerns across a wide range of countries in the developed and developing worlds. Yet the interactions of market, moral and cognitive support are largely ignored in current, descriptive, analyses of NSMD eco-labeling in the forest sector.⁵ This case may thus provide an important window on what to expect in the future if NSMD initiatives develop in other policy arenas.

Third, the forest sector illustrates an important private sector struggle between different types of NSMD programs. The initial spark for NSMD forest certification programs came not from business interests, but from an environmental coalition attempting to harness global markets as a facilitator of sustainable forestry (in contrast to environmental groups' traditional perception that the market was an obstacle). And part of the reason for environmental groups initiating these NSMD programs was because they were unhappy with their perceived role in influencing business/government dominated domestic and international (public) policy networks. In response forest business organizations in countries across the globe have developed their own certification programs making this case important for understanding the way in which different NSMD programs compete for authority from key audiences.

This paper specifically compares the experiences of Canada and the United States because both countries' forest sectors faced intense international scrutiny in the 1990s and both emerged as key arenas for the development of forest certification programs. Important differences in domestic struggles over forest certification NSMD governance permits the development of hypotheses generalizable beyond a single case.⁶ Such a focus also facilitates future research into why legitimation dynamics differ across countries.

This paper proceeds in four parts. First, it highlights the economic and political dynamics that have led to an increasing interest in the use of NSMD private sector governance in general, and forest certification in particular. Second, it reviews recent international literature on the privatization of state authority for the insights and limitations it provides. Third, borrowing from organization sociology literature, it outlines an analytical framework that distinguishes between pragmatic, moral and cognitive legitimacy and the processes through which NSMD governance systems may achieve them. Fourth, it applies the framework to the Canadian and US forest sectors— revealing three prominent forest certification programs (two domestic and one transnational) that have emerged, using the framework to develop observations about the way in which these domestic and transnational forest certification programs operating in Canada and the US appear to be achieving legitimacy. The paper concludes by reviewing the effectiveness in exploring private governance through these lenses, and important directions for future research.

Trends facilitating the privatization of environmental governance

The impetus for the creation of NSDM governance systems can be traced, in part, to the consequences of economic globalization and its effects on domestic and global policy choices.

Research on economic globalization has found that increased capital mobility, international trade, and foreign direct investment may reduce or constrain domestic policy choices, sometimes leading to downward protection in environmental and social standards (Berger 1996: 12). At the same time many domestic policy arenas are facing increasing scrutiny by transnational actors, international rules, and norms (see Keck and Sikkink 1998; Risse-Kappen 1995), a process Bernstein and Cashore (2000) refer to as internationalization.⁷ In some cases, this increased scrutiny has reversed the “downward” effect of globalization by using market-based boycott campaigns to force upward governmental and firm-level environmental protection. Internationalization provided lessons to environmental NGOs about the power in using market forces to shape policy responses where efforts to change policy were often easier than attempting to influence domestic and international business dominated policy networks. This recognition increased the salience in private sector governance issues generally, but also in forestry specifically (Stanbury and Vertinsky 1995).

Non-governmental organizations’ interest in market mechanisms in forestry also increased following the failure of the Earth Summit in 1993 to sign a global forest convention (Bernstein and Cashore 1999; Bernstein and Cashore 2000). Environmental groups felt that they spent a significant degree of effort and resources on state-sanctioned international fora with no discernible policy gains. As a result, transnational groups, led by the World Wide Fund for Nature (WWF)⁸ turned to the market for influence by certifying forest land owners, forest companies, who practiced WWF’s definition of “sustainable forestry”, expanding the traditional boycott campaign’s stick approach by offering carrots as well.

Increasing interest at the domestic level in Canada and the US in the use of voluntary compliance and market mechanism generally (Harrison 1999; Rosenbaum 1995; Tollefson 1998) dove-tailed with market-based governance structures. In today's policy climate US federal agencies such as the EPA encourage innovative solutions to allow business to escape some regulatory requirements. In the US forest sector voluntary "Best Management Practices" are an example of this flexibility (Alabama Forestry Commission 1993). Cashore and Vertinsky (2000) have noted that in the late 1990s, policy makers in Canada and the US often faced the competing pressures of reductions in resources available to combat environmental problems, along with increasing demands from civil society to address environmental protection. The privatization of environmental governance appears to be an implicit way out of this conundrum, creating a domestic policy climate in the late 1990s in Canada and the US that was hospitable toward expanding market-based environmental governance (Fletcher and Hansen 1999).⁹

Private governance authority research

Scholarship on private governance has been addressed recently by two literatures: those operating from a decidedly international relations perspective that focus on the role of "private authority" and the "privatization of environmental governance" (see Clapp 1998; Cutler, Haufler, and Porter 1999; Lipschutz and Fogel Forthcoming) in international spheres, and students of policy instrument choices that treat market initiatives as one of many instruments available to governmental decision makers.

The former literature is highlighted by Cutler, Haufler and Porter's project 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 is important for it seeks to understand better why private governance emerges, and the ways in which it operates. Its strength is to identify a broad range of private organizations that increasingly have influence in interstate rule-making procedures, and in the development of firm-level collaborative relationships that undertake functions that were historically accomplished by state actors.

While beneficial for understanding how and why private governance and authority may emerge, these scholars, for the most part, explicitly exclude the case of NSMD governance, focusing only on those processes that ultimately sanctioned by the state. Indeed, Cutler, Haufler and Porter 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”*(19). Other IR scholars have begun to use a wider definition of private governance that does include our NSMD category, but they, too, fail to locate NSMD as a unique category operating under quite different logics.

The same assumption is made by public policy scholars who have examined whether and when markets can be relied upon to provide public goods (Wolfe Jr. 1988) and the complex range of substantive policy instruments policy makers have at their disposal (Hood 1986). In a wide-ranging sophisticated review of this policy instrument literature where a distinction is made between substantive and procedural policy instruments, Howlett (1999) makes the same assumption that the state retains ultimate authority. While acknowledging that “truly voluntary instruments are totally devoid of state involvement” (p. 8) Howlett says governments are expected to “choose” whether 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 focus on legitimacy on whether and how governments maintain, achieve or lose it.

By assuming that governments implicitly or explicitly sanction private authority, both literatures inadvertently ignore the crucial dynamics surrounding NSMD private governance. They tell us little about how governance systems not authorized by state officials may gain policy-making authority. Micheletti (1999) makes a similar critique of existing political science literature in her study of consumerism as a political activity. She argues that “the difference between these theoretical 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” (p. 3). Moreover, in NSMD private governance systems there is no ability to invoke a “legitimate use of force”, which, I show below, fundamentally alters the nature of initial compliance incentives.

As Cutler, Haufler, and Porter directly claim to address the broad area of private governance, I detail here four other methodological and epistemological difficulties in applying their approaches to the study of NSMD governance systems. First, Cutler, Haufler and Porter’s project takes a traditional IR approach by limiting their inquiry to transnational and international levels – thus ignoring domestic cases of private governance that globalization literature tells us are part and parcel of the same phenomenon. Indeed the story of forest certification below is a case of an international NSMD governance system created by transnational environmental groups now competing for legitimacy with domestic-focused industry governance systems. Second, Cutler, Haufler and Porter’s project on international private authority focuses on cases in which business creates the rules. Their project neglects cases where *non-business* interests hold, or

compete for, private governance decision-making authority.¹⁰ Third, while failing to include NSMD private governance systems, Cutler, Haufler and Porter's operationalization of their dependent variable is, ironically, too broad, collapsing quite different governmental processes into the category of "private authority". For example, business influence in state-initiated policy making processes and private firm-to-firm collaborations are all treated as cases of private authority, despite differences in their causes and structures.¹¹

Fourth and symptomatic of much IR and comparative public policy literature, Cutler, Haufler and Porter fail to define legitimacy, despite arguing on pages 4, 5, 18 and 19 that it is a fundamental aspect to gaining authority. This oversight leads to a tautological definition of authority, which is defined as a combination of legitimacy and power.

A framework for analysing legitimation dynamics

While political science has been locked in a conceptualization of legitimacy surrounding state authority, research on legitimation dynamics within organization sociology provides a broader approach – one that looks at the way different organizations - particularly firms - may gain legitimacy (Jennings and Zandbergen 1995; Oliver 1991). I focus on the work of Suchman in this regard, because of his seminal 1995 review essay that explicitly uncovered different legitimation logics. Suchman focuses on the process through which organizational activity is granted some degree of approval from external audiences, and the implications of different types of legitimacy on organizational activity. Suchman (1995: 174) 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.

There is no assumption under this definition that the state necessarily plays a dominant role in legitimation dynamics, but the role of the state is treated as an empirical question, rather than assuming that it gives ultimate decision-making authority to an organizational entity. This is an important distinction because the state in capitalist societies can regulate and force firms to act in certain ways owing to its legitimate use of force, but it cannot directly dictate to individuals and other organizations whether they perceive an organization as “appropriate”. According to Suchman, legitimacy is given by an external audience and “represents a reaction of observers to the organization as they see it” (ibid). While organization sociologists such as Suchman focus on firm-level dynamics, I apply this framework to understanding NSMD private governance systems.

An organizational audience is can be quite broad (DiMaggio and Powell 1991: p. 64-65; Jennings and Zandbergen 1995). Cashore and Vertinsky (2000: 7) identify four broad sets of organizational stakeholders: the state as an actor (state officials and state agencies); the state as an institution (rules, procedures, regulations, court rulings); economic interests (shareholders, customers, suppliers) and social interests (environmental groups, the media and organized labour).¹² I adapt Cashore and Vertinsky’s distinction in two ways. First, I divide economic stakeholders into “supply side” and “demand side” since, in the world of NSMD governance structures (and forest certification in particular) supply and demand side pressures may grant different types of legitimacy to different NSMD private governance systems. That is, producers of the product (forest companies and land owners) will operate under different constraints that demand side audiences such as forest product purchasing firms (home builders, lumber dealers, publishers, retailers) who do not actually have to implement the eco-labelling requirements

themselves. Second, following organizational sociology's distinction between organizational (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 organization's policies and procedures, and "Tier II" as audiences within civil society that have a less direct, but equally important role in granting legitimacy (Table 1.0)

Table 1.0: NSMD Organizational Audiences

Tier I– Immediate audience	Tier II – Civil society
A. Social interests <ol style="list-style-type: none"> 1. Environmental groups 2. Organized labour¹³ 3. Indigenous peoples 4. Consumer associations 	A. Political culture <ol style="list-style-type: none"> 1. Values and attitudes
B. Economics interests – demand side <ol style="list-style-type: none"> 1. Buyers groups 2. Wholesalers 3. Dealers 4. Retailers 	B. Consumers <ol style="list-style-type: none"> 2. Purchasing behaviour
C. Economics interests – supply side <ol style="list-style-type: none"> 1. Producing Companies 2. Shareholders of producing companies 3. Owners of production (e.g. land owners) 	
D. The state – as actor <ol style="list-style-type: none"> 1. State officials – domestic and international 2. State agencies – domestic and international 	
E. The state – as institution <ol style="list-style-type: none"> 1. International agreements 2. Procedures 3. Regulations 4. Court rulings 	

Within the cases of forest certification governance systems, Tier I audiences would include those with a direct interest in the forest industry such forest companies, industry associations, forest land owners, environmental groups, and consuming businesses (wholesalers, dealers, forest product companies). The Tier II is itself distinguished by the values and attitudes held by civil society (Frizzell 1997) as well as the more purposeful 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 1992). I distinguish between values held by individuals within global society, and the not always corresponding purchasing habits of these same individuals. This is an important distinction because values and behaviours 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.

The remainder of this section focuses almost exclusively on the analytical distinctions Suchman (1995) has made in his efforts to synthesize extant organizational legitimation research. Suchman posits that there are three types of organizational legitimacy each with its own logic: an interest based pragmatic legitimacy; and normative oriented moral legitimacy; and a culturally focused cognitive legitimacy. Suchman identifies three different strategies firms can employ in their efforts to gain legitimacy: conforming strategies, selection strategies, and manipulation strategies. I outline these distinctions and then apply them to the experiences of the three certification programs under review. I review the cases for the light they shed on the relationship between legitimation types and potential durability of emerging private governance structures.

Types of legitimacy

Suchman argues that **pragmatic legitimacy** rests on the “self-interested calculations of an organization’s most immediate audiences” (ibid: 578), or the Tier I audience. Under this process of legitimation, “audiences are likely to become constituencies, scrutinizing organization behavior to determine the practical consequences, for them, of any given line of activity”. Self-interest in this case refers to both the material profitability goals associated with business interests, and the ecological improvement goals usually championed by environmental groups. Pragmatic legitimacy captures well the case where forest companies and forest landowners (supply side) and industrial purchasing organizations (paper purchasing companies, retailers) are motivated to adopt eco-labeling programs because the market is giving them some type of economic incentive (direct profits through increases in prices, market access, or escaping negative boycott campaigns).

In contrast, **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’” (ibid). While moral legitimacy does not come directly from the market, but the cases below reveal that it plays a fundamental role in how NSMD governance systems emerge. 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”. Thus, moral legitimacy finds its routes from values developed within Tier II audiences, but is often expressed in Tier I through different organizations’ ideas about what is morally acceptable, or not acceptable. I reveal below that such organizational values

constrain and direct the types of strategies and policy changes NSMD programs can invoke in their efforts to gain increased support from audiences that are initially reluctant to give any type of legitimacy.

Suchman asserts, that “[a]t its core, moral legitimacy reflects a prosocial logic that differs fundamentally from narrow self interest” (ibid). Because of these dynamics, it is difficult for an organization to achieve moral legitimacy through “false statements” or lip service. If an organization attempts to gain moral legitimacy through lip service, they are either ultimately denied such support, or managers end up buying “into their own initially strategic pronouncements”. Suchman has found that moral legitimacy is more “more resistant to self-interested manipulation” and thus more durable than pragmatic legitimation dynamics.

Finally, **cognitive legitimacy** is based not on interests or evaluation, but either on “comprehensibility” or “taken for grantedness”. In the former case legitimacy is given because the actions of an organization are understandable, in latter case legitimacy is given because “for things to be otherwise is literally unthinkable” (ibid). Suchman (ibid) implicitly notes a distinction with cognitive legitimacy between a fairly durable “comprehensibility” and even more difficult to change “unthinkability”, ““if alternatives become unthinkable, challenges become [virtually] impossible, and the legitimated entity becomes unassailable by construction” (brackets added). In the cases below I reveal how the granting of cognitive legitimacy to a particular NSMD program is often given, or achieved, implicitly by existing rules that enjoy cognitive support and that in some way enable one type of NSMD program over the other. For example, international rules World Trade Organization rules that favour systems-oriented labeling programs given indirect cognitive support to programs emphasizing process rather than

substance. While cognitive legitimacy it is the most difficult to change the rewards for attempting to do so are great because they are likely to be long-lasting.

These three forms of legitimacy are not mutually exclusive – an organization may attempt to achieve all three at the same or different times. However the granting of legitimacy is given for different reasons, with fundamental implications regarding the durability and malleability of legitimacy status, and what is required by the organization to achieve it. Implicit in Suchman's review is that there is a durability continuum – with pragmatic legitimacy susceptible to change, moral legitimacy more durable, and cognitive legitimacy the most resilient to change.

Strategies in Achieving Legitimacy

Suchman has identified three types of strategies organizations may employ in their efforts to achieve legitimacy. These categories are important, for they shed light on ways emerging certification programs may increase their chances of achieving legitimation from different external audiences by developing proactive strategies. According to Suchman, organizations can gain legitimacy by **conforming to the environment** by either changing their own structures or undertaking superficial appearances. When undertaking **conforming strategies**, *pragmatic legitimacy* is often obtained by meeting the substantive needs of various audiences or by offering constituents access to organizational decision-making processes. Firms might gain *moral legitimacy* by addressing principled ideals, rather than instrumental demands. In this case symbolic (though genuine) gestures often reveal a change in organizational morals in ways that instrumental changes cannot. Conforming strategies can also be aimed at gaining *cognitive legitimacy* by conforming to established modes or standards, such as codifying informal

procedures or pursuing “professionalization”, linking activities to external definitions of authority and competence.

Table 1.1: Legitimacy and Achievement Strategies			
Achievement Strategies	Types of Legitimacy		
	Pragmatic	Moral	Cognitive
Conforming	<i>Offering constituents access to organization</i>	Addressing <i>principled ideals</i>	<i>Codifying informal procedures, linking activities to external definitions of authority and competence</i>
Selecting	<i>Identify constituents who value the sorts of exchanges that the organization is equipped to provide</i>	<i>Adjusting organizational goals in order to select among alternative moral criteria</i>	<i>Choose among external programs that themselves possess cognitive legitimacy</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>Promotion of comprehensibility (popularization) or taken for grantedness (standardization). Organizations could also choose to “remake others in their own image” (Most difficult to do)</i>

Table summarizes Suchman’s (1995) legitimacy and achievement review

Suchman notes that organizations may also **select among the environment**, especially when audiences operating in a “fragmented and often conflictual” environment. Where gaps exist, organizations can select among audiences more prone to give it legitimacy. In these cases selection strategies to obtain *pragmatic legitimacy* will be to “identify and attract constituents who value the sorts of exchanges that the organization is equipped to provide” (ibid). This occurs when Tier I constituency is divided and no dominant set of actors emerges. *Moral legitimacy* can occur through selection strategies by “adjusting organizational goals” in order to “select among

alternative moral criteria” (such as efficiency, accountability, responsiveness). Selecting to achieve *cognitive approaches* are more difficult, but could include efforts to choose among different external programs (such as professional accreditation) that are already given cognitive legitimacy.

Finally, organizations may **manipulate environments** when they “intervene preemptively in the cultural environment in order to develop bases of support specifically tailored to their distinctive needs” (ibid). Under this strategy organizations, “...must actively promulgate new explanations of social reality. “ Suchman, drawing from DiMaggio (1991), argues that this involves “recruiting or creating an environment that can act their claims”. Suchman notes that “[t]he need for such collective mobilization becomes increasingly pronounced as the focus of legitimation moves from pragmatism to morality to cognition”, because cognition and morality go beyond immediate tier I audiences and focus more on broader civil society mobilization (See Table 1.2). Examples of manipulation below include certification programs deliberately facilitating the creation of “buyers groups”, organizations of firms that purchase forest products that collectively demand eco-friendly products.

Table 1.2: Tier Influences and Types of Legitimacy		
	Tier I	Tier II
Pragmatic Legitimacy	<ul style="list-style-type: none"> • focus on NSMD's <i>immediate audience</i> 	<ul style="list-style-type: none"> • by definition <i>limited to Tier I</i>
Moral Legitimacy	<ul style="list-style-type: none"> • <i>norms championed by organizations</i> derive from Tier II political culture 	<ul style="list-style-type: none"> • <i>societal norms direct the development of organizations</i> such as environmental and consumer groups.
Cognitive legitimacy	<ul style="list-style-type: none"> • state agencies and rules play an role to the extent that they institutionalize rules and procedures that either facilitate or hinder NSMD programs (such as rules surrounding trade liberalization). Such influence occurs when <i>civil society take domestic and international state rules "for granted"</i>, regardless of whether they agree with the content of those rules. 	<ul style="list-style-type: none"> • <i>civil society</i> plays two dominant roles here: <i>indirectly by supporting existing rules</i> that might influence and enable certain types of NSMD governance systems; but also <i>directly through political culture attitudes</i> that dictate whether not following an NSMD program's rules is "unthinkable".

In this regard Suchman notes that the easiest form of legitimacy to manipulate is *pragmatic*, which can be undertaken by molding constituents tastes through such means as advertising (a tactic used by all three forest certification programs under review). *Manipulating for moral legitimacy* would entail an organization undertaking an activity that then had important spillover effects to moral ideas in both Tier I and Tier II. *Manipulating for cognitive legitimacy* is where the need for collective action is most evident. 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”. 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. These conforming, selecting and manipulating categories are not mutually exclusive. A particular action may have elements of each. The purpose of these distinctions is to understand better the motivations of audiences seeking legitimacy.

This review of Suchman raises fundamental questions about the interaction between different types of legitimacy in a NSMD governance system. If cognitive legitimacy is the most durable, what is the relationship among the three types of legitimacy? Is pragmatic legitimacy always required before an organization can attempt to achieve moral or cognitive legitimacy? If organization A wants to achieve cognitive legitimacy but organization B, with different approaches and values, currently enjoys cognitive legitimacy from most Tier I and Tier II audiences, what are the ways organization A may attempt to alter existing cognitive legitimization dynamics? Is moral legitimacy a prerequisite for long-term durability, or is it just required of key organizations within Tier I? I review the cases of Canada and the US to shed light on these questions, and then follow the discussion by offering working hypotheses to aid in further research.

Conceptions of forest certification NSMD private governance

While NSMD governance systems in the forest sector have similarities in incentive structures, they are quite distinct in their conceptions of governance. All of the NSMD private governance systems create rules and procedures for forest certification (eco-labeling) in order to recognize officially those companies and landowners who *voluntarily* operate “well managed” or

“sustainable” forestlands according to pre-defined criteria. Certification programs, to varying degrees, argue that adopting their governance system’s approach to sustainable forestry practices will provide market access (or market maintenance), possible price premiums and a more abstract notion of “social license”¹⁴ to companies and land owners (Bruce 1998: chapter 2; Moffat 1998: 42-43).

Yet two distinct conceptions about the scope and content of forest certification governance have emerged in both developed and developing countries, each championed more or less by environmental organizations on the one hand, and industry organizations on the other.¹⁵ No NSMD governance system fits with either conception perfectly, as the story to follow is one in which programs merge away from these core conceptions in efforts to gain legitimacy. Instead, the conceptions are presented as “ideal types” with which to explore legitimation dynamics in the forest sector.

The first conception, whose core ideas come from environmental forestry advocacy coalitions that have developed internationally and domestically (Elliott 1999: chapter 7; Lertzman, Wilson, and Rayner 1996) sees private sector certification programs as forcing upward world-wide and domestic standards. The ideas behind the creation and origins of the Forest Stewardship Council (FSC) NSMD certification program, which operates globally including the US and Canada, can be traced back to this conception.

This conception envisions new policymaking structures where social, economic and environmental interests compete equally in the (private) policy making process (Meidinger 1997; Meidinger 2000b). This approach reflects consensus-oriented dispute settlement processes that in the 1990s have cropped up at the local level in forestry sectors in the US and the provincial and

national levels in Canada (Cashore 1997; Hoberg 1993; Wondolleck 1988). It rests on an underlying belief that bringing different sectors to address a common policy problem will encourage more holistic and long-lasting decisions. As such, procedures are developed with the view to eliminating business dominance and encouraging strict standards with limited discretion on the ground so as to mitigate against inadequate implementation.

A second and distinct conception, held by forest industry associations and land owners across many countries where forest certification has come on the policy agenda, contains a fundamental belief that there is an incongruity between existing forest practices and the civil society's perception of these practices. Under this conception certification is, in part, a communication tool that allows companies and landowners to better educate civil society. The ideas behind the Canadian Standards Association (CSA) forestry certification program and the US Sustainable Forestry Initiative (SFI) can be traced back to this conception.

This second conception also envisions continual improvement and discretionary, flexible policies. Such an approach is believed to foster innovation and avoid straightjacketing companies with costly wide-ranging rules that fail to capture specific circumstances. With this conception procedural approaches are ends in themselves and individual firms retain ultimate authority over the kinds of objectives and goals they will pursue. Importantly, governance is seen as being dominated by the industry and (to a lesser extent in North America than in Europe) landowners, with other nongovernmental organizations acting in advisory, consultative capacities. This conception of governance mirrors traditional clientelist policy networks, as well as the kind of private governance systems that have developed at the international regulatory level (Clapp 1998).

Table 1.3: Conceptions Of NSMD Certification Governance Systems

	Conception One	Conception Two
Participation	Consensus-oriented	Business-dominated
Rules – substantive	Non-discretionary	Discretionary-flexible
Rules – procedural	To facilitate implementation of substantive rules	End in itself (Belief procedural rules by themselves will result in improved environmental impact)
Environmental Protection	Wide ranging	Incremental, continual improvement

Identification of these conceptions supports research by Sabatier and colleagues (Mazmanian and Sabatier 1983; Sabatier and Jenkins-Smith 1993) in which coalitions (usually between “environmental” and “development”) compete for policy influence. Under Sabatier’s conception, unchangeable “core values” structure and mediate tactics, strategies and public policy dynamics. Efforts to bring Sabatier’s ideas to private sector governance have thus far failed to theorize about the specific and unique nature of NSMD private governance systems (Elliott 1999).

Since conception 1 is broader in scope and represents new and expansive decision making processes, it is anticipated that this type of NSMD governance would more significantly impact existing domestic and international public policy state/societal relations, than the type of NSMD governance envisioned with conception 2.

Legitimation dynamics in Canada and the US

This section reviews pragmatic, moral and cognitive legitimacy dynamics to see how each program has made efforts to achieve these at both Tier I and Tier II. I also identify legitimation

strategies according to whether they could be considered conforming, selecting, or manipulating. This section permits the development of hypotheses regarding the application Suchman's legitimacy distinctions to a better theoretical understanding of how NSMD systems emerge and achieve policy-making authority. The cases below reveal that a conception 1 international-focused forest certification program, the Forest Stewardship Council (FSC), has become a key force in the domestic certification politics in both Canada and the United States, although it has thus far achieved greater legitimacy from supply side audiences (forest companies and land owners) in Canada than it has in the United States. In response to FSC perceived or real inroads, each country's forest industry associations have offered their own alternative conception 2 forest certification schemes.

The Forest Stewardship Council – Initial Legitimation Dynamics

The Forest Stewardship Council's beginnings can be traced back to 1990, when timber suppliers from the Tier I demand side were looking for fibre from well-managed forests (Meidinger 2000b: 4). Environmental groups and social organizations quickly took interest in addressing this demand, with an exploratory meeting held in California by interested parties (Bruce 1998: chapter 2). Following three years of discussions, the Forest Stewardship Council was created in Toronto, Canada in 1993 and became legally registered in 1995 in Oaxaca, Mexico. Once created, the original environmental groups, social organizations and timber suppliers became part of FSC's core organization audience, granting it immediate pragmatic, moral and cognitive legitimacy from its creators. Actors within this core audience overwhelmingly coincide with conception 1 orientations (personal interviews).

The FSC originally created 9 “principles and criteria” that are performance based, and broad in scope, including tenure and use rights, community relations and worker’s rights, environmental impact, management plans, monitoring and preservation of old growth forests (See Forest Stewardship Council 1999b; Moffat 1998: 44). Public opinion data globally seem to indicate that this approach gains some degree of moral legitimacy from “values and attitudes” in the Tier II audience (Frizzell and Pammett 1997), but this has not been manifest into Tier II consumer choices beyond niche markets (Hansen 1999). Corresponding to core conceptions among mainstream transnational environmental organizations, governance is structured at FSC by a “three chamber” format in which economic, social and environmental interests each have their own chamber. Such a format appears to give FSC cognitive legitimacy from many mainstream environmental organizations (“to do otherwise is unthinkable”), but even more importantly conforms to principled moral beliefs of key environmental non-governmental organizations, which observed that the closed business dominated policy networks they encountered internationally and domestically often resulted in inadequate environmental policies (Bernstein 1998; Bernstein and Cashore 2000; Bernstein and Cashore Forthcoming; Elliott 1999).

Similarly, reflecting moral beliefs that existing patterns of international policy making fail to take into account developing countries’ unique concerns, each chamber contains 50% representation from North and South countries (Bruce 1998: Chapter 2). All three chambers must agree on policy choices. Following the logic of NSMD governance programs, government organizations are prohibited from having membership (Meidinger 2000b: 5).

In order to reflect regional and national difference and yet maintain the international focus of the program, standards with which to implement the principles are carried out at the regional level. There are currently nine regional processes taking place in the United States, and three in Canada. Those gaining most attention by members of the Canadian and US forest policy communities include the US South, the US Pacific region, British Columbia, Ontario and the Maritimes. (Owing to new membership and efforts to achieve at least pragmatic legitimacy from social and economic key audiences, most of these regional bodies have yet to agree upon regional standards.¹⁶) The FSC international office approves all regional standards, and the FSC goal is to certify both forestland and forest products (Meidinger 2000b: 4). The regional standards processes were designed to allow flexibility in addressing ecological and social differences across countries and regions. However, different standards over what is a permissible harvesting practice (such as the use of pesticides) has give FSC considerable difficulty in obtaining pragmatic legitimacy from land owners and forest companies in Canada and the US who argue that the differing rules create an unfair system.

Unlike current industry initiated programs, the FSC program provides those certified under FSC with an official “eco-label” and requires that lumber from certified forest land be traced all the way to the end product, an issue termed “chain of custody”. This flows from the belief on the part of FSC core audience members that announcements and firm commitments to sustainable forestry are not enough to guarantee their implementation.

The FSC initial rules, especially its focus on including broad participation, the eco-label, and chain of custody, appear to arise from the “core values” of its core audience of environmental groups, social organization, and select lumber purchasers. Likewise the FSC also appears to have

immediately gained implicit moral legitimacy from Tier II political culture audiences because public opinion data across nations reveals that a majority of citizens in most countries trust environmental groups over industry organizations to create environmentally sensitive rules (Frizzell 1997).

FSC post creation legitimization dynamics - achievement strategies and responses

Once established, FSC officials embarked on legitimization achievement strategies in order gain support from non-core audiences. Officials were well aware that achieving all forms of legitimacy from its core audiences would not be enough to gain long-term legitimacy from key economic audiences in Tier I, nor from Tier II consumer audiences (personal interviews). We can distinguish achievement strategies as the international (Oaxaca level) and important dynamics unique to specific countries as exemplified here by Canada and the United States.

At the international level two changes in principles and one change in certification rules were undertaken with the goal of gaining pragmatic legitimacy from Tier I supply side interests (forest companies and landowners). The first change was to reword principle 9 from “maintaining old growth” to “maintaining high conservation values”. The original wording precluded companies and landowners who operate in old growth forests from participating in the program – thus limiting the FSC potential land base and excluding these economic audiences from ever giving any kind of legitimacy to the FSC. Indeed, in the absence of this change it would have been arguably difficult for British Columbian forest companies to support the FSC, even if the market demanded it (pragmatic legitimacy), because most of this province’s forests remain in old growth forests. That is, if principle 9 had not been altered, then adopting FSC forest certification in the context of British Columbia would have meant, everything else being

equal, the industry reducing itself to a fraction of its current size. Regardless of the ecological merits of such a proposition, such a condition was contrary to giving economic incentives for adopting FSC. Moreover, FSC officials were well aware that because the British Columbia case had garnered strong international attention through transnational boycott campaigns (Bernstein and Cashore 2000), this province was important for the lessons it sent to other parts of the world. At the same time officials had to be careful not to alter option 9 so much that in their efforts to gain pragmatic legitimacy from forest companies and land owners (non-core supply side interests) that they risked losing moral and cognitive legitimacy from core interests.

The second FSC change at the international level was to devise a special principle regarding forest plantations. Like old growth forests, forest plantations had originally been excluded from FSC forest certifications because they did not practice natural regeneration, and discouraged, some argued, forest biodiversity. Once again FSC was motivated to change these restrictions in order to gain pragmatic legitimacy from supply side economic interests. Two reasons were given: in many regions where old growth forests no longer exist, such as the US South, plantations are one important silvicultural practices. To eliminate plantations completely would have the same effect on many regions that the old-growth rule would have had on British Columbia – to further reduce the FSC potential fibre supply by making forest land owners and forest companies unable, for functional reasons, to give any type of support, including economic pragmatic legitimacy. Second, many scholars are making the argument that high yield intensive forestry may actually provide an important environmental benefit by removing demand from natural forests (Binkley 1997; South 1999). This second observation permitted FSC officials to create special rules for plantation forests thus facilitate pragmatic legitimacy from economic

supply side audiences, but at the same time maintain moral legitimacy from the FSC core audiences.

Both the old-growth and plantation rules changes appear to be cases of “selection” techniques by focusing on those large industrial forest companies who were disposed toward the FSC program.¹⁷ Indeed, where the FSC has made significant inroads in Canada and the US has been in regions where large tracts of land are either owned by large industrial forest companies, or under control through long-term licenses with government forest landowners. This partly explains (in addition to demand side factors illustrated below) why FSC has gained arguably the highest degree of support (though limited to market-based pragmatic legitimacy) from forest companies than any other region in North America. Most of British Columbia publicly-owned forest lands are under long term licence agreements by some of the world’s largest forest companies. British Columbia’s land ownership patterns and industry structures make FSC more easily adopted by forest companies and landowners (supply side audiences) than in other areas where fragmented ownership patterns exist. This explains why in the US, support for FSC has thus far been limited to a handful of small landowners who do not manage their land for profit, or to individual companies such as Hancock Resources Group, Seven Islands, and Irving US (Irving Canada withdrew support over FSC Canadian Maritimes regional standards rules that eliminated chemical use).

Recognizing the impediments of the FSC program for small non-industrial private forestland (NIPF) owners, there are now indications that FSC is now taking a conforming approach to NIPF, hoping that such efforts may allow interested landowners to take advantage of any perceived economic incentives (pragmatic legitimacy). Small NIPF land owners can choose

to become certified by agreeing to be part of a larger management plan administered by an FSC accredited forester – substantially reducing land owner obligations and costs. Alternatively, NIPF landowners can form a coop and apply for group certification, again reducing costs of FSC certification. Still, the NIPF issue appears to be a key factor that future research focused on explaining differences between regions needs to closely examine. While NIPF land owners are not a key audience in Western Canada, they make up half of the forest land base in Eastern Canada and the US Pacific Northwest (Cashore 1999) and two thirds of the land base in the US South (Hyde and Stuart 1998). NIPF landowners remain highly critical of the FSC for its high costs that exclude small landowners and its focus on landscape issues that transcend their boundaries (Fletcher and Hansen 1999; Lindstrom, Hansen, and Juslin 1999). The NIPF issue demonstrates the importance on focusing on supply side legitimation dynamics (Caulfield 1999) for understanding which conception of NSMD programs might emerge and dominate.

Whereas FSC is addressing supply side issues, it has been far more active in the demand side – actively targeting (manipulating) demand side audiences (wood product retailers, home builders, paper purchasing companies) in their efforts to have them require certified forest products. Working in conjunction with its environmental group founders, the FSC first focused manipulation strategies for pragmatic legitimacy in Europe, which led to the creation of buyers groups in the UK, Germany, Holland and elsewhere (Bernstein and Cashore 1999; Hansen 1998b; Kiekens 1997).

Country	Group Name	Founded	Members	Total Annual Member Sales (Millions US\$)
United Kingdom	1995+ Group	1991	87	\$69,000
Netherlands	Hart Voor Hout	1995	11	...
	Organizations Committed to FSC	1992	473	...
Belgium	Club 1997	1994	79	\$270
Austria	Gruppe 98	1996	26	\$960
Switzerland	WWF Wood Group	1997	31	\$12,000
United States	Certified Forest Products Council	1997	140 (Business) 500 (Individuals)	\$170 ...

Source: (Hansen 1998b), reproduced from (Bernstein and Cashore 1999)

Owing to Canada's dependence on international markets (Bernstein and Cashore Forthcoming) and the United States industry's largely domestic focused market, these early European initiatives had the most impact on Canada, which in addition to landownership patterns, helps explain the increasingly (pragmatic) legitimacy FSC is gaining from forest companies in this country, particularly British Columbia.

Recognition that the US industry was largely focused on its domestic market spurred the creation in the US the Certified Forest Products Council (CFPC) in 1997, which provides its members and other business with information on purchasing wood from sustainable sources (Certified Forest Products Council 1998). Environmental conservation organizations listed as FSC supporters include the Natural Resources Defense Council, the Rainforest Alliance, the Wilderness Society and the World Wildlife Fund (ibid: 10-11). The Certified Forest Products Council has also been instrumental in supplying information and informing certification choices for such US lumber retailer giants as Home Depot, which, following sustained pressure by the San Francisco based Rainforest Action Network, announced in late August a plan to "give

preference” to certified wood (Home Depot 1999). Only the FSC program meets the guidelines specified by Home Depot, revealing early success in using manipulation as a legitimation technique. The creation of these buyers groups is clearly a case of attempts to create an environment in which landowners and companies give FSC pragmatic legitimacy, by making it in their material self-interest to do so.

And recently the Rainforest Action Network was successful in obtaining similar commitments from two of the United States’ largest home builders, Centex Corporation and Kaufman & Broad Home Corporation, and Swedish Furniture giant IKEA – all of whom have made similar commitments as Home Depot See (Hamilton 2000a; Hamilton 2000b; Hamilton 2000c; Hannigan 2000; McKenna 2000; Rainforest Action Network 2000; The Forestry Source 2000). In addition to achieving pragmatic legitimacy from these retailers, such actions also assist indirectly in building pragmatic legitimacy from supply side audiences who may ultimately see a need to supply such a demand.

The FSC has also sought to achieve both consumer and political culture legitimacy within Tier II. Because the “eco-label” and “chain of custody” are rather technical terms, FSC has turned to “manipulation” advertising strategies in their efforts to achieve Tier II moral legitimacy. The advertising campaigns seeks to place FSC within the moral attitudes many citizens now hold toward environmental issues, thus conforming to Tier II values. At the same time the advertising campaigns highlight the FSC eco-label and chain of custody issues – hoping to move Tier II consumers to actively purchase wood from an FSC label, in an effort to gain a moral and eventually cognitive legitimacy from Tier II consuming audiences. This issue is far from resolved and FSC has yet to see its campaigns alter significantly consumer purchasing habits from the

initial consumer responses noted above. While consumers indicate they will be willing to pay more for certified forest products (Forsyth 1997; Forsyth, Haley, and Kozak 1999; Gale and Burda 1997), the limited research on actual consumer performance reveals that currently there are only inconsistent price premiums, and often only for niche markets (Hansen 1998b; Moffat 1998: 69).

Even those the FSC has undertaken these achievement strategies in the US, they have had as much effect on Canadian forest firms, since British Columbia and other key provinces export the bulk of their forest products to the US market. Consequently British Columbia has arguably become the region in the North America where forest firms have given FSC the greatest degree of support owing to market pressures (pragmatic legitimacy, see Hamilton 2000a; Hamilton 2000c). Owing to its “advanced” status, the British Columbia case also sheds some light on potentially important interactions between economic pragmatic legitimacy, with more long-lasting moral and cognitive legitimacy from other audiences.

Once FSC appeared to be making inroads in British Columbia, individual forest firms, forest industry organizations, and forest workers unions consciously decided to give explicit support to FSC by announcing their decision to seek participating in its internal decision making structures. Firms such as MacMillan Bloedel (purchased by Weyerhaeuser Company in January of 2000), Canfor and Western Forest Products indicated their intention to become FSC certified when regional standards were in place (Cashore, Vertinsky, and Raizada Forthcoming). Moreover, the BC Forest Alliance, an association of mostly forest companies designed to promote the BC forest industry abroad, and the Industrial Wood and Allied Workers Union have applied for membership in the FSC.

The actions of these economic supply side organizations can be explained by their realization that FSC could come to play an important role in this region. These motivations appear best placed as owing to material self-interests (pragmatic legitimacy) rather than owing to moral or cognitive factors. Indeed the head of the BC Forest Alliance has written in support of the CSA and other certification programs as well. Instead, these organizations hope to shape and limit the scope of FSC policy, which depending on how successful they are in influencing and changing FSC norms, may run the risk of being at odds with the conception 1 values of its traditional core audience, affecting moral legitimacy from its core-audience. On the other hand, continued participation in FSC structures for economic reasons may, in the long run, lead to cognitive support (if it becomes “taken for granted”) even if industry norms never coincide with conception 1.

Table 1.5:
Comparison of FSC, SFI AND CSA Forest Certification Schemes,
as of 2000

Program	FSC	SFI	CSA
Scope	International	National	National
Origination	Environmental groups	Industry	Industry
Performance or Systems based	Performance	System	System
Verification	Third party	Second party (third voluntary)	Second*
Public involvement in programs and policies	Yes	No	Limited
Public involvement in company accreditation	Yes	No	Yes
Chain of Custody	Yes	No	No
Eco-label	Yes	No	No

Source: adapted from (Moffat 1998: 152); from a compilation of certification schemes by Mark Rickenbach, The Sustainable Forestry Partnership at Oregon State University, 050E Peavy Hall, Corvallis, OR 97331; and from a presentation by Rick Fletcher and Michael Washburn to the Society of American Foresters Annual Meeting in Portland, OR, Sept. 13, 1999.

*Some argue that CSA is a third party, since it is formally distinct from the Canadian Pulp and Paper Association

Unlike the two industry initiatives review below, the FSC has been received cautiously by most governments in North America, if at all. In Canada, government officials tend to be concerned about whether the FSC might infringe upon public policy authority. A national council of forest ministers outlined “rules” to which FSC and other forest certification programs should adhere (Federal-Provincial/Territorial Committee of Assistant Deputy Ministers on International Forest Issues 1996). At the same time a number of BC government initiatives reveal that it is taking certification seriously as a potential market advantage (pragmatic legitimacy). The province’s Ministry of Forests has announced that its Small Business Forest Enterprise Program will facilitate certification efforts. It has also recognized the growing importance of FSC in the province and has explored economic benefits of FSC certification. Indeed, the British Columbia Minister of Forests took the unprecedented move of visiting Atlanta in the fall of 1999 – where Home Depot’s head offices are located – in part to explore market access issues associated with FSC forest certification. And in June of 2000, the BC government announced the creation of a high level advisory committee to explore certification issues in the province (British Columbia 2000). However, at this juncture there is no indication that many government actors support FSC per se, but rather they tend to see it as a marketing tool. Indeed, the BC government and the BC industry appear to be working more closely on how to respond to the FSC (Forest Alliance of British Columbia 2000).

Likewise, the federal government's Canadian Forest Service, a largely advisory and research organization, is decidedly skeptical of FSC as a program, particularly regarding uneven standards between regions (personal interviews). For example, when the FSC Maritimes standards were announced that limited pesticide use in this region, CFS officials aligned themselves with their traditional industry clientele – arguing that such rules were based not on science, but on policy making processes that did not take industry views into account (Moffat 1998).

In the US the federal government is decidedly absent from FSC deliberations. The dominant forest agency, the US Department of Agriculture's Forest Service has no official policy and until the summer of 2000, had yet to appoint an official on the certification issue. Part of this neglect may be owing to the opposition of many environmental groups to certifying national forest lands. They believe that national forest lands should be removed from the commercial land base, and fear that giving them an eco-label may facilitate opening them up for additional harvesting (personal interviews). The absent or cautious role of governmental officials surrounding FSC contrasts to the experiences of the industry initiated programs we turn to next.

The US Sustainable Forestry Initiative (SFI) – initial legitimization dynamics

The US Sustainable Forestry Initiative (SFI) is a program of the American Forest and Paper Association (AF&PA), whose 200 members own 90 percent of industrial forestland in the United States (Hansen and Juslin 1999). Its core audience is large industrial forest companies in the US, and it enjoys a close relationship (usually contractual) with non-industrial private landowners, who provide most of the US industry's fibre supply.

The origins of SFI actually go earlier than FSC. The program was originally created to address the polarized atmosphere that had developed in the US over forestry issues in the late 1980s and early 1990s.¹⁸ For analytical purposes, I treat the SFI re-creation in 1994 as its forest certification origins.¹⁹

By 1994 the SFI program emphasized organizational procedures and discretionary, flexible performance requirements. It uses implementation guidelines, objectives and performance measures (Hansen and Juslin 1999: 19). Performance requirements include following existing riparian “best management practices” (BMPs), legal obligations, and regeneration requirements.²⁰ 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 is not reported. Instead, information is aggregated and given to a panel of experts for review.

The SFI program appears to have immediately gained pragmatic, moral and cognitive legitimacy from most AF&PA members (their core audience) who felt that not only was such a program needed to address societal concerns, but that the flexible process oriented approach was the most appropriate way of developing such a program. In cases where the SFI program clashed with the norms of officials from some AF&PA members companies, the member companies were told they had to accept the program (i.e. give it pragmatic legitimacy) even if they did not support it morally (i.e. they did not support the ideas behind the rules) or leave the program (personal interviews). As an industry-oriented program SFI was not geared toward most non-industrial forestland owners and their organizations. At first non-industrial private forestland owner organizations did not appear to support any type of program (personal interviews, Vlosky

2000). Unlike the CSA experience below, the AF&PA's decision to require membership in SFI has resulted in strong support by US forest companies, arguably partly accounting for FSC's currently limited success in the US.

And unlike the FSC, the SFI program fits within a broad framework of public policy rule development in the US and internationally, that has tended to focus on systems and processes. For example, SFI's focus on process standards and its environmental management systems approach gives it implicit cognitive legitimacy from existing international rule making bodies such as the International Organisation for Standardisation (ISO) 14001 program which focuses only on processes and offers no performance measures (Clapp 1998; Meidinger 2000a: 251). The ISO program has been explicitly recognized by the World Trade Organization (Clapp 1998) as the appropriate body for standardization.²¹ A number of legitimation dynamics flow from this approach. First, by "conforming" to existing cognitive elements about what policy rules should look like, the SFI approach arguably enjoys a "taken for grantedness" among many domestic and international policy makers. Second, existing international rules governing trade and the environment facilitate the adoption of SFI (and CSA) approaches, rendering it easier to implement for forest companies and landowners. Third, since most citizens give cognitive support to domestic and international policies (even if they are opposed to policies on moral or pragmatic grounds they usually follow the law because "to do otherwise is unthinkable"), citizens give SFI (and CSA) indirect, implicit, cognitive support. These role of these cognitive elements highlight the importance of employing a legitimation framework that goes beyond examining market-based pressures alone. Governmental agencies play a limited role with respect to SFI and

certification, though some agencies are exploring the link between certification in general can encourage trade (Robinson 1999).

The US Sustainable Forestry Initiative (SFI) – achievement strategies and responses

Since the 1994 changes, SFI has similarly used all three forms of achievement strategies to gain pragmatic legitimacy. SFI first focused on gaining pragmatic and moral legitimacy from non-industrial forest landowners by working with them and seriously addressing ways to incorporate them. By June of 2000, SFI announced an agreement of mutual recognition between SFI and the US Tree Farm Program, in which each organization accepted the SFI as a legitimate for industry and the Tree Farm Program, with its much less onerous and more voluntary approach, as legitimate method of certification for NIPF landowners.

In fact, SFI efforts to achieve and maintain pragmatic, moral and cognitive legitimacy from most NIPF landowners has meant that it strongly opposes chain of custody efforts which, given the fragmented nature of the US industry, the SFI and small landowner organizations argue would be cumbersome and difficult to implement (personal interviews). SFI's initial decision not to offer an "eco-label" can be seen as conforming to NIPF landowners and forest manufacturers, who believe they are practicing sustainable forestry, and do not believe an eco-label is needed (Vlosky and Ozanne 1998).

The SFI has had difficulty obtaining support from most mainstream US environmental organizations. It has taken two strategies to gain pragmatic legitimacy from this audience. First, it has undertaken selection strategies by turning to small "c" conservative environmental

organizations, enlisting the support of American Forests, the Izaak Walton League, the Conservation Fund and the American Bird Conservancy in implementing its program.

The SFI has also undertaken manipulation strategies in its efforts to gain Tier II moral legitimacy by arguing that environmental organizations support its programs. Indeed, after winning an environmental award from an organization to which mainstream environmental groups belonged, SFI quickly ran an advertisement announcing its award, along with a list of the member environmental organizations, such as the Sierra Club and the Natural Resources Defense Council. Environmental groups ran their own ads explaining that they did not support the SFI initiative. This experience seems to conform to Suchman's theory that efforts to achieve moral legitimacy through "statements rather than commitments" often fails, and in this case the backlash from mainstream environmental organizations appeared to set back SFI's efforts to achieve pragmatic legitimacy from Tier I environmental groups.

Since this experience the SFI has redoubled its efforts to achieve legitimacy from non-core audiences, both through significant substantive changes in its program, and through lobbying and advertising efforts. Indeed, from the very beginning the SFI has used advertising campaigns as manipulation techniques to gain moral and cognitive legitimacy from Tier II political culture audiences. SFI has made much of the fact that its standards are so stringent that 15 AF&PA members quit the organization, rather than participating in the SFI. SFI has spent little attention on altering individual consumer preferences since as of the summer of 2000, very few individual consumers demanded certified forest products when they actually purchase wood, let alone FSC certified wood.

The SFI is also attempting to achieve Tier II political culture legitimacy by undertaking conforming strategies. For example, SFI's has created an expert advisory panel (Berg and Cantrell 1999) which can be seen, in part, as appealing to process/inclusionary values within civil society (Tier II political culture). In this vein, the SFI independent panel has gained increased autonomy to make recommendations, and voluntary third party audits are now permitted.²² Indeed, it is the hope of SFI to have most of its land undergo voluntary third party audits, which until recently, was a key factor allowing FSC to maintain pragmatic and moral legitimacy from its core Tier I audience and Tier II political culture audience. And significantly, SFI officials are deliberating whether to change its "no label" policy, as they believe that such a label could give it moral legitimacy from Tier II political culture audiences (personal interviews). And in the summer of 2000, the SFI was again making changes to its processes and policies in efforts to gain legitimacy from non-core audiences.

Despite claims to the contrary, the SFI and FSC appear clearly as competitors and much is at stake regarding who participates in policy making and the scope of the rules that can be considered. Only two members of the AF&PA have announced their intention to become FSC certified²³. While US forest firms generally support SFI over FSC, many companies are constantly looking at market forces to see if it might become economically advantageous to support the FSC program (pragmatic). And partly as a result, as of 1999 the SFI program began to place significant attention in their efforts to gain market-based credibility (pragmatic) from buyers groups and retailers.

The Canadian Standards Association Forest Certification Program - initial legitimation dynamics

The origins of the Canadian Standards Association (CSA) Forest Program can be traced back to the interest by the British Columbia Council of Forest Industries (COFI) and the Canadian Pulp and Paper Association (CPPA) to develop a program that recognized existing sustainable forestry practices in Canada, which were coming under increased attack in Europe by those who wanted to stop logging in Canadian old growth forests (Stanbury and Vertinsky 1995). Much of the European effort was focused on British Columbia forests where much of the forest type slated for logging is old growth coastal temperate rainforests. In order to justify continued harvesting of old growth, the industry needed a mechanism to defend the sustainability of this and other practices (Bernstein and Cashore 2000).

Instead of developing a program under the CPPA or another industry body, industry instead turned to the reputed quasi-governmental Canadian Standards Association (CSA) to develop a certification governance program. The focus began as “a systems based approach to sustainable forest management” (Hansen and Juslin 1999: 20) where individual companies are required to establish internal “environmental management systems (EMS)” (Moffat 1998: 39). Overall, the CSA emphasis is on firm level processes and continual improvement. While a third party officially, CSA rules were developed by industry organizations, and environmental groups withdrew from the process early in their development. 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 1999: 20). The CSA program fits within conception that industry should regulate itself, but with considerable transparency.²⁴ Like the SFI, CSA rules fit within the framework of ISO rules noted above, giving it direct cognitive

legitimacy from international rules and indirect cognitive legitimacy from civil society that generally accepts such rules, even if they disagree with them morally.

The CSA program goes beyond the procedural requirements of SFI and ISO by requiring significant consultation with indigenous and community organization in developing their EMS – requirements that some industry officials say are more onerous than FSC process standards (personal interviews). This focus on procedures appears designed to gain pragmatic legitimacy from Tier I environmental groups and other non-governmental interests such as Aboriginal groups, and also from Tier II political culture audiences in Canada who have come to expect broad consultation processes over forest management decisions (Cashore 1997; Hoberg 2000; Wilson 1998).

At the same time companies approved by CSA are directed, when developing their EMS, to address substantive criteria and indicators developed by the Canadian Council of Forest Ministers when developing their EMS. Each individual company must “address the six criteria described in the intergovernmental Canadian Council of Forest Ministers (CCFM) Criteria and Indicators for sustainable forest management in Canada” (Moffat 1998: 40). By developing rules that corresponded to intergovernmental bodies, the CSA arguably earned implicit cognitive legitimacy from key state organization, since their rules conformed to existing “understandings” of what state officials considered appropriate rules. Moreover, the CCFM criteria and indicators are based on the Montreal process, a global international forum with heavy multi state level participation geared toward developing universal sustainability indicators (Elliott 1999: 297).

The CSA approach clearly enjoys cognitive legitimacy from its core audience – Canadian forest companies. Companies are given significant latitude in how its addresses CSA criteria, and

in fact, are also given the authority to develop their own criteria and indicators, as long as they fit within the CCFM framework (Moffat 1998: 40). However, this cognitive (and arguably moral) support does not necessarily translate into it being accepted for market reasons (pragmatic legitimacy). Owing to the inroads of FSC in Canada, many companies are taking a “wait and see” approach so as to not waste time adopting CSA if market demands move in other directions. The vast majority of Canadian forest company firms have not subscribed to CSA (personal interviews Elliott 1999: 298) although surveys indicated that most companies intend to adopt CSA in the future, while only a limited number report that they will adopt FSC.

Owing to the large level of public land ownership and the nature of large concentrated forest companies, combined with the more onerous requirements of CSA relative to SFI, means that the differences between implementing FSC and CSA do not seem as great in Canada as between implementing SFI and FSC in the United States. In fact, SFI has made inroads into Canada with some Canadian companies seeking certification from them.

The Canadian Standards Association Forest Certification Program - achievement strategies and responses

The CSA has used manipulation, selection and conforming techniques in their efforts to gain pragmatic legitimacy. Manipulation techniques center not on facilitating the creation of new organizations, per se, but on promoting CSA with buyers groups, wholesalers, lumber retailers and large industrial purchasers of its products such as publishing companies. The CSA argues that it addresses their concerns/criteria for sustainable forest management, thus competing with FSC for this support. Indeed German publishers criticized Canadian clear cuts in 1993, followed by Scott paper and Kimberly Clark in Europe canceling pulp orders from MacMillan Bloedel in 1995 (Elliott 1999: 297), CPPA created a European Office in Brussels in order to address these

pressures in their efforts to demonstrate to these demand side pressures that they were practicing sustainable forestry (Stanbury and Vertinsky 1995).

Likewise at the level of Tier II the CSA has advertised the forest industry's acceptance of sustainable forest management, thus potentially being perceived by the general public as conforming to their ecological values (moral legitimacy).

The CSA, like SFI, currently stands in competition to the FSC program. Canadian environmental organizations, who, led by Greenpeace, criticized the CSA approach as far back in 1995 and called for its abolition (Elliott 1999: 297). Their two conceptions of private sector governance could not be reconciled (Elliott and Hackman 1996) and Canada's position in the international political economy gave FSC pragmatic legitimacy from most demand side economic audiences. A corresponding weak pragmatic legitimacy for CSA from its supply side economic interests (despite them giving CSA cognitive and moral legitimacy) meant a quite different competition between NSMD governance systems in Canada and the US. Brief efforts to merge CSA and FSC approaches in the mid-1990s were doomed to failure (Gale and Burda 1997).

CONCLUSION

A focus on market-based motivations alone, while significant, miss a more complex dynamic among NSMD governance systems audiences that appear to fundamentally shape who gives support to what program and why, as well as whether any program may be in a position to earn long-term support. The cases above reveal that the granting of legitimacy to NSMD systems is currently *dynamic* in nature. Understanding the process through which programs may gain

legitimacy is as important as identifying when they achieve it. Since pragmatic, moral and cognitive legitimacy appear to be located from left to right on a durability continuum, it also appears important to distinguish among the different types of legitimacy if we are to understand how durable these new governance systems may become, or whether they are better placed as another example of innovative but short-lived policy instruments.

In both the Canadian and US cases, each certification governance program actively sought pragmatic legitimacy from organizations outside of their core audience. The FSC recognized that forest landowners and companies were equally important to their ultimate success, as their core audience was environmental groups and like minded demand side organizations, while CSA and SFI have attempted a variety of achievement strategies to achieve pragmatic legitimacy from demand side audiences. As a result, NSMD legitimization dynamics reveals important differences in support for conception 1 and 2 certification programs among immediate external audiences, and the fundamental role played by each program's "core audience" in constraining and influencing their attempts to gain legitimacy from other key Tier I and Tier II audiences. Existing evidence indicates that the motivations behind support varied significantly from short-term market reasons to longer-term moral and cognitive catalysts. Tier II support also appears to vary between societal "values" and more market-oriented purchasing habits.

The way in which legitimacy plays out with respect to certification may have profound implications for the future of private sector governance structures in forestry, and perhaps other policy arenas as well. If new private governance structures emerge that give more influence to environmental groups (Meidinger 2000b: 64) than in traditional public policy making processes,

and if lesson drawing were to occur from forestry to other sectors, the consequences of this struggle on fundamentally reshaping the nature of domestic and international politics generally could be felt beyond the forest sector. Just what type of NSMD governance system eventually dominates (if any do) could have significant ramifications for its influence on the role of public policy in an increasingly globalized world trading order and heightened internationalization of important policy problems. The future direction public policy and legitimacy for existing domestic and international public authorities thus seems at least partly tied to the legitimacy given to NSMD governance systems. The review lends support for the development of new approaches and hypotheses generally found outside of political science literature if we are to make sense of these complex and significant dynamics.

This paper has focused on the important methodological step of mapping the emergence of NSMD governance systems. I envision future research to focus on explaining why different conceptions of NSMD are emerging in different jurisdictions. Such research will also inform broader theoretical research into just what types of legitimacy are needed for effective and durable governance in this area.

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¹ See Hoberg, (1999).

² For an exception, see (Meidinger 1997), cited in Hoberg (1999).

³ This term borrows from the “social license” concept being raised by forest industrial officials (Stephens 1999) and conservation organizations like the World Resources Institute.

⁴ See (Beetham 1991; Merelman 1998; Ragan 1992; Weber 1958). While legitimacy is often asserted in public policy and international relations literatures as important (Clapp 1998; Coleman and Perl 1999), definitions are relatively scarce (Hurd 1999).

⁵ See (Hansen 1998a; Hansen 1998b; Lindstrom, Hansen, and Juslin 1999; McAlexander and Hansen 1998).

⁶ In both countries forest sectors have come under intense domestic and international scrutiny following increased internationalization/globalization (Bernstein and Cashore 2000; Hoberg, Banting, and Simeon 1999) and significant domestic pressures to move away from traditional “command and compliance” state-centered approaches to policy making (Cashore 1997; Cashore and Vertinsky 2000; Rosenbaum 1995).

⁷ A similar definition was first offered by Doern and others (1996).

⁸ Although the acronym has not changed, The World Wide Fund for Nature changed its name from the World Wildlife Fund in 1995 but the Canadian and US sections opted to keep their original names.

⁹ Bernstein (2000) has also noted a similar trend at the international negotiation level as well where a “liberal environmentalism” paradigm that embraces economic growth and a liberal trading regime as necessary components of environmental protection initiatives has constrained and directed choices over environmental protection at the international level. Indicative of this paradigm are efforts by the WTO to embrace ISO standards for global trade – standards that are developed in the private sector and whose processes are dominated by business interests from developed countries (Clapp 1998).

¹⁰ Other legal (Meidinger 1997) and descriptive analyses make this distinction (1999).

¹¹ Private organizations such as the International Federation of Stock Exchanges, which “produce rules” for securities markets, the contracting out of arbitration services to private organizations, the increasing role of corporations in the Uruguay Round of trade negotiations, the North American Free Trade Agreement negotiations, European Union deliberations, the UN Rio conference (16) and so on are all given as examples where private authority plays an ever increasing role. Cutler et al argue that private authority is developed because firms increasingly cooperate, examples of which include: developing informal industry norms and practices (9), coordination services firms (19), production alliances, subcontractor relationships, and complementary activities (11) business associations (12) and private regimes.

¹² 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 inter-sector unions join forces to influence public and corporate policy change that transcend individual self-interest issues, we place them within the social category.

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¹⁴ The concept “Social license” or “social license to operate” (SLO) is now gaining attention within the forest policy community, and is being used by officials in MacMillan-Bloedel in British Columbia to explain their Forest Project.

The implications and dynamics of SLO are undergoing research at the World Resources Institute. Aside from the WRI project, a literature search revealed no scholarly published articles using this term.

¹⁵ Unlike some treatments of certification, this paper's definition of forest certification is limited to those with some degree of performance standards. This definition conforms with Elliot's (Elliott 1999: 449) definition, but stands in contrast to broader definitions (e.g. Meidinger 2000b) that include standard and process environmental certification programs under the label "forest certification". This definition includes environmental management system approaches such as ISO 14,001 as forest certifications, even though ISO has no performance standards. Instead, we treat ISO as a legitimization force in our discussion below, rather than as a directly comparable certification program "competing" with the CSA, FSC, and SFI. Indeed, officials from all three of these programs have argued ISO is compatible with their program (personal interviews. See also Wenban-Smith and Elliot).

¹⁶ Final approval from Oaxaca for the US South East FSC standards were expected in 1999 (The Forest Management Trust 1999), however insistence from Oaxaca no lands converted to plantations after 1994 be permitted to be certified has caused a split with the US South East working group, with approval process currently in limbo. . FSC accredits certifiers, rather than doing the certification itself. In the US two organizations are accredited to certify for the FSC: the Rainforest Alliance Smart Wood Program and Scientific Certification Systems Forest Conservation Program (Forest Stewardship Council 1999a). These certifiers in turn license affiliates in different US states to carry out on the ground accreditation. In the absence of regional standards, affiliates develop provisional standards for their states that are approved by the international FSC body,

¹⁷ For example, one of the earliest FSC certification was of the Swedish industrial giant Assi-Doman, while the FSC failed to woo Swedish NIPF land owners.

¹⁸ The SFI was formally created after an AF&PA commissioned study revealed different perceptions on the part of civil society and industry about whether sustainable forestry was being practiced (Wallinger 1995), cited in Hansen and Juslin (1999).

¹⁹ The FSC approach, with its broader scope and focus on a wide range of performance requirements, was criticized by the AF&PA as far back as 1993 (American Forest and Paper Association 1993).

²⁰ Regeneration is usually undertaken not for environmental concerns, but because industry has an economic self interest in creating fast growing fibre. As the AF&PA (1995) notes, "The US forest and paper industry understands this concern. Companies that rely on healthy and productive forestland for their livelihood have a keen self-interest in making certain that US forests remain healthy and productive".

²¹ International Forest Certification has to date has focused largely on ensuring they don't infringe upon governmental policy (Tuckey 1999).

²² To date Champion, Meade, International Paper and Plum Creek have opted for third party verification.

²³ Hancock Resources Group and Seven Islands have both indicated they plan on becoming FSC and SFI certified in at least some parts of their operations.

²⁴ The CSA has been referred to as a second and third party certification program. The reason for this discrepancy is that some argue because the CPPA worked under the auspices of the CSA to create an industry supported program, it is best classified as a second party industry program. However, others argue because it is CSA approval, it is a third party program.