CO- REGULATING CORPORATE SOCIAL RESPONSIBILITY:
GOVERNMENT RESPONSE TO FOREST CERTIFICATION
IN CANADA, THE UNITED STATES AND SWEDEN

by

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ABSTRACT

The emergence of private environmental governance has been interpreted in the policy and global governance literature as a "retreat of the state" or "governance without government". However, the most established example of a corporate social responsibility (CSR) standard, forest certification, reveals governments endorsing, enabling and even mandating certification. Forest certification demonstrates that the state is not in retreat, but has simply shifted its role towards co-regulation. Despite the increasing evidence, scholars have largely ignored the significance of this transformation.

This dissertation addresses this critical knowledge gap by developing the governance concept of *CSR co-regulation*, which serves to explain how governments are harnessing private rule-making authority alongside state regulation. Through a comparative case study drawing on more than 120 interviews, the research evaluates how and why governments within the world's leading certified nations (Canada, the United States and Sweden) have responded to forest certification, and the implications for forest governance.

The results show that these governments are increasingly engaging in certification through a range of co-regulatory approaches that complement, rather than substitute for forest laws. While the rationale for co-regulation are similar across the case study jurisdictions, government co-regulatory responses have differed as influenced by socio-political, economic and environmental factors within the local context. The cases also highlight how certification co-regulation benefits forest administration, decision-making processes, and policy outcomes and suggest that governments are engaging in certification for other than market-driven reasons.

The evidence challenges the theory of "non-state market-driven" governance, demonstrating that certification is more accurately classified as a co-regulatory forest governance mechanism. Three new analytical tools are presented to evaluate the co-regulatory arrangements, and establish a framework to facilitate future research in this area. As well, the findings offer practical guidance to policy makers seeking new adaptive governance approaches to address complex sustainability challenges.

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ACRONYMS

AFPA	American Forest and Paper Association
APEC	Atlantic Provinces Economic Council
ATFS	American Tree Farm System
ANSI	American National Standards Institute
BC	British Columbia
BCTS	British Columbia Timber Sales Program
BMPs	Best Management Practices
BOF	Bureau of Forestry
C&I	Criteria and Indicators
CAR	Corrective Action Request
CCFM	Canadian Council of Forest Ministers
CFL	Crown Forest License
CFSA	Crown Forest Sustainability Act
CI	Continual Improvement
CIS	Commonwealth of Independent States
CLFA	Crown Lands and Forests Act
CoC	Chain of Custody
CPET	Central Point of Expertise on Timber Procurement
CORE	Commission on Resources and Environment
CPPA	Canadian Pulp and Paper Association
CSA	Canadian Standards Association
CSFCC	Canadian Sustainable Forest Certification Coalition
CSR	Corporate Social Responsibility
DEC	Department of Environmental Conservation
DFA	Defined Forest Area
DNR	Department of Natural Resources
EESC	European Economic and Social Committee
EMS	Environmental Management System
ENGO	Environmental Non-governmental Organization
EPA	Environmental Protection Agency
EU	European Union
FLEGT	Forest Law, Enforcement, Governance and Trade
FAO	Food and Agriculture Organization of the United Nations
FIA	USDA Forest Inventory Analysis
FPAC	Forest Products Association of Canada
FPB	Forest Practices Board
FPC	Forest Practices Code
FRA	Forest Resource Assessment
FRPA	Forest and Range Practices Act
FS	Forest Service
FSC	Forest Stewardship Council
GAO	Government Accountability Office
GDP	Gross Domestic Product
GRI	Global Reporting Initiative
Ha	Hectares
HCP	Habitat Conservation Plan
HCVF	High Conservation Value Forest
IN	Indiana

ISEAL   International Social and Environmental Accreditation & Labeling Alliance
ISO   International Organization for Standardization
ITTO   International Tropical Timber Organization
LRMP   Land and Resource Management Plan
MAI   Mean Annual Increment
MB   MacMillan Bloedel
ME   Maine
MEA   Millennium Ecosystem Assessment
MFL   Managed Forest Law (Wisconsin)
MI   Michigan
MOF   Ministry of Forests
MOU   Memorandum of Understanding
MRNFP   Ministère des Ressources naturelles, de la Faune et des Parcs
MSC   Marine Stewardship Council
MTCC   Malaysian Timber Certification Council
NB   New Brunswick
NBF   National Board of Forestry
NC   North Carolina
NGO   Non-governmental Organization
NIPF   Non-industrial Private Forestland
NRCan   Natural Resources Canada
NRDC   Natural Resources Defense Council
NSMD   Non-state Market-driven
OECD   Organization for Economic Cooperation & Development
OMNR   Ontario Ministry of Natural Resources
ONT   Ontario
PEFC   Programme for the Endorsement of Forest Certification
PQ   Province of Quebec
QFIC   Quebec Forest Industry Council
QUE   Quebec
RAN   Rainforest Action Network
SBFEP   Small Business Forest Enterprise Program
SCC   Standards Council of Canada
SCS   Scientific Certification Systems
SEPA   Swedish Environmental Protection Agency
SFA   Swedish Forest Agency
SFB   Sustainable Forestry Board
SFI   Sustainable Forestry Initiative
SFIA   Swedish Forest Industries Association
SFL   Sustainable Forest License
SFM   Sustainable Forest Management
SIC   SFI Implementation Committee
SLU   Swedish University of Agricultural Sciences
SSNC   Swedish Society for Nature Conservation
SWEDAC   Swedish Board for Accreditation and Conformity Assessment
TFL   Tree Farm License
TQM   Total Quality Management
TRN   Taiga Rescue Network
TSFMA   Timber Supply Forest Management Agreements
UBC   University of British Columbia
UK   United Kingdom

UN	United Nations
UNCED	United Nations Conference on Environment & Development
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Program
UNFF	United Nations Forum on Forests
USDA	United States Department of Agriculture
USFS	United States Forest Service
VAs	Voluntary Agreements
WA	Washington State
WBCSD	World Business Council for Sustainable Development
WCED	World Commission on Environment & Development
WFP	Western Forest Products
WRI	World Resources Institute
WTO	World Trade Organization
WWF	Worldwide Fund for Nature/World Wildlife Fund

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I am foremost indebted to my supervisor, Professor Peter Dauvergne for encouraging and supporting my interdisciplinary research. Over the past several years I have been in the envious position of having a masterful advisor who not only inspired and entrusted me with creative freedom to explore across disciplinary boundaries but also provided timely and enthusiastic expert guidance that focused and continually raised the bar on my efforts. I am very appreciative of our many wide-ranging, thought-provoking discussions and for the valuable pragmatic lessons I have learned, not the least of which include the dangers of the passive voice and the importance of a clear argument. But most importantly, Peter has taught me about character and the qualities of humility and respect – traits that don't just make someone a good researcher and colleague but are fundamental to citizenship and the hopes of achieving any sort of sustainability solutions. I am truly fortunate to have such an exceptional mentor.

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To my loving mother, Marilyn Jane Lister (1938-2004) –
A tireless consumer advocate, community volunteer, and sage council
to whom I can only hope to aspire.

Chapter 1

Introduction

Over the past 15 years, private environmental codes and transnational corporate social responsibility (CSR) standards have proliferated. Led by industry and/or non-governmental organizations, these multi-stakeholder standards now address sustainability issues in a wide range of sectors across the globe – from forestry, mining, oil and gas, fisheries, agriculture, finance and chemicals to apparel, coffee, jewelry and tourism. Governments, corporations and non-governmental organizations have been enthusiastic about CSR with many groups heralding these voluntary multi-stakeholder efforts as the path to sustainable development.[1]

The CSR opportunity is enticing to all stakeholders – when corporations voluntarily take on greater responsibility for achieving societal goals, the company's long-term value can increase, negative environmental impacts ideally are reduced, and the regulatory costs to governments are ultimately lessened. It is a win-win scenario. However, as CSR participation is uneven and as environmental and social conditions worsen in vulnerable areas across the planet, skepticism about CSR standards is growing: the sense is that on their own, they are falling short. Attention is shifting back to governments to "scale up" CSR efforts. Some governments have heeded the call while others remain on the sidelines. The role of the public sector is unclear and a point of global debate. Should governments ignore, facilitate, compete with, or perhaps even mandate CSR?

On the one hand, by enabling CSR, governments could be perceived as handing over the policy reins – effectively turning the fox loose in the henhouse (i.e. trusting the market with the public good). On the other hand, by ignoring or merely observing CSR, governments may lose the opportunity to leverage private resources as well as the chance

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[1] Sustainable development is a contested term however the standard definition from the Brundtland Commission is, "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." See World Commission on Environment and Development (1987).

to reward corporate virtue. The implications of government CSR engagement are largely unexplored. This dissertation addresses this significant research gap.

The following seven chapters assess the public sector role in CSR by evaluating government response to the most well-established CSR standard, forest certification. The research focuses on forest certification not just because it is a highly developed CSR example but also because the pattern of certification adoption and its theoretical classification are puzzling: If certification was intended to fill a governance gap in tropical regions, what role is it actually serving in the highly regulated northern nations where 90% of certification participation is occurring? And why does the environmental governance literature label certification a non-state market-driven mechanism when the standards incorporate public forest laws and governments are directly engaging?

In this dissertation I argue that while governments in developed countries have communicated a position of non-interference in forest certification, they have responded to certification through a range of direct co-regulatory approaches. Specifically, they have engaged in certification at the development, implementation and/or enforcement stages of certification governance systems, integrating the private governance mechanism as an additional policy tool alongside traditional forest regulation, and resulting in supplemental forest governance capacity. Specifically, the contest of overlapping forest rules, as well as the beyond-compliance forest certification requirements have encouraged adaptive improvements in forest management practices and policy.

While it is reasonable to expect that the political ideology of the elected government would be a major explanatory factor of government response to private forest governance, the patterns of government response to certification do not support this. Direct co-regulatory policy approaches have emerged and been carried forward across electoral cycles, whether a left-of-centre or a right-of-centre government (see Appendix F). Although elected officials play an obvious role in supporting forest policy initiatives, certification co-regulation has been largely non-partisan, with policies and programs developed and delivered at the level of the bureaucracy. As shown in the cases examined

in this dissertation, the response of government forest agencies to certification have been influenced by a range of socio-political, economic and environmental factors that have played out differently within the respective forest regimes.

This introductory chapter is divided into four sections. The first section introduces forest certification, defines the concept of CSR co-regulation, and outlines the central arguments regarding certification co-regulation. I then provide an explanation of the research approach and methods before turning to a review of the parameters of the research. The chapter concludes with a brief overview of the structure of the dissertation.

1.1 Forest Certification and CSR Co-regulation

Forest certification is a multi-stakeholder, voluntary CSR initiative that encourages sustainable forest management (SFM)[2] by leveraging the global supply chains of multinational corporations and linking customer demand for certified forest products with producer supply.[3] Environmental non-governmental organizations (ENGOs) initiated forest certification in the early 1990s to serve as a non-state global governance mechanism to curtail tropical deforestation in developing regions lacking sufficient public regulatory capacity. However, instead of addressing a governance gap, certification systems have been adopted in highly regulated forest producing nations as a supplementary forest governance mechanism within the domestic forest policy mix. Only one-tenth of one percent of forests in Africa and Asia are certified, and the majority of the 1.6 percent of certified Brazilian forest is plantation.[4] So far, certification has not been an effective governance mechanism to combat tropical deforestation. Rather, it is promoting continual forest governance improvements in highly regulated northern boreal and temperate regions.

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[2] The term "sustainable forest management" (SFM) is employed throughout the dissertation. As a policy goal, it refers to the balancing of economic, environmental and social forest values so as to ensure a healthy and productive forest landscape that can meet the needs of present and future generations.
[3] The forest certification process involves an independent third-party audit to verify and provide written assurance that forests have been managed in accordance with pre-established ecological, economic and social principles of sustainable forest management.
[4] UNECE/FAO (2008:107).

Rather than dismiss the pattern of certification adoption as a complete global regulatory failure, this dissertation seizes a window of opportunity to learn about the importance of public sector capacity in enabling CSR. Given that forest laws are already well established in the industrialized countries where certification is occurring, what regulatory purpose is certification actually serving? If certification is gaining a regulatory foothold, does this imply that the state has retreated? How are governments responding to certification? What is the dynamic between public and private forest rule-making authority?

Traditional statist governance scholars interpret the emergence of private authority as a retreat of the state or governance without government. Political authority is assumed to be a zero-sum contest.[5] However, forest certification demonstrates the co-existence of public and private authority. Governments are actively engaging in and even mandating certification. This dissertation therefore argues that with private environmental governance the state is not in retreat but rather there is a shift in government role from state-centric to multi-centric governance within an expanded political space that encompasses both state and non-state deliberative arenas. Until recently, political scholars have largely ignored this governance transformation. Governments *are* engaging in CSR private standard-setting and CSR is serving a policy role but we have very little empirical or theoretical understanding of these newly forming "post-sovereign" co-regulatory governance systems.[6]

In the absence of a theory of CSR governance, this dissertation introduces the concept of *CSR co-regulation* in order to provide an analytical lens through which to identify and assess the emerging public-private shared governance arrangements. With CSR co-regulation, governments engage with CSR standards so as to leverage private rule-making alongside public regulation. CSR co-regulation is about achieving an optimal

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[5] In other words, the authority "pie" is only so big and therefore, necessarily, if private authority increases than the state must be in retreat.

[6] Co-regulation in a general sense refers to shared decision-making. Some scholars have interpreted this as private rule-making between corporations and civil society organizations. See Pattberg (2005) and Utting (2005). In this dissertation, I accept the governmental definition of co-regulation (i.e. co-operative policy-making between state and non-state private actors). See European Commission (2001).

balance of public and private rule-making authority within the policy mix in terms of maximizing the strengths while minimizing the weaknesses inherent in each regulatory system. In addition, I develop three analytical tools to support the development of the CSR co-regulation concept and guide the empirical evaluation of forest certification co-regulation (see section 1.2.4).

Governance scholars have attached many labels to certification in order to emphasize its private regulatory capacity, including such terms as civil regulation, private hard law, and non-state market-driven (NSMD) governance. NSMD has gained acceptance in the certification literature. Under the NSMD theory, forest certification is considered a purely private mechanism, establishing private forest rules independent of state authority.[7] Yet forest certification systems rely on a baseline legal framework, require regulatory compliance and incorporate international forest principles; what's more, government authorities are overseeing, facilitating, legitimating and, in some cases, even enforcing certification. This research therefore challenges the NSMD theory, arguing that this is a partial classification. Forest certification *is* unique with respect to its non-delegated private authority but certification systems also overlap with public authority and state processes, as well as rely on public governance capacity.

By evaluating the role of government in certification in the leading global certified nations (Canada, the United States and Sweden), I show that forest certification is more accurately classified as a co-regulatory forest governance mechanism. I demonstrate that although certification has weaknesses as a stand-alone policy instrument, it provides supplementary governance capacity alongside public regulation. In particular, combining the dynamic innovative qualities of private certification standards with the stability and democratic accountability of traditional state-led regulatory approaches, certification co-regulation encourages greater adaptive governance (i.e. decision-making processes that are responsive to complexity and uncertainty and are constantly testing, receiving feedback and continually improving). Overall, I argue that certification co-regulation

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[7] Cashore (2002).

constitutes a progressive step towards more responsive and adaptive rule-making, and hence more effective collective sustainability solutions.

1.2 Research Approach and Methodology

1.2.1 Research Design and Objectives

This dissertation employs a mixed methods approach within an overall case study research design.[8] As opposed to a scientific-based method of seeking to disprove a hypothesis based on pre-defined variables, I apply a historical-political method of interpreting past and present qualitative and quantitative evidence to develop and present a logical narrative and argument. The overall case study methodological design is comparative,[9] as well as, hierarchical and temporal.[10] The research not only compares and contrasts how and why government responses to certification have varied over the period 1995 to 2007, but it also evaluates the co-regulatory variance at the sub-national level, and the relative timing of government certification engagement.

The five objectives of the case study analyses include:
- Assess the emergence, evolution and adoption of the leading certification programs;
- Identify and compare government responses to forest certification;
- Investigate and compare the rationale and drivers of government certification engagement;
- Examine the dynamic of certification-forest policy interaction; and
- Evaluate the forest governance implications of certification co-regulation.

1.2.2 Case Study Rationale

The research employs a case study methodology so as to identify and assess the range of factors influencing government response to certification within each jurisdiction.

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[8] Yin (2003).
[9] Lijphart (1971).
[10] Mahoney (2004).

The three central questions posed in the cases are:

- How has government responded to certification?
- Why has government adopted its particular certification co-regulatory approach?
- How has certification co-regulation affected forest governance?

Anticipating that government certification engagement would be varied and multi-causal as per a wide range of influencing and interacting factors and contextual considerations, the research methodology needed to identify and capture this dynamic. A statistical modeling approach would have restricted an investigation of the contextual complexity. Fundamentally, the case study approach facilitates the achievement of the main research objectives: explaining why governments are engaging in certification, and also exploring how certification co-regulation is occurring and the implications. It also enables the analysis of causal factors as well as the interpretation of historical influences. In addition, the case study methodology permits the use of multiple research strategies. For example, the U.S. case study includes an open-survey method.

1.2.3 Case Selection

As the aim of this research is to understand the dynamic of interacting public and private authorities, the cases needed to be regions with operational public and private forest rule-making systems. Although it might seem intuitively obvious to simply focus the research where the worst forest degradation and deforestation problems are occurring (i.e. tropical forests), this would not have permitted the investigation of interacting authorities. It was absolutely critical that the sample constitute jurisdictions with both high public and high private governance capacity. This would encourage the greatest political rule-making tension in terms of overlapping public and private governance systems and enable the study of certification co-regulation challenges, benefits and optimal arrangements.[11] High *public* capacity refers to regions with well established legal frameworks and forest institutions, and high *private* capacity concerns global forest producing regions with multinational forest company ownership and/or management. As shown in Figure 1.1,

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[11] Knill & Lehmkuhl (2002).

having both high public and high private capacity places the research sample firmly within developed rather than developing or transitioning countries.[12]

Figure 1.1: Case Study Target Sample
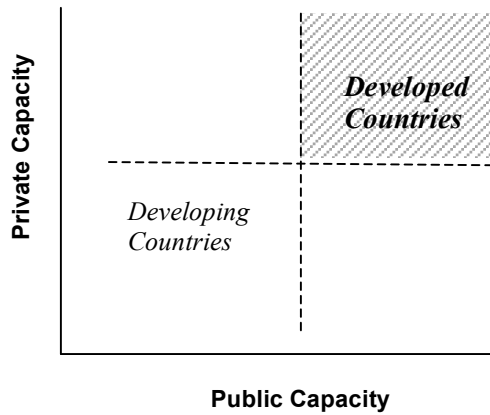
The research addresses the three critical cases: Canada, Sweden and the United States. I selected these countries for three reasons. Firstly, they are among the top global forest producing and exporting nations. Secondly, they all have well established yet, varying forest regimes (Table 1.1). And thirdly, they are leaders in terms of certification development and adoption (Figure 1.2). Global forest production is an important criterion because certification achieves leverage through global supply chains. A variance in forest regimes within the research sample provides an opportunity to examine the institutional influence of baseline regulatory structures to the co-regulatory dynamic. And lastly, certification leadership is essential, as certification needs to have gained a sufficient foothold in the region in order to study co-regulation.

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[12] In this dissertation, developed countries are distinguished from developing countries by their membership in the Organization for Economic Co-operation and Development (OECD). See: www.oecd.org/membercountries.

Table 1.1: Case Study Forest Regimes

Canada	• Highly regulated at the provincial level with majority public land.
United States	• Variable regulatory approaches at the state level with majority private land.
Sweden	• Highly regulated at the national level with majority private land.

The obvious omission from this sample is Finland. Although Finland meets the case selection criteria, I did not include this Nordic global timber producer in the study, as I wanted to focus on the "harder cases" with the greatest public-private tension (i.e. rule-making contest). Very early on in April 1996, the Finnish government took a direct, leadership role in initiating the development of a national certification standard based on the country's national forest program.[13] Thus, rather than a tension in deliberating over public and private forest rules, over 95 percent of forestland in Finland was certified to the Finish Forest Certification standard within two years of its approval in 1998.

Figure 1.2: The Top Certified Countries, 2003-2004[14]
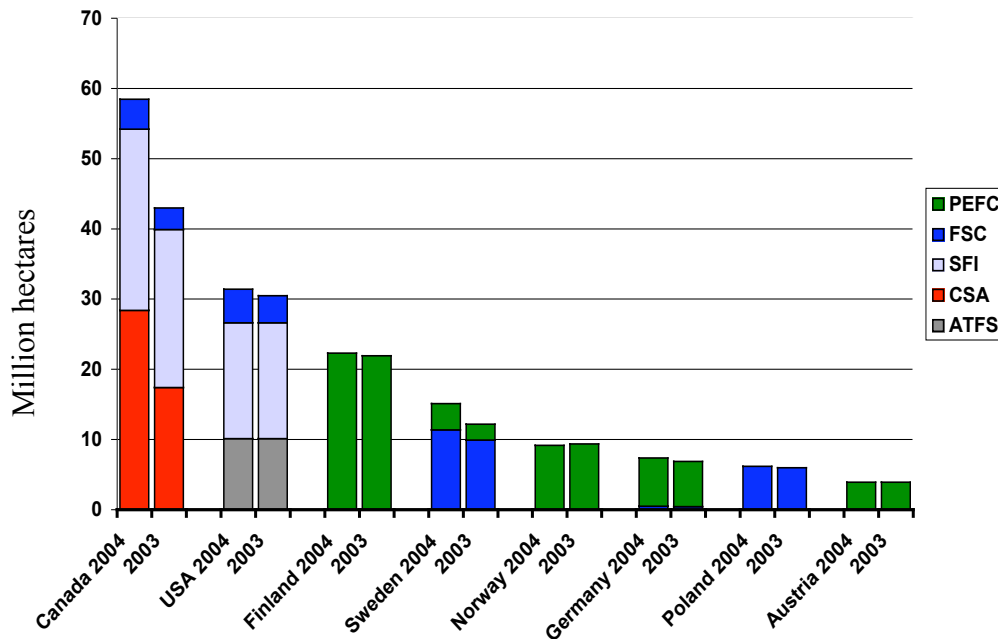
Source: UNECE/FAO (2004).

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[13] For a concise summary of forest certification in Finland see Cashore, Egan, Auld & Newsom (2007).
[14] See Appendix B for a description of the various lead certification programs.

As forest regulatory responsibility resides at the sub-national level within Canada and the U.S., I include provincial and state governments for comparison within these jurisdictions. For example, in the Canadian case study, I evaluate certification co-regulation in four provinces – British Columbia, Ontario, Quebec, and New Brunswick. I selected these four sub-cases, as they are the top forest producing regions across Canada, and present a variance in terms of government certification response and industry expectation of government role (e.g., two of the four provinces have mandated certification). Although a significant Canadian forest producing region, I exclude Alberta as forestry constitutes only a small percentage of the overall provincial economy relative to oil and gas, and the Alberta government has played a "hands-off" role in certification. The public-private certification dynamic in Alberta has, therefore, been less complex (i.e. less competing) than in the other four provinces selected.

Within the U.S. case study, I evaluate the twelve states that have certified their state-owned forests. The inclusion of such a large number of similar cases is based on my decision to conduct a "direct method of agreement" comparative methodology.[15] I chose the direct method of agreement (i.e. comparing all twelve similar cases of co-regulation) as opposed to the indirect method of difference (i.e. comparing one or two states that have certified with a few that haven't) because of the absence of an established co-regulation theory.   In other words, I recognized that before I could isolate and test the influence of a particular causal driver of certification co-regulation, it was necessary to first gain an appreciation of the range and interaction of various influencing factors associated with this particular certification co-regulatory approach.

1.2.4 Data Collection and Analysis

The arguments and research findings in this dissertation are supported by multiple sources of secondary and primary data. I gathered unique empirical evidence over a three-year period through in-depth, semi-structured interviews with over 120 key forest governance stakeholders across Canada, the United States and Sweden (See Appendix A). As well, I conducted extensive document reviews of both primary and secondary

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[15] Mill (1843).

sources including the relevant scholarly literature, as well as publications, reports, articles, websites and press releases from non-governmental advocacy organizations, private research institutes, companies, industry associations, and governmental departments and agencies within each case study jurisdiction. And finally, I supplemented and triangulated my primary and secondary data and empirical evidence with observational information gained by attending several industry and academic forest certification and forest policy conferences within Canada, the United States and Sweden, including participating on the Canadian federal delegation to the United Nations Timber Committee policy forum on "government role in forest certification" in October 2005.

Reflective of the cross-cutting, interdisciplinary dissertation topic, the data collection and analyses are supported by a number of comparative tools, frameworks and lessons drawn from several fields of study including: environmental policy, global environmental governance, environmental management, and business sustainability. In addition to the traditional case study methodology, the research draws upon methodological frameworks from "new tools of governance" research[16] and applied CSR studies.[17] As well, I reference and expand upon the regulatory typologies from the "responsive regulation"[18] and emerging co-regulatory governance literature.[19] I also leverage insights from the growing research on global environmental regime effectiveness, accountability and legitimacy.[20] And finally, I utilize the concept of adaptive management from the environmental sustainability literature to assess and interpret certification co-regulation governance outcomes.[21]

Given the lack of an established theory or framework for understanding government response to CSR standards such as forest certification, I developed three analytical tools to aid in the data collection and analysis. The first is a governance typology that classifies and highlights the unique aspects of non-delegated voluntary CSR standards such as

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[16] See Eliadis, Hill & Howlett (2005); Jordan, Wurzel & Zito (2005); and Salamon (2002).
[17] See Conference Board of Canada (2004); Fox et.al. (2002); NRCan (2004c); and Ward (2004).
[18] See Ayres & Braithwaite (1992); and Gunningham & Grabosky (1998).
[19] See Fiorini (2006); Gunningham & Sinclair (2002); Haufler (2001); Knill & Lehmkuhl (2002); McBarnet et.al. (2007); Schulz & Held (2004); Utting (2005); and Webb & Morrison (2005).
[20] See Held & Koenig-Archibugi (2005) and Wettestad (2001).
[21] See Gunderson & Holling (2002); Holling (1978); and Walters (1986).

forest certification among the array of traditional regulatory and emerging public-private co-operative policy instruments (see Figure 2.1). The second is a matrix for illustrating the overlapping public-private boundaries of CSR standards with traditional and emerging forms of regulated self-regulation within co-regulatory governance systems (see Figure 2.3). And the final is a framework to map government response to CSR along a spectrum of engagement at the various stages of the policy cycle (standard development, implementation and enforcement) (see Figure 2.5).

I had the opportunity to present and receive progressive feedback on these tools, as well as, my overall analytical approach at three academic workshops: "The CSR PhD Seminar" at the Copenhagen Business School in October 2004; " "The Role of Private Actors in World Politics" meeting at the London School of Economics in November 2005 and "The Institutional Mechanisms of Industry Self-regulation" workshop at Dartmouth College in February 2006.

Research Timing

This research was conducted over a three and a half year period (2004-2007). I carried out the Canadian case study in 2004-2005; the U.S. study in 2006-2007; and the Swedish research in 2007. Following the completion of the Canadian and U.S. cases, I prepared summary reports and circulated copies to interviewees for comment and feedback. The findings have already had useful application. For example, the United Nations Timber Committee referenced the Canadian report as background material to their October 2005 certification policy forum, and the U.S. Forest Service cited the U.S. case study results in their recent report examining the implications of federal forestland certification.[22]

1.3 Research Parameters

In order to ensure a feasible research project that facilitates optimal insight into the emerging CSR co-regulatory governance dynamic, the dissertation is focused within specific parameters. These research boundaries are explained below.

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[22] See: www.unece.org/timber/strategic_review/2007-2008/Table%20A.pdf and www.fs.fed.us/projects/forestcertification/executive-summary.pdf.

Firstly, although the central aim of the dissertation is to understand the broader question of the public sector role in CSR co-regulation, the research is concentrated on the specific case of government response to forest certification. As explained in the previous section, this is logical as forest certification is the most well developed and established example of a CSR governance standard. As private environmental governance standards develop and gain institutional capacity in other industry sectors, there will be opportunity to apply the analytical framework presented in this research to compare government co-regulatory responses to several different CSR standards within and across political jurisdictions.

As well, although CSR encompasses both social as well as environmental considerations, I concentrate on the environmental aspects of sustainability rather than social considerations such as equity, security, employment, and community health and safety. Community engagement is addressed within the context of encouraging improved forestry practices to achieve and maintain healthy and productive forests.

In terms of the level of the analysis, the research is focused at the level of the bureaucracy (i.e. the lead forest departments and agencies within each jurisdiction) where co-regulatory policy development and implementation occurs. Broader speculative political questions regarding the degree of influence of the type of state and form of government (e.g., presidential versus parliamentary; federal versus unitary); the role of party politics (e.g. left versus right-of-centre); or the comparative contribution of executive, legislative and judicial actors in certification co-regulation are not systematically evaluated as they lack explanatory importance. However, as all of the case study jurisdictions are democratic, and the bureaucracy an agent to the elected government, by concentrating at the level of the forest agency, this not only provides a means to evaluate certification co-regulation policy formulation and delivery but also permits for an understanding of the influence of elected officials and internal administrative politics. At this point, it is important to note that unless specified, the terms "government" and "state" are employed interchangeably and inclusively throughout the dissertation to encompass the different public sector

actors, and levels and branches of the public service at the national and sub-national levels.

With respect to the subject of the research, unlike most of the certification governance literature that only addresses the Forest Steward Council (FSC), the analyses in this dissertation concern both PEFC and FSC systems.[23] As of late 2006, PEFC and FSC international certification programs accounted for 70 percent and 27 percent of the total global certified forest area respectively, and over the past decade the two systems have been converging in their multi-stakeholder design and SFM content. As well, governments have taken neutral positions in terms of their support for one system over another and both systems have been adopted in all of the case study regions, including increasing examples of "dual-certification". Consequently, unless specified, the terms certification and certification co-regulation refer to both PEFC and FSC programs throughout the dissertation.

As previously noted, this research addresses certification co-regulation within the major forest producing nations of the *developed* world. As explained in the previous section, the case study research method facilitates an in-depth examination of the contextual conditions influencing the range of certification co-regulatory approaches. However, this method also imposes certain research constraints, such as a limitation on the number of cases. Therefore, the research is focused on the three critical cases within developed forest producing countries where the vast majority of forest certification is occurring and where forest rules are already well-established. The concentration is on the major industrialized producer nations not just with the knowledge that these jurisdictions offer the necessary conditions to examine the tensions between public and private forest governance systems, but also with the intent that the findings from this study will offer useful guidance as certification uptake increases among the major forest producing regions of the transitioning and developing world (e.g., Brazil, Russia, China and India, as well as, other Latin American, African and South East Asian countries).

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[23] PEFC refers to the Programme for the Endorsement of Forest Certification. See Appendix B for a description of the FSC and PEFC programs.

In addition, the research is focused on certification co-regulation within the large developed forest exporting countries rather than the major importing consumer nations. Although the U.S. is also a top global forest consumer, the analysis does not include the demand-side role of state governments in co-regulating certification (e.g., establishing public procurement policies, providing chain of custody certification incentives, etc.) as state government attention during the period of the research (2004-2007) was directed towards the supply-side concern of increasing certified forest area.

While the case selection provides an essential research parameter, the dissertation is also bound by the research questions. As the aim is to evaluate the interaction of public and private rule-making systems, the case evaluations are focused on how and why certification co-regulation is occurring and the governance outcomes. The analysis does not include on-the-ground effectiveness of certification co-regulation (i.e. the difference a shared governance approach is making to resolving specific forest problems such as deforestation, illegal logging, forest conversion, biodiversity preservation, endangered species, carbon storage or Aboriginal rights). The effectiveness with respect to the positive *forestry management* governance outcomes is addressed but the evaluation excludes actual *forest* outcomes. Few studies have yet to tackle the question of certification "problem-solving" effectiveness. This is because forest certification is fundamentally a forestry stewardship tool focused on improving site-level forestry practices rather than achieving broader landscape-level forest conditions (e.g., wildlife, biodiversity, etc.). As well, there is a tremendous level of complexity and uncertainty in defining, isolating and measuring the on-the-ground forest impacts attributable to certification. Given the lack of empirical data, this aspect of certification co-regulation is not included in the case study evaluations. However, forest outcome effectiveness presents an important area for future investigation.

Although the cases are bound by the same research approach and questions (e.g., how and why did governments engage in certification and what were the implications), each case presents a slightly different co-regulation puzzle as per local forest regime conditions. Therefore, the focus in each case is slightly different. This enhances the

contextual details but also limits the direct comparison between the cases. For example, in the Canadian case, the compelling question is why is it that across *similar* forest regulatory regimes, provincial governments have responded differently to certification? In the U.S. the situation is the opposite. Why have *different* state forest regulatory regimes responded similarly to certification? And in the Sweden case, given the "frame law" policy environment that enabled certification development and adoption, how have certification and public policy interacted and have the Swedish forest authorities retreated? Although limiting comparison between cases, this slight variance in focus facilitates an important progression in the cases. The empirical cases evolve in their depth and focus from a broad examination of the range of government certification roles (Canada); to a concentrated study of the governance implications of a specific co-regulatory approach (U.S.); to an in-depth investigation of the certification co-regulation policy dynamic (Sweden). Consequently, rather than including a separate comparative evaluation of the cases at the end of the dissertation, the key analysis occurs within the cases, and a synthesis of the case study results is presented in the conclusion.

A final important research parameter concerns the governance target. Both the Canadian and U.S. cases concentrate on the governance implications of certification co-regulation on public land. In Canada, this is appropriate because over 90 percent of forestland is publicly owned. In the U.S., although the majority of forestland is privately owned, it is logical to focus on state government adoption of certification on state-owned public forestland as state lands account for a surprisingly disproportionate percentage of the total certified forest area across the country. The analysis does not include U.S. private non-industrial forestland, as less than 1 percent of family forest owners have certified their forestland and government certification incentives have only just begun to develop. As well, the U.S. evaluation does not address national forest certification as the federal government's position during this period has been to study rather implement certification. In summary, this dissertation constitutes a small contribution to the much larger emerging area of research concerning CSR co-regulation and, therefore, necessarily has distinct parameters. It is the intent that by outlining the focus and boundaries of the research in terms of the cases selected, questions examined and the research approach, that these

parameters will serve as a guide to the limits of generalizing the study results to other cases, as well as highlight opportunities for future research.

1.4 Structure of the Dissertation

Over the course of the next seven chapters, this dissertation develops the central argument that CSR co-regulatory arrangements are emerging whereby governments harness private authority within their policy mix to enhance governance capacity and encourage ongoing voluntary corporate responsibility initiative while continuing to ensure corporate accountability through prescriptive baseline regulation. The purpose of this first chapter has been to introduce the topic, present the main arguments, and review the research methodology and scope. Chapters 2 and 3 provide the background and the theoretical context for the three case study evaluations. Specifically, Chapter 2 explains the emergence of CSR; defines the concept of CSR co-regulation; and presents a typology as well as a mapping tool for evaluating the shifting regulatory role of the state with regard to the various new modes of co-regulatory governance. Chapter 3 follows a similar progression to Chapter 2 but with respect to the particular CSR example of forest certification. It begins by explaining the emergence of forest certification and evaluating its unique classification as a non-delegated private governance mechanism. The chapter then introduces the specific case of certification co-regulation and, in particular, applies the co-regulatory matrix introduced in Chapter 2 to assess the range of regulatory instruments within a co-regulatory forest governance system.

Chapters 4, 5 and 6 comprise the three empirical case studies – Canada, the United States and Sweden. Each case study has a similar structure in that each evaluation begins with background on the local forest regime and an overview of forest certification development and adoption within the respective jurisdiction. Government role in forest certification is then assessed in terms of the approach, drivers and the governance implications of certification co-regulation within each jurisdiction. The dissertation concludes in Chapter 7 with a synthesis of the case findings; an evaluation of the limits and potential of CSR co-regulation; operational recommendations for policy makers on achieving optimal forest certification co-regulation; and suggestions for future research.

Chapter 2

Co-regulating Corporate Social Responsibility

2.1 Introduction

Corporate social responsibility (CSR) standards have not only recently increased in prevalence but also many are gaining unprecedented private rule-making authority and governance capacity – essentially mimicking the policy role of public institutions. While NGOs, corporations and governments have initiated and/or promoted transnational CSR standards as a global environmental governance mechanism to supplement international laws and agreements, the standards are also functioning as private regulations in developed nations that have established laws and strong public institutions. This raises an interesting puzzle. How is CSR private authority interacting with state authority in domestic political environments with high public capacity? Are the public and private rule-making systems competing or co-operating? What is the policy role of CSR private standards and what is the role of government in CSR private rule-making in these jurisdictions?

In this chapter, I argue that CSR private governance standards not only constitute a distinct mode of governance but also a new self-regulatory policy instrument. Furthermore, I argue that with the emergence of private authority, governments are not in retreat but rather transforming in their role from policy delivery and delegation to also enabling private regulations alongside traditional regulation within multi-centric co-regulatory governance systems that include public and private rule-making authority. And finally, I argue that there is a spectrum of intervention by which governments can co-regulate CSR so as to supplement governance capacity.

The aim of this chapter is three-fold: to outline the emergence of private environmental governance authority; to explain the nature of co-regulatory governance systems; and to review the range of government approaches to co-regulating CSR. To achieve these

objectives, the chapter introduces three analytical tools. Firstly, I develop a typology to classify the vast environmental governance literature and to distinguish private environmental governance among the shifting hierarchical and self-regulatory modes of governance. I then present a matrix for illustrating a co-regulatory governance system in terms of positioning policy instruments along two key dimensions – public versus private rule-making authority, and market versus state-initiated policy development and delivery. And finally I introduce a regulatory scale to identify and position government response to private environmental governance along a spectrum of engagement ranging from indirect to direct mandating at the rule development, implementation and enforcement stages. These tools provide an analytical lens on CSR co-regulation as well as a theoretical framework to guide the empirical case study investigations, detailed in Chapters 4 to 6.

The chapter begins by defining CSR, outlining the emergence of CSR initiatives, and explaining how many CSR standards have gained legitimacy and rule-making authority as private environmental governance mechanisms. I then evaluate how these CSR efforts constitute a unique case of "non-delegated" self-regulatory authority within the traditional shifting dynamic of state-delegated policy mechanisms. In particular, I argue that CSR initiatives such as certification and eco-label programs and multi-stakeholder codes are distinct as compared to historic examples of "delegated" industry self-regulation, and therefore present an unprecedented co-regulatory governance challenge and opportunity. I outline the interaction of public and private rule-making systems within a co-regulatory governance system and review the criteria for assessing the governance strengths and weaknesses of CSR mechanisms. The chapter concludes with an assessment of the range of approaches by which governments can co-regulate CSR alongside traditional regulation.

It is important to note that an evaluation of the governance implications of CSR is somewhat complicated by the fact that there are two bodies of literature that address the subject of private environmental governance authority. The first is the global governance literature that focuses on the emergence and role of private authority in addressing the global governance gap that occurs given the absence of a sovereign world government.

The other is the public policy/new governance literature that examines private authority from the perspective of new multi-centric modes of governance in the domestic environment that constitute a shift from government to governance.

This chapter draws largely upon the global governance literature to explain the emergence and assess the legitimacy of private environmental governance authority, while the analysis of co-regulatory governance is anchored in the domestic public policy/new tools of governance literature. However, it should also be noted that as the boundaries between public regulation and private governance become increasingly blurred, there is also a growing cross-over in the political science literature, with a growing number of public policy and global governance scholars addressing *both* the domestic policy and global governance implications of private authority.

2.2 CSR & the Emergence of Private Authority

Corporate social responsibility (CSR) is fundamentally about the role of business in society and the balancing of public and private responsibility. To what extent does a company have a responsibility to go beyond the law to meet societal expectations? Is the corporate mandate solely to deliver a financial profit to shareholders or do businesses also have a responsibility to create value for society? Are the two goals mutually exclusive? There is a long history of debate over these normative questions with shifting emphases and fluctuating levels of societal concern.[24] Over the past fifteen years, since the United Nations Conference on Environment and Development (UNCED) in 1992, there has been a resurgence of CSR interest, with societal attention directed towards increasing the accountability and responsibility of multinational corporations to address environmental issues and contribute to global sustainability solutions.

This section defines CSR and outlines the social, political and economic factors that have influenced its re-emergence. I explain how running in parallel to public sector reforms

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[24] See Anderson (1989) for a concise historical overview of CSR debates regarding the role and responsibilities of commercial entities dating back to the pre-medieval period, through the mercantile period and early industrial era, to the present day.

and mounting global governance challenges, corporations and NGOs have co-operated in the development of a wide range of transnational CSR standards. The section concludes with an assessment of how many of these CSR initiatives are gaining institutional capacity as private environmental governance mechanisms with private rule-making authority.

2.2.1 CSR Definition

CSR in its present manifestation is focused on harnessing the skills, power and resources of corporations to meet global sustainability goals. Non-governmental organizations (NGOs), governments and businesses around the globe have promoted CSR as a progressive, self-regulatory approach to achieving sustainable development. For example, the European Commission designated 2005 as the year of corporate social responsibility in European Union countries.[25]

While there is no single accepted definition of CSR, fundamentally, it concerns companies voluntarily choosing to integrate societal concerns (alongside shareholder interests) into their business operations. For example, leading companies demonstrate CSR and corporate citizenship by often going beyond compliance to meet stakeholder expectations regarding a triple bottomline of economic, social and environmental sustainable development objectives.[26] Specifically, these exemplary corporations undertake firm-level sustainability management initiatives such as environmental auditing and reporting, life cycle assessments, stakeholder consultation, socially responsible investing, and sustainability reporting. As well, many firms that embrace CSR co-operate in the development and implementation of industry-level accountability

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[25] European Commission (2006).

[26] The terms "corporate responsibility" and "corporate sustainability" are often used interchangeably with the concepts of CSR and corporate citizenship to describe the social and environmental responsibilities of the firm beyond legal compliance and maximizing shareholder profit. In this dissertation, I use CSR to encompass all of these terms. As well, CSR does not necessarily require going beyond compliance. For example, Industry Canada defines CSR as, "the way a company achieves a balance or integration of economic, environmental and social imperatives while at the same time addressing shareholder and stakeholder expectations." The foundational literature on corporate citizenship and CSR includes: Bowie (1991); Carroll (1991, 1999); Elkington (1998); and Zadek (2001).

and transparency initiatives such as CSR codes and standards that encompass CSR principles and firm-level initiatives.

While CSR initiatives are not formally delegated or enforced by the state, confirmation of conformance with the voluntary private standards is achieved through audits, public reporting, oversight by the standards boards, and "naming and shaming" of non-cooperators (free-riders). Corporations are motivated to adopt voluntary CSR initiatives by many factors including an effort to avoid regulation, reduce risk, and manage corporate reputation in the face of environmental lobbying efforts.[27] As well, many companies have sought to realize the potential win-win "sustainable development" and "ecological modernization" opportunities and advantages of combining economic growth with environmental and social considerations, and green technology innovation as promoted by academics, governments, business associations and non-governmental organizations.[28]

2.2.2   CSR Development

Broadly speaking, a convergence of social, political and economic factors in both the domestic and global arenas contributed to the recent emergence of CSR initiatives. At the domestic level, during the 1980s and 1990s, governments in industrialized countries implemented public sector reforms and encouraged neo-liberal market-based self-regulatory policy approaches in order to achieve greater efficiencies in public administration and policy delivery.[29] Running in parallel in the global arena, with the increased power of multinational corporations and the growing prevalence of global human rights, labour and environmental issues, newly forming transnational advocacy groups directed attention to a global governance gap, i.e. concerns that the challenges of economic globalization were outpacing the governance capacity of state governments and

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[27] For evaluations of voluntary beyond-compliance corporate environmental behaviour see Hoffman (2001); Lyon and Maxwell (2004); and Prakash (2001).

[28] Key sustainable development references include: Dale and Robinson (1996); Daly (1990); Meadowcroft (2000); World Commission on Environment and Development (1987); and the World Business Council for Sustainable Development (2001). For an understanding of ecological modernization theory, (i.e. sustained growth through "green" technological innovation) see Christoff (1996); Hajer (1995); Mol and Sonnenfeld (2000); and Spaargaren and Mol (1992).

[29] See Hood (1991); Kickert (1996); Osborne and Gaebler (1993); Peters (1994); and Sabatier (1986).

international mechanisms to achieve timely, democratic and effective outcomes.[30]
During this period, global civil society organizations as well as domestic-level advocacy groups called on corporations to take on increased environmental and social responsibilities.

Corporate response to the global and domestic pressures for greater self-regulatory CSR efforts were mobilized within the United Nation's World Commission on Environment and Development (established in 1987) and at the ensuing United Nations Conference on Environment and Development (UNCED) in 1992. In both forums, governments introduced and promoted the win-win possibilities of sustainable development solutions as a means to help close the global environmental governance gap. This set the stage for individual company CSR efforts, unilateral industry codes of conduct, as well as the development of a broad spectrum of multi-stakeholder CSR standards.

Following UNCED, industry groups such as the World Business Council on Sustainable Development, the International Business Leaders Forum, CSR Europe and Business for Social Responsibility formed to develop and promote CSR initiatives. However, it was not only corporations that were spurred towards initiating, developing and implementing CSR standards. Non-government organizations also played a key role.

During the 1980s, in the face of continuing evidence of corporate environmental abuses[31] and the mounting environmental effects of globalization, (e.g., climate change, deforestation, depletion of the oceans, species extinction, etc.), environmental non-governmental organizations (ENGOs) recognized a need as well as an opportunity to develop new advocacy strategies. Instead of negatively campaigning against individual companies, they began working directly and collaboratively with corporations and industries to develop multi-stakeholder CSR standards. Their interest in working co-operatively not only grew out of concerns but also hopes that while increasingly powerful

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[30] See Haas (2004); Keck and Sikkink (1998); and Keohane (2003:11).
[31] For example, Union Carbide's denial of accountability for the 1984 Bhopal gas leak that killed 3000 people; and the Exxon-Valdez oil tanker disaster in 1989 that damaged the ecology of pacific northwest coastal areas.

multinational corporations were a significant contributor to the worsening global environmental problems, these transnational firms through their global supply chains were also a potentially significant contributor to the solutions.[32] Companies responded to the NGOs to protect their reputations, avoid regulation, manage risks, and maintain their "social license to operate".[33]

The shift in ENGO strategy towards working collaboratively rather than against industry was not only prompted by discouragement with the level of corporate commitments and what appeared to be ineffective business responsibility codes but also by a growing frustration with governments, and the inefficiency and ineffectiveness of state-based international processes. Non-governmental organizations argued that neoliberal policies had brought forth "the competitive state" which was more focused on lowering trade barriers and creating financial incentives to attract mobile capital and achieve global economic competitiveness than on developing new international laws and multilateral agreements to halt environmental destruction.[34]   Thus, in most cases, while the multi-stakeholder CSR initiatives leveraged international standards and agreements they intentionally steered around government participation so as to avoid marginalizing the CSR outcomes. Industry supported this approach as they deemed governments to be inflexible and likely to stall the process.

Since UNCED, the result has been a rapid proliferation of CSR codes and standards developed by multinational firms and industry alone and/or in co-operation with civil society organizations, cutting across industry sectors and going beyond legal compliance and the reach of the state. Examples include company-specific codes of business conduct; unilateral industry codes of conduct; multi-stakeholder industry-specific CSR standards; and cross-sector multi-stakeholder global CSR standards (Table 2.1).[35]

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[32] Utting (2005).

[33] See Gunningham (2007:481-485) and Gunningham & Sinclair (2002:135-136) for an explanation of the importance of "social license" i.e. meeting social expectations to maintain corporate privileges (beyond legal and economic license to operate).

[34] Barry & Eckersley (2005); Biermann & Dingwerth (2004); and Eckersley (2004).

[35] As well as environmental standards, a similar range of social codes, labeling schemes and certification systems concerning child labour and working conditions emerged during this period including: the Sullivan Principles, the Social Accountability 8000 CSR standard and the Rugmark and Fair Trade coffee social

Table 2.1: CSR Codes & Standards

CSR Initiative	Description	Examples
Company Codes of Business Conduct	Company statements of commitment to environmental and social responsibilities.	Nike, Royal Dutch Shell, PepsiCo, Gap Inc., etc. global sourcing and worldwide codes of business conduct.
Industry Codes of Conduct[36]	Responsible business practices as defined by industry associations.	Chemical Industry Responsible Care Program, etc.
Industry-specific multi-stakeholder CSR standards	Responsible environmental and/or social business practices defined for a particular industry sector by a range of interested parties.	FSC and PEFC certification programs, the Marine Stewardship Council, the Equator Principles, Fair Trade coffee, Rugmark and the Kimberly Process, etc.
Cross-sector multi-stakeholder CSR standards	Responsible environmental and/or social business practices that cut across all industry sectors as developed by a range of interested parties.	AA1000, the Global Reporting Initiative, the Global Compact, ISO 14000, etc.

With increasing acceptance and adoption, these various transnational codes and standards are becoming increasingly powerful governance mechanisms. And as explained in the next section, many are gaining private rule-making authority.

2.2.3 The Institutionalization of CSR Initiative

As noted earlier, the societal role and responsibilities of commercial entities have been debated for centuries. As well, there is a long history of governments sanctioning trades, industries and professions to self-monitor their practices to ensure responsible conduct and fair play. So, is there really anything new about the present wave of CSR self-

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labeling programs. For a description of the range of global CSR codes and standards see Leipziger (2003); and McKague & Cragg (2007).

[36] The World Bank estimates there are approximately 1000 codes of conduct that have been developed by multinational firms across a range of sectors including apparel, footware, agribusiness, tourism as well as the oil and gas and mining resource sectors. See World Bank (2003). For an inventory description of industry codes of conduct see OECD (1999).

regulatory mechanisms? In this section I argue that current CSR initiatives *do* constitute an important new governance phenomenon. In particular, an increasing number of CSR standards are becoming institutionalized; i.e. they are gaining legitimacy and authority as private governance mechanisms that perform environmental policy functions similar to governments.[37]

CSR standards and codes represent a new governance approach as they have distinct design features as compared to traditional examples of industry self-regulation. Firstly, they are "non-delegated"; i.e. they have not been formally initiated or sanctioned by the state but rather gain legitimacy through the acceptance of external actors.[38] Secondly, the majority of these non-state initiatives are multi-stakeholder – developed by corporations and NGOs in partnership. And thirdly, they are typically trans-boundary and multi-scalar in nature, going beyond jurisdictional legislative constraints and operating in expanded political arenas that bridge local and global concerns.

Beyond this, certain CSR initiatives such as certification programs, eco-labeling standards and multi-stakeholder codes are gaining private authority as they have specific features that constitute unprecedented self-regulatory governance capacity. For example, they have democratically-designed, multi-stakeholder rule-making and adjudication bodies that operate under written constitutions. As well, they have independent audit processes to enforce compliance to a prescriptive standard.

Because of this unique governance capacity, as these CSR mechanisms achieve acceptance by markets and society as well as governments, they are gaining legitimacy and rule-making authority, essentially mimicking the policy role of public institutions. The standards are gaining *market* acceptance among suppliers, manufacturers, distributors, customers and consumers by leveraging the various industry supply chains. *Societal* acceptance is occurring through open, ongoing multi-stakeholder participation. And the standards are achieving *governmental* acceptance through their co-regulatory

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[37] See: Cashore (2002); Clapp (1998); Falkner (2003); Haufler (2001); Karkkainen (2004); Knill & Lehmkuhl (2002); Levy & Newell (2005); Meidinger (1997, 1999); and Pattberg (2007).
[38] Cashore (2002).

design (e.g., incorporating legal compliance) and potential to supplement state governance capacity.

The distinct institutional capacity of certification, eco-labeling and multi-stakeholder codes pertains to the three key aspects of governance – the polity, politics and policy. In terms of the polity, these private mechanisms are providing a new decision-making forum beyond the traditional state-centered political arena.   With respect to politics, the private governance bodies are encouraging multi-stakeholder policy deliberation and increasing direct stakeholder rule-making responsibility. And with regard to policy, the private standards are establishing rules that not only reinforce legal requirements but also go beyond the law. Thus, as will be evaluated over the course of this dissertation, the emergence of private environmental governance authority has significant implications for policy-making, the traditional role of government, and overall state governance capacity to address local and global sustainability challenges.

2.3 Classifying Private Environmental Governance

2.3.1 From Government to Governance

Governance refers to a decision-making system that provides direction to an organization or society. Although there is no single standard definition of the term, in common political usage, governance is ultimately about how to steer the economy and society towards reaching collective goals.[39] Governance has therefore been synonymous with government as democratic governments are vested with the constitutional political authority to make and implement rules.[40]

However, today, new modes of governance have emerged that go beyond the traditional hierarchical model in which state authorities exert sovereign control over society. Rather

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[39] The usages of the term governance have developed separately within different academic sub-fields such as public administration, public policy, international relations and organizational theory. For example, there are micro-level *corporate governance* concerns with respect to organizational accountability and transparency and macro-level international development concerns regarding *good governance* political reforms. See Rhodes (1997).
[40] Stoker (1998).

than government at the centre of governing decisions, there are now *new governance* multi-centric and private modes of networked and market-based governance with government role shifted towards greater steering, coordinating and facilitating through partnership arrangements and co-regulatory governance approaches. The policy and governance literature interprets this as a shift from government to governance whereby private actors participate to a greater degree in the formation and implementation of public policy and global governance mechanisms.[41]

As illustrated in the next section, CSR private environmental governance standards are not only a new governance mechanism but also government response to CSR constitutes a new mode of governance within emerging co-regulatory governance systems.

2.3.2 Environmental Governance Typology

There is a vast literature on environmental governance that includes varied terminology and definitions of traditional and new governance forms of regulation, and modes of governance authority. The typology presented in Figure 2.1, categorizes the literature, firstly, along a continuum of public, private and hybridized governance authority, and secondly, by regulatory function (i.e. rule-development, implementation and enforcement).[42] In particular, the typology highlights the unique case of non-delegated private governance and the emerging mode of multi-centric CSR co-regulatory governance. As evaluated in the next section 2.4, the combination of all four modes of governance constitutes a co-regulatory governance system.

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[41] Kooiman (1993); Mayntz (2003); Peters & Pierre (1998); Rhodes (1996); Rosenau & Czempiel (1992). For more recent literature on the transformed state role see Bartle and Vass (2005); Hennebel et.al. (2007); Heritier (2001); Jordan, Wurzel & Zito (2005); Knill & Lehmkuhl (2002); and Schulz & Held (2004).

[42] Rule-making refers to the formulation of regulations. Implementation concerns the on-the-ground delivery of the rules. Enforcement refers to the mechanism to ensure transparency and accountability of rule implementation. This typology is based on the "stages heuristic" developed by policy scholars, Jones (1970), Brewer Anderson (1975), and Brewer & deLeon (1983), and as reviewed by Sabatier (1999:6-8).

Figure 2.1: Shifting Modes of Governance Authority

		Co-regulatory Governance System			
		Top-down Hierarchical Governance	*Delegated Governance*	*CSR Co-regulatory Governance*	*Non-delegated Private Governance*
Governance Function	**Rule-making (Formulation)**	▪ Command-and-control regulation	▪ Market-based voluntary regulation ▪ Negotiated agreements	▪ Multi-centric regulations ▪ CSR co-regulation	▪ Private regulations ▪ CSR standards
	Implementation (Delivery)	▪ Regulatory agencies	▪ Industry self-regulation ▪ Policy networks ▪ Public-private partnerships	▪ Public-private co-governance	▪ Beyond compliance private initiative ▪ Multi-stakeholder self-regulation
	Enforcement	▪ Monitoring ▪ Compliance auditing	▪ Shadow hierarchy ▪ Responsive regulation	▪ Regulated self-regulation	▪ Independent audits ▪ Public reporting ▪ Naming & shaming

Public Authority ⟷ **Private Authority**

Hierarchical modes of governance concern the traditional bureaucratic, command and control style of direct government intervention through economic and social regulation in which legally binding standards are prescribed, policy and programs are implemented, and compliance is monitored through a government agency. With hierarchical governance, the state has central authority, makes the decisions, and delivers and enforces compliance.

Delegated governance refers to the state 'handing-off' governance functions to non-state actors. Governments maintain central authority but delegate certain self-regulatory responsibilities. This category of regulatory instrument constitutes the traditional forms of voluntary industry self-regulation. For example, in terms of rule-making, rather than 'hard law' command-and-control direct regulatory intervention, governments take indirect approaches through 'soft law', market-based voluntary instruments such as industry self-regulation and negotiated agreements and covenants, as well as

informational tools and moral suasion.[43] The implementation (delivery) of certain public services, provision of some public goods and/or achievement of specific collective goals are formally delegated to the private sector through self-regulation, policy networks and public-private partnerships. Governments focus less on "rowing" (i.e. direct delivery) and more on "steering" (i.e. enabling self-regulation).[44] And finally, regarding enforcement, government delegates compliance responsibility to private actors under a *shadow of hierarchy,* meaning that they promote less coercive voluntary approaches but "move up" in terms of imposing direct intervention if there is industry non-cooperation.[45] The governance literature refers to this as *responsive regulation.*[46] As well, network governance scholars evaluate this as a form of *meta-governance* (i.e. government oversight of private networks).*[47]*

As previously outlined, private governance refers to self-regulatory CSR codes and standards, developed by private actors that have gained private rule-making authority. Unlike state-centric delegated self-regulation (discussed above), with private governance, self-regulation occurs outside of the realm of government sanction. Private governance concerns 'non-delegated' private authority whereby the agenda, rules, implementation and enforcement governance functions are carried out by private actors without necessary state participation and/or sanction.[48] Implementation relies on voluntary corporate initiative to go beyond legal compliance and respond to societal concerns.   And enforcement is achieved through independent third party audits, transparency through public reporting, and "naming and shaming" by citizens, media, non-governmental organizations and other firms.

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[43] 'Soft law' is declaratory but non-binding law. See Kirton &Trebilcock (2004). Examples include communication, knowledge transfer and voluntary approaches such as industry self-regulation, voluntary codes, voluntary challenges, charters, covenants and negotiated agreements.
[44] Osborne & Gaebler (1993:34); Rhodes (1996).
[45] Ayres & Braithwaite (1992); Gunningham & Grabosky (1998); Gunningham & Sinclair (1999); Phidd & Doern (1983).
[46] Ayres & Braithwaite (1992). See section 2.3.3 for a more complete explanation of responsive regulation.
[47] Meta-governance refers to the governance of governance -- for example, state governance of self-regulation. See Peters (2006) and E. Sorensen & Torfing (2007). For network management literature see Jessop (2002); Kickert, Klijn, and Koppenjan (1997); Kooiman (1993, 2003); Koppenjan and Klijn (2004); and E. Sorensen & Torfing (2007). As well, see Parker (2007) for a discussion of *meta-regulation* (i.e. employing the law to encourage beyond-compliance CSR behaviour).
[48] Cashore (2002); Haufler (2003).

It is of note that the policy and governance literature classifies private governance under many conceptual labels. As a mechanism of industry self-regulation, there are numerous descriptors such as pure self-regulation, unilateral self-regulation, or multi-stakeholder regulation. As well, governance scholars have employed other terms including: corporate social responsibility,[49] non-state market driven governance (NSMD),[50] non-state global governance,[51] private regulation,[52] private hard law,[53] civil regulation,[54] and corporate codes of conduct.[55] All terms highlight the private governance capacity of CSR codes and standards.

The final mode of governance in the typology is CSR co-regulation. It refers to a hybridized governance approach whereby regulations are specified, administered and/or enforced through a combination of public and private rule-making systems.[56] Although similar to delegated public-private co-operative arrangements, CSR co-regulatory governance is multi-centric in the sense that public and private policy authority co-exist rather than authority residing solely with the state.[57] Hence, with CSR co-regulatory governance, private actors have rule-making authority rather than just policy influence.

Public authorities co-regulate CSR private rule-making, implementation and enforcement through enabling legislation, hard law regulation and/or soft law approaches.

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[49] Auld, Bernstein & Cashore (2008); Moon (2002b); Vogel (2005).

[50] Cashore (2002); Cashore, Auld & Newsom (2004).

[51] Bernstein & Cashore (2004).

[52] Bernstein & Cashore (2007); Meidinger (1999).

[53] Cashore, Egan, Auld & Newsom (2007).

[54] Meidinger (2003); Vogel (2006).

[55] Jenkins (2001).

[56] For operational literature on co-regulation (e.g., the policy and practice of co-regulation) see Bartle & Vass (2005); European Economic and Social Committee (2005); Eijlander (2005); Hennebel, et al. (2007); Palzer & Scheuer (2004); and Senden (2005).

[57] This differs slightly from the EU definition that regards co-regulation as a mechanism to implement legislation through delegated self-regulation. See Palzer & Scheuer (2004). Specifically, the EU defines co-regulation as, "…the mechanism whereby a Community Legislative Act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognized in the field (such as economic operators, the social partners, non-governmental organizations, or associations)." See European Commission (2001). The term co-regulation is less commonly applied to describe the joint private governance arrangements between regulated organizations (e.g., corporations) and non-governmental actors (e.g., civil society organizations). See Pattberg (2005) and Utting (2005). As well, in some instances, the term co-regulation is employed to describe joint governance arrangements between government authorities (i.e. collaborative governance). See Ansell & Gash (2007).

The different means of meta-governing CSR include endorsing and participating in the private decision-making processes; enabling implementation; and/or the mandating the uptake of private standards. The particular case of government *enforcement* of a private governance standard in a co-regulatory system is an example of "regulated self-regulation."[58]

In summary, private governance mechanisms are a distinct policy instrument as compared to traditional voluntary instruments because they have not been formally sanctioned by the state, and also because they have gained private rule-making authority. With private governance, private actors formulate the policy agenda, implement the rules, and oversee enforcement while governments are positioned in a lagging role having to decide whether and how to respond. Government engagement in CSR therefore constitutes a new mode of governance. As examined in the next section, with CSR co-regulation, public and private authority are coincident within a shared governance system.

2.4 Co-regulatory Governance Systems

There is an ongoing debate in political science as to whether the transformation from government to governance has constituted a *retreat of the state,*[59] a *hollowing of the government*[60] and/or *governance without government*.[61] New governance scholars emphasize that rather than government retreat, traditional hierarchical forms of command-control intervention have been accompanied by other more complex and fluid forms of governance that leverage the capacity of private actors alongside state authority,

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[58] Knill & Lehmkuhl (2002); Schulz & Held (2004).

[59] These scholars argue that the state is in retreat as state sovereignty and capacity to govern at both the domestic and international levels has receded relative to accelerating financial and technical resources of private actors, global networks and increasing private self-regulatory governance authority. See Ohmae (1995); and Strange (1996).

[60] In the global governance literature, a *hollowing of the state* refers to "the state losing power and authority upward to supranational institutions; sideways to the private sphere; and downward to the increasing demands for localism and devolved government." See Lister and Marsh (2006:258). In the public policy literature, the *hollowing of government* refers to new public management reforms transferring various functions and activities traditionally undertaken by governments to private actors. See Brinton & Provan (2000); Brinton, Provan & Else (1993); Howlett (2000); and Peters (1994).

[61] Mayntz (2003); Peters & Pierre (1998); Rhodes (1996); Rosenau & Czempiel (1992).

i.e. examples of governance *with* government.[62] Rather than a hollowing of the state, there is a flux in regulation with de-regulatory and re-regulatory shifts occurring simultaneously.[63] Governance scholars, Levi-Faur and Braithwaite refer to this shift as the emergence of *regulatory capitalism*.[64]

Building on the new governance position, in this section, I present a conceptual tool to clarify the mix of self-regulatory and co-regulatory tools of governance, beyond command-control regulation, that are emerging within co-regulatory governance systems. However, prior to this, I review the traditional policy debate regarding the pros and cons of statutory intervention versus market-based voluntary self-regulation and argue that while the policy literature generally paints a black and white distinction between these regulatory instruments, in fact, the public-private boundaries are increasingly blurred. Through a comparative evaluation of several regulatory typologies, I show that there is an increasingly complex array of unilateral, multi-stakeholder, delegated and non-delegated self-regulatory and co-regulatory approaches that reflect varying public and private hybridized arrangements. The section concludes with an overview of the underlying objectives of an optimal co-regulatory policy mix.

2.4.1 Prescriptive versus Voluntary Policy Tools

Governments depend on markets for the efficient provision of goods and services that enhance societal well-being. Markets depend on government rules to function efficiently and fairly.[65] Achieving an optimum public-private balance of state intervention and market freedom is a source of ongoing political debate. At one end of the spectrum are those who advocate "civic governance" whereby the state is required to intervene to protect the public good. Those on the opposite pole support an economic "consumer sovereignty" model of laissez-faire market dynamics and minimal government intervention.

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[62] Gunningham & Sinclair (1999); Karkkainen (2004); Knill & Lehmkuhl (2002); G. Sorensen (2004).
[63] Ayres & Braithwaite (1992); Jordan et. al., (2005); Utting (2005).
[64] *Regulatory capitalism* refers to the expansion in the scope (state and non-state), arenas (international and domestic), instruments (hybridized) and depth of regulation (i.e. more governance of more kinds). See Levi-Faur (2005) and Braithwaite (2008).
[65] Lindblom (2001).

This fundamental political debate threads through the environmental governance literature. Are sustainability goals best achieved by "hard law" legislated regulatory intervention or by "soft law" delegated voluntary approaches that leverage the power of the market to move firms toward better environmental performance?[66]

Table 2.2: Hard Law versus Soft Law Regulatory Approaches

"Hard Law"	"Soft Law"
• *Regulatory prescription*: The traditional command and control style of government regulation in which legally binding standards are prescribed.	• *Information:* Influence constituents through the transfer of knowledge and the communication of reasoned argument and persuasion.
• *Economic regulatory instruments*: Include pollution fees, emission taxes and tradeable permits that aim to encourage firms to internalize the costs of environmental externalities through price signals.	• *Voluntary Approaches (VAs):* VAs include many arrangements including industry self-regulation, voluntary codes, voluntary challenges, eco-labels, environmental charters, co-regulation, covenants and negotiated environmental agreements.

Source: Maged (2004).

Hard law and soft law approaches represent state-based regulatory and delegated voluntary mechanisms that range from high to low coercion (see Table 2.2). Assuming that policy instruments are substitutable, regulatory theory argues that governments prefer the least intervention (lowest coercion) in order to maintain legitimacy (policy acceptance).[67] Governments then typically "move up" in level of coercion as necessary to overcome any social resistance to their policy goals and to achieve effective policy outcomes (Figure 2.2).

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[66] Gibson (1999); Harrison (2002b); Kagan et.al. (2003); Maged (2004); May (2005).
[67] Phidd & Doern (1983).

Figure 2.2: Scale of Policy Coercion

Self-Regulation		Statutory Regulation
Voluntary Approaches	Economic Incentives	Regulatory Prescription
Low Coercion ⟵————————————⟶		High Coercion
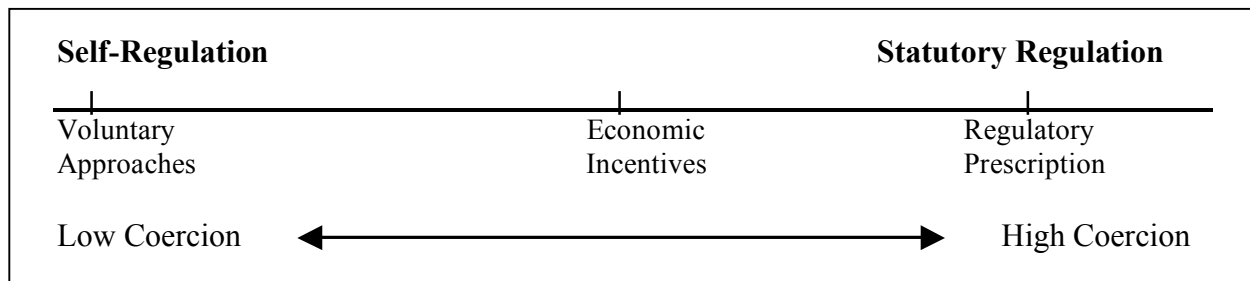
There is an extensive literature on the benefits and drawbacks of voluntary versus government regulated approaches.[68] Traditional 'hard law' regulation is generally criticized for being slow and expensive to develop, operate and amend; for fostering adversarial relations; for dampening innovation and beyond-compliance behaviour; and for producing unintended outcomes. Voluntary approaches such as self-regulation are criticized for being difficult to apply; less rigorous in their performance requirements; and for their uncertain public accountability. Industry generally advocates for the use of voluntary rather than regulatory approaches as this avoids the imposition of inefficient regulation and offers policy direction while at the same time providing a flexible framework for innovation. Further, industry argues that self-regulation generates business process improvements and positive changes in corporate culture that are often hard to quantify. As well, policy scholars argue that voluntary approaches can enhance efficiency and effectiveness by positioning the development and implementation of agreements in the hands of those closest and most knowledgeable about the issues.[69]

Some analysts disagree with the generally held position that government regulations raise costs and encourage inefficiencies and competitive disadvantage. For example, Porter and van der Linde argue that properly designed environmental regulations can trigger innovations that can offset the costs of reducing the negative effect of operations on the

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[68] For literature on the strengths and weaknesses of voluntary policy approaches see Coglianese & Nash (2001); Gibson (1999); Gunningham & Rees (1997); Harrison (2002b); Maged (2004); May (2005); Morgenstern & Pizer (2007); OECD (2003); Potoski & Prakash (2002); Webb & Morrison (2005).
[69] Schulz & Held (2004).

environment, resulting in "enhanced resource productivity" (greater efficiencies), making companies more competitive within the global market.[70]

Research to assess the effectiveness of voluntary versus prescribed regulatory approaches finds that voluntary approaches as a stand-alone policy instrument generally fail to make substantial contributions to improved corporate environmental performance.[71] In particular, in the absence of a threat of government penalty, there is incentive for companies to "free ride", i.e. take advantage of benefits without participating and bearing costs. As well, the research finds that through the processes such as negotiated voluntary agreements, governments can become 'captured' by industry interests, thus compromising the achievement of performance targets.[72]

While the policy literature emphasizes the limitations of voluntary approaches on their own, these studies also highlight that voluntary approaches, in fact, rarely occur as stand alone policies. Rather, many voluntary approaches incorporate regulatory requirements and government oversight, and are seldom implemented in isolation of other policy instruments.[73] As Gunningham and Sinclair explain, "…although analysts have traditionally painted a black-and-white distinction between prescribed statutory and market-based voluntary approaches, in reality, there is significant overlap."[74] This is demonstrated in the next section with respect to the increasingly hybridized range of self-regulatory policy instruments.

2.4.2 Classifying Self-Regulatory Policy Instruments

From a political science perspective, self-regulation has traditionally referred to the state-delegation of regulatory powers to non-governmental bodies. As explained in the previous section, self-regulation represents the low-coercion end of the scale of regulatory tools that governments can employ. Self-regulation is not a new concept. For

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[70] Porter & van der Linde (1995).
[71] Antweiler & Harrison (2007); Harrison (2002a); Lyon & Maxwell (2002); Morgenstern & Pizer (2007).
[72] OECD (2003).
[73] Gunningham & Sinclair (2001); Gunningham & Young (1997); Harrison (2002b).
[74] Gunningham & Sinclair (2001).

example, there is a long history of governments sanctioning self-regulation in the broadcasting, communication and financial sectors. Professional associations such engineers, lawyers, medical doctors and accountants continue to be largely self-regulated, although recently for some, under the increasingly watchful eye of the state. With neo-liberal reforms, state delegated self-regulation has not only increased in prominence as a favoured environmental policy tool but also new forms of non-delegated CSR self-regulation have emerged. This has broadened the spectrum of self-regulatory approaches, as well as created a varied landscape of regulatory terminology.

This section applies the previously introduced governance typology (presented in section 2.2.2), to the literature on self-regulation to sort and categorize the various theoretical definitions, distinctions and approaches that scholars have employed to classify regulatory policy tools. Specifically, I review the self-regulation typologies developed by Haufler (2003), Knill & Lehmkuhl (2002) and Gunningham & Rees (1997).

The section begins with Haufler's classification of self-regulation based on rule-making authority and stakeholder involvement. Knill and Lehmkuhl's typology of self-regulation in terms of policy delivery is then presented. The section concludes with Gunningham and Rees' categorization of self-regulation based on the degree of government involvement in rule-making and enforcement.

a) Rule-making Authority

Haufler (2003) applies the criteria of rule making authority to distinguish between four categories of regulation:

- Traditional regulation   Rules developed, promulgated and enforced by government.

- Industry self-regulation   Private sector on its own develops standards and best practice.

- Multi-stakeholder regulation   A variety of stakeholders, including non-profit groups, negotiate and develop a set of standards; a decision-making framework and a process for achieving the standards.

• Co-regulation	Markets develop a standard and the public sector applies sanctions for non-compliance.

b) Responsibility for public good delivery

Based on a consideration of the governance capacity[75] of public and private actors, Knill & Lehmkuhl (2002) offer a regulatory typology with respect to the locus of responsibility for the provision of public goods:

• Interventionist regulation (High public, low private capacity)	Overall responsibility for the provision of public goods lies with the state.
• Private self-regulation (High private, low public capacity)	Provision of public goods by private actors.
• Regulated self-regulation (High public, high private capacity)	Co-operative public-private governance: - Private actors participate in policy-making and implementation. - Competencies delegated to private organizations. - Regulatory frameworks for private self-regulation co-operatively developed.

c) Degree of government involvement in rule making and enforcement

And finally, Gunningham & Rees (1997) combine aspects of the Haufler (2003) and Knill & Lehmkuhl (2002) typologies by distinguishing self-regulatory approaches based on the degree of government involvement in both rule-making authority and enforcement:

• Voluntary self-regulation	Rule-making and enforcement carried out privately by the firm or industry itself, independent of direct government involvement.

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[75] The authors define *governance capacity* as the formal and factual capability of public or private actors to define the content of public goods and to shape the social, economic and political processes by which these goods are provided.

- Mandated full self-regulation   Rule-making and enforcement privatized but sanctioned by government, which monitors the program and, if necessary, takes steps to ensure its effectiveness.

- Mandated partial self-regulation   Privatization of either rule-making or enforcement but not both.
   - Public enforcement of privately written rules; or
   - Government mandated internal enforcement of publicly written rules.

As well, Gunningham and Rees note that self-regulation can be distinguished in terms of its focus on the individual versus the group.

Individual Self-regulation	Group Self-regulation (Industry Self-regulation)
- An entity such as a firm, regulates itself independent of others.	- A group such as an industry association, sets rules and standards (e.g., codes of practice) relating to the conduct of actors (firms) in the group (industry).
Economic Self-regulation	Social Self-regulation
- Control of markets or other facets of economic life.	- Through their activities, businesses protect people and the environment.

In summary, this review of regulatory typologies highlights two main findings. Firstly, the analysis shows how the definitions of self-regulation vary as per the extent of government engagement, the stage of the policy cycle (e.g., rule-making, implementation or enforcement), the degree of corporate and/or non-governmental organization involvement and authority, and the focus on individual firms versus industries. And secondly, the evaluation demonstrates the lack of definitional consistency in the policy literature, i.e. there is great variance in the regulation terminology.

To a large degree, the definitional confusion stems from the first finding. Rather than dichotomous "pure forms" of either self-regulation or government regulation, there is now an incremental continuum of hybridized arrangements that reflect varying degrees of government involvement and different public-private arrangements of rule making authority, delivery and enforcement responsibility. This blurring of public and private

boundaries is characteristic of emerging co-regulatory systems of governance. The next section presents a conceptual map to help clarify the various categories of governance instruments within a co-regulatory policy mix.

2.4.3 Co-regulatory Policy Mix

> …not only do public policy choices and public policy networks influence the emergence of non-state authority, but it is now increasingly clear that private authority is influencing the emergence of new public policy initiatives, including their content and instrument design…[76]

As Cashore and his forest governance colleagues note, there is an increasingly dynamic and synergistic interaction between public and private rule-making systems with respect to environmental governance. In this section, I argue that as multi-stakeholder CSR initiatives gain rule making authority, there is not only a shift in the mode of governance but also increased interaction with public policy and a growing prospect for the co-regulation of these private environmental governance mechanisms to increase governance capacity. As Gunningham and Grabosky explain, "recruiting a range of regulatory actors to implement complementary combinations of policy instruments, tailored to specific environmental goals and circumstances, will produce more effective and efficient policy outcomes".[77] Similarly, Peter Utting describes the mixing of CSR and traditional policy tools as a re-regulatory trend towards "articulated regulation" – a coming together of different regulatory approaches in ways that are complementary and synergistic.[78] Furthermore, Canadian legal scholar Kernaghan Webb describes the CSR co-regulatory phenomenon as not only collaborative but also involving a certain amount of creative tension between the public and private authorities.[79]

I argue in support of these scholars that the mixing and temporal sequencing of various public, private and co-regulatory instruments at the different stages of the policy cycle constitutes a co-regulatory governance system. I illustrate this in Figure 2.3 by the co-

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[76] Cashore, Auld, Newsom & Egan (2008).
[77] Gunningham & Grabosky (1998:15).
[78] Utting (2005).
[79] Webb (2005:243).

regulatory governance circle that overlaps between traditional command-control regulation; delegated self-regulation; non-delegated self-regulation; and CSR co-regulation. Specifically, the figure shows how the various tools of governance are situated by the degree of public versus private rule-making authority and the extent to which they are state versus market-driven.[80] For example, command-control regulation represents a traditional state-centric government-driven policy instrument. Delegated self-regulation is also a traditional policy tool with authority continuing to reside with the state but with self-regulatory policy responsibilities delegated to the market. Non-delegated self-regulation and regulated self-regulation constitute co-regulatory governance instruments that leverage private authority. And as already noted, the overall mix of these various regulatory instruments constitutes a co-regulatory governance system.

Figure 2.3: Co-regulatory Policy Mix
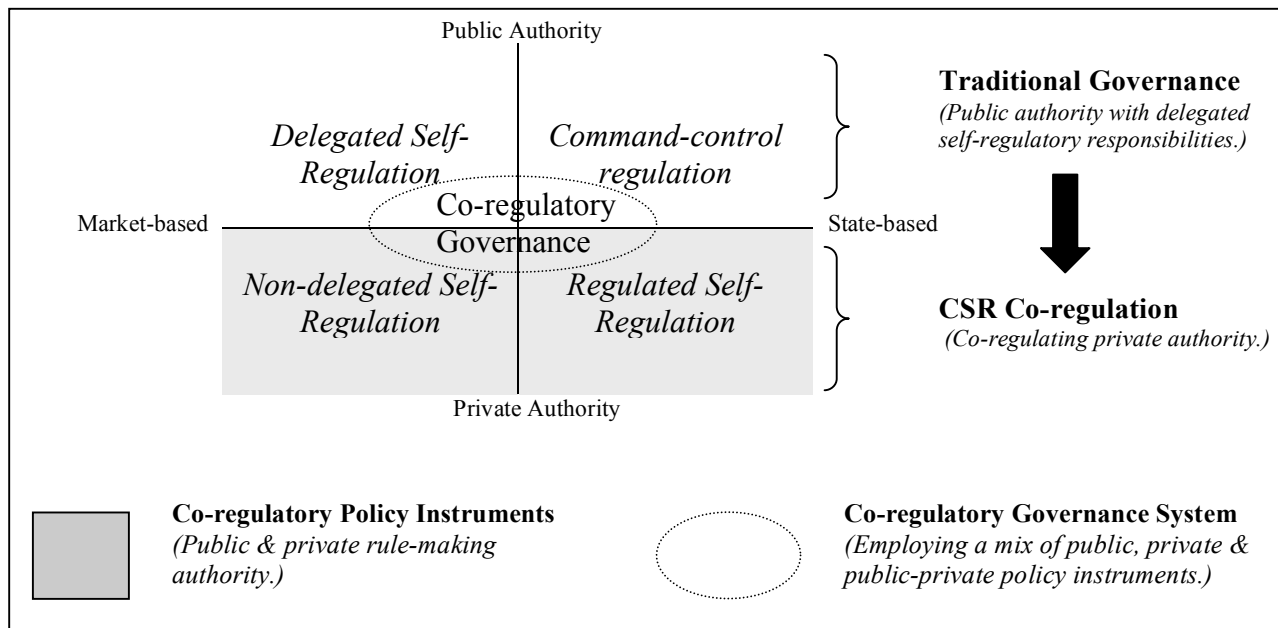
While the boundaries between the cells appear distinct, they are in fact overlapping and porous. For example, regulated self-regulation combines command-control regulation and non-delegated self-regulation i.e. a prescriptive legislated requirement to comply

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[80] These categories draw on Cashore's (2002) theory of non-state market driven (NSMD) governance.

with a voluntary CSR standard.   As well, the categorization of non-delegated self-regulation as a purely non-state and market-driven mechanism (NSMD) is only a partial account.[81]   As I demonstrate in this dissertation in the case of forest certification, this "private" governance mechanism is constituted of public and private rules, and developed and delivered with a varying spectrum of government engagement. Ultimately, non-delegated private self-regulatory regimes overlap with public governance; rely on enabling legal frameworks and overarching legislative oversight; and civil society actors and the state (not just markets) have been drivers.[82]   NSMD mechanisms are, therefore, not purely private but rather co-regulatory instruments that operate within co-regulatory governance systems.

Beyond the challenge of sorting the definitional categories of new modes of governance and co-regulatory policy instruments, there is also the question of how to combine the various governance tools so as to achieve an optimal mix that maximizes the strengths while minimizing the weaknesses of the various policy approaches. Although there is a growing body of literature on the "new tools of governance" that concerns the development and application of optimal mixes of direct and indirect policy instruments in response to new multi-centric, collaborative modes of governance, there is as of yet, no established theory of regulatory choice in terms of optimizing the co-regulatory mix of state, market and NGO-led regulatory mechanisms.[83]   In the absence of a theory, I highlight three key fundamental concepts that guide instrument selection – "responsive regulation", "minimal sufficiency" and "smart regulation". These are outlined below.

Ayres and Braithwaite argue for responsive regulation and minimal sufficiency, i.e. that regulation will be more effective the more sanctions can be kept in the background and regulation transacted first through moral suasion.[84] They explain that to achieve the best behavioural outcomes, the social responsibility of the firm (CSR) should be appealed to

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[81] See section 3.3.1 for an explanation of NSMD governance theory.
[82] Gunningham & Rees (1997:397); Haufler (2003); Shultz & Held (2004).
[83] As well as Ayres & Braithwaite (1992); Gunningham & Rees (1997); Haufler (2003); and Knill & Lehmkuhl (2002), for literature on the new tools of governance see Eliadis, Hill & Howlett (2005); Howlett (2000, 2005); Jordan, Wurzel & Zito (2003); Jordan, et al. (2005); and Salamon (2002).
[84] i.e. the regulation is responsive to corporate behaviour – allowing for demonstrated corporate virtue prior to coercive enforcement. See Ayres & Braithwaite (1992).

first before any regulatory intervention and note that the trick of successful regulation is to establish a synergy between punishment and persuasion so as to encourage CSR self-regulatory commitment.[85]

In order to illustrate their point, they developed an enforcement strategy pyramid (Figure 2.4) depicting how governments are most likely to achieve their goals with business through self-regulation, and by communicating to industry their willingness to escalate the government's regulatory strategy up another level of intervention in the pyramid if industry fails to co-operate. The pyramid progresses from self-regulation to enforced self-regulation, to command regulation with discretionary punishment to command regulation with non-discretionary punishment.

Figure 2.4: Regulatory Enforcement Strategies

Ayres & Braithwaite (1992)   Gunningham & Grabosky (1998)
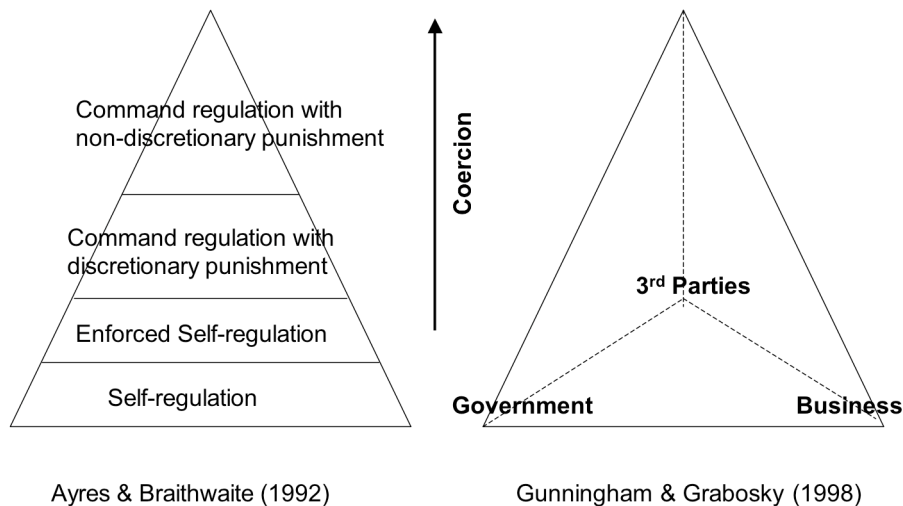
Following on from Ayres and Braithwaite, Gunningham and Grabosky introduced the concept of "smart regulation", i.e. expanding the traditional use of 'command and control' regulation to include a more dynamic, innovative, alternative mix of policy instruments that harness not just governments but also business and third party non-

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[85] Ayres & Braithwaite (1992:53).

governmental organizations.[86]   Specifically, they argue that to address complex

environmental issues, the use of multiple instruments and a broader range of regulatory

actors will produce better environmental regulations. In other words, "smart regulation'

is imaginative, flexible and pluralistic in approach.

To illustrate the concept they expanded upon the Ayres and Braithwaite pyramid to

include three dimensions.[87]   As shown in Figure 2.4, the three sides reflect the possibility

of rule-making and enforcement (coercion) not just by government, but also by business

and 3rd party non-governmental organizations (e.g., environmental advocacy groups)

moving up each of the three faces of the pyramid. The figure depicts the coordinated use

of a number of different instruments across a number of different governance spheres, i.e.

a co-regulatory governance system.

In terms of achieving "optimal" smart regulation, the authors identify combinations of

inherently complementary and non-complementary policy instrument mixes.[88]   As well,

they highlight the importance of sequencing in introducing instrument combinations.[89]

Specifically, they stress five key principles of designing a "smart" regulatory mix:

1. Prefer policy mixes incorporating a broader range of instruments and institutions;
2. Prefer less interventionist measures by applying instead the principle of low interventionism;
3. Ascend a dynamic instrument pyramid to the extent necessary to achieve policy goals.
4. Empower participants which are in the best position to act as surrogate regulators by applying the principle of empowerment; and
5. Maximize opportunities for win-win outcomes.[90]

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[86] Gunningham & Grabosky (1998).
[87] Gunningham & Grabosky (1998:398).
[88] For example, unilateral voluntary initiatives have serious flaws as a stand-alone policy instrument (e.g., free-riding) that can be compensated by underpinning regulation. Information is a complement to all instrument categories. See Gunningham & Grabosky (1998:422-444).
[89] For example, adding more coercive regulatory approaches if "softer" policy instruments fail to change behaviour.
[90] Gunningham & Grabosky (1998:387).

In summary, the regulatory enforcement pyramids highlight the necessary dynamic between government, business and non-governmental third parties within co-regulatory governance systems. As well, the concepts of responsive regulation, minimal sufficiency and smart regulation stress the goal of achieving a mix of policy instruments that balance penalty and reward, i.e. a combination of coercive and voluntary approaches that enable corporate social responsibility initiative.

2.5 Evaluating Private Environmental Governance

As argued and outlined in the previous sections, co-regulation is a means to combine the strengths of command-and-control regulation (e.g., credible, accountable, compulsory and greater performance rigour) with the strengths of self-regulation (speed, flexibility and innovation) while avoiding the drawbacks of each. An optimal policy mix achieves an effective balance of prescriptive and voluntary regulations. However, because private governance CSR standards are not formally delegated by the state, they present an additional co-regulatory challenge beyond other self-regulatory instruments. Specifically, in the absence of formal state sanction, to what extent are the private rule-making bodies and standards legitimate? In other words, a critical question for governments is not just *how* private governance should be incorporated in the policy mix but *whether* CSR should be co-regulated. Ultimately, should governments endorse or compete with private rule-making authority? In this section, I argue that a significant contributing factor to this decision relates to whether in co-regulating CSR, governments are upholding the principles of "good governance".

The term "good governance" is most commonly employed in the global realm to emphasize the importance of a capable state operating under the rule of law, and the achievement of democratic core values such as participation, representation and political contestation.[91] The traditional evaluation of good governance with respect to state-based policy tools and regulatory approaches includes the consideration and weighting of several dominant instrument selection criteria including: effectiveness, efficiency,

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[91] Kaufmann & Kraay (2007).

legality and democracy values.[92] However, it is not clear whether it is appropriate to apply these same criteria concerning the ideal of democratic governance by government to non-state governance mechanisms.

While a good governance definition to assess non-state private governance standards in either domestic or global realms is not yet established, there are some emerging applied efforts to define and assess CSR initiatives. For example, the World Bank has established criteria to assess CSR codes and standards in terms of their potential to contribute to public governance.[93] The International Organization for Standardization (ISO) has launched ISO 26000 – an international standard that will provide a global CSR definition and benchmark (to be completed by 2010).[94] As well, the International Social and Environmental Accreditation and Labeling (ISEAL) Alliance has developed a Code of Good Practice for assessing the credibility of voluntary environmental and social voluntary standards.[95] Also, an increasing number of individual governments are developing criteria by which to judge the credibility of CSR standards for inclusion in public procurement policies.[96]

In the absence of a single, established framework, the private environmental governance literature has generally adopted three assessment criteria that overlap with democracy principles and state-based definitions of good governance. These include consideration of the legitimacy, accountability and effectiveness of the private rule-making systems.

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[92] Effectiveness concerns the realization of outcome goals. Efficiency refers to the input-output ratio of policy implementation resources. Legality concerns the correspondence with formal rules and principles of due process. And democracy values refer to the correspondence of instrument design and implementation with accepted norms of citizen-government relationships in a democratic political order. See Bemelmans-Videc, et al. (1998:7) and Gunningham & Grabosky (1998:26).
[93] Ward (2004).
[94] See www.iso.org/sr.
[95] See www.isealalliance.org/credibilitytools.
[96] McCrudden (2007).

Legitimacy refers to the acceptance and justification of shared rule by the affected community (i.e. having the consent of the governed).[97] Beyond assessing the acceptance and uptake of the private standards, legitimacy also relates to the accountability and effectiveness of the governance mechanism.[98] Accountability concerns the justification of a decision-maker's actions vis-à-vis the affected parties (stakeholders), i.e. "those who are assigned responsibility are obliged to answer for their performance."[99] Accountability is commonly evaluated through 'input-oriented legitimacy'[100] criteria including: inclusiveness (representative participation), responsiveness (openness to stakeholder input) and transparency (reliable information and communication).[101] And lastly, effectiveness is a form of "output-oriented legitimacy" and fundamentally concerns the problem-solving capability of the governance mechanism.[102] In addition, measures of policy effectiveness include output, outcome and impact criteria.[103]

Employing these criteria, perspectives on the "good governance" potential of private governance systems vary broadly among two camps – traditional "statists" and "new governance" theorists. Table 2.3 provides a summary of these perspectives.

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[97] For literature regarding the legitimacy of private environmental governance systems see Bernstein (2005); Bernstein & Cashore (2007); Cashore (2002); Cashore, et al. (2004); Dingwerth (2005); and Wolf (2006).

[98] Held & Koenig-Archibugi (2005).

[99] For literature regarding the accountability of global private environmental governance standards see Boström (2005); Gulbrandsen (2008a); Held & Koenig-Archibugi (2005); and Keohane (2003).

[100] See Scharpf (1999) for an explanation of input and output-oriented legitimacy.

[101] Boström (2005); Gulbrandsen (2008a).

[102] For literature regarding the effectiveness of transnational private environmental governance systems (private environmental regimes) see Miles, et al. (2002); Mitchell (2002); Newell (2001); Sprinz & Helm (1999); Wettestad (2001); and Young (1999, 2001).

[103] Output effectiveness concerns the development and uptake of a relevant policy tool. Outcome concerns behavioural change and impact criteria refer to the on-the-ground consequences of the policy. And output and outcome effectiveness are preconditions of impact effectiveness. See Easton (1965).

Table 2.3: Theoretical Perspectives on Private Environmental Governance

	Definition	*Traditional Statists*	*New Governance*
Legitimate authority?	Having the consent of the governed.	NO – Unelected and therefore lacking democratic consent and accountability. Private standards have influence not legitimacy as political authority resides only with the state.	YES – Increasing uptake demonstrates acceptance and legitimacy; Authority derived from different forms of legitimacy (e.g., cognitive, moral, pragmatic legitimacy). Sovereignty is relational rather than insular.
Accountable?	Inclusive, responsive and transparent.	NO - Uncertain due process, unbalanced representation, fragmentation of accountability channels, and a lack of checks and balances.	YES - Societal trust equivalent to constitutional checks&balances or formal contract. Inclusive multi-stakeholder process (street-level democracy) and transparency through 3rd party audits.
Effective?	Relevant policy with high uptake (output) + behavioural change (outcome) = problem resolution (impact effectiveness)	NO –Uneven uptake and "cherry picking" among a confusing array of standards. Demand-side issue of increasing consumption not addressed. "Fox left guarding the henhouse".	YES – Uptake increasing and the corporate actors causing the problems are contributing to solutions. Innovative and responsive, with transnational reach through global supply chains.

The statist perspective assumes political decision-making to reside with the state and authority to be autonomous and zero-sum rather than potentially expanded through complementary public and private governance capacities.[104] These scholars argue that private environmental governance has neither input nor output legitimacy as consent is not granted through formal state sanction or electoral process and outcome objectives are partial to a stakeholder subset rather than the overall citizenry.[105] Rather than legitimacy, private standards are deemed to merely have influence as opposed to authority.   Further, it is argued that private governance mechanisms lack accountability due to fragmented rather than centralized authority and that they are not an effective means of governance as their voluntary nature means there is partial, patchy and uncertain uptake with essentially, "the fox left to guard the henhouse"[106]

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[104] Cutler, Haufler & Porter (1999).
[105] Lipschutz & Rowe (2005).
[106] Gereffi, Garcia-Johnson & Sasser (2001); Kahn & Minnich (2005); Koenig-Archibugi (2005:132).

New governance theorists on the other hand, assume a plurality of authority among state and non-state actors.[107] State sovereignty is no longer about autonomy and insular governance but rather post-sovereign interdependence and relational governance.[108] These scholars argue that private environmental governance mechanisms are legitimate as consent is achieved by the evaluation of external actors and demonstrated by the increasing uptake of the standards – that legitimacy is gained by means beyond state sanction such as forms of moral, cognitive and pragmatic legitimacy.[109] Accountability is gained through multi-stakeholder processes and third party audits, and in fact, private standards improve public accountability by providing a form of 'street- level' democracy. And finally, the new governance perspective argues that private environmental governance encourages effective governance as private standards leverage the resources and innovative capacities of transnational corporations so that the key actors involved in the creation of global issues are also directly involved in finding solutions to their resolution.[110]

Thus, as a new mode of governance, private environmental governance mechanisms such as multi-stakeholder CSR standards can be viewed as a positive development as they directly engage multinational corporations and their global supply chain partners – key contributors to environmental issues and solutions.[111] As well, by increasing corporate and civil society responsibilities, private governance provides additional resources (often with transnational reach) that consequently, increase domestic and global sustainability problem solving capacities. However, as these private standard setting mechanisms are established without formal state sanction (and therefore, in the traditional sense, are not democratically accountable), the encouragement of private authority may constitute an erosion of state sovereignty and further, a subversion of democratic process.[112] Ultimately, the statist and new governance perspectives highlight the strengths and

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[107] Haufler (2001); Rosenau (2002).
[108] Karkkainen (2004).
[109] Bernstein & Cashore (2007); Cashore (2002).
[110] Vogel (2006).
[111] For literature regarding the role of corporations in the governance of global environmental solutions see Levy & Newell (2005); Pattberg (2006); and Rowlands (2001).
[112] Held & Koenig-Archibugi (2005).

weaknesses of private environmental governance and the importance of baseline public governance capacity to enable co-regulatory approaches.

Despite the acknowledgement of the importance of public governance to enabling CSR, there has been little theoretical or empirical research regarding how private governance standards interact with public policy and how and why governments are responding. The current body of CSR governance research is focused for the most part on the limits and potential of CSR in low public capacity regions where private standards could possibly fill a governance gap.[113] The extent to which private environmental governance standards constitute an effective policy tool and good governance mechanism in industrialized regions with high public capacity remains largely unexplored. To facilitate empirical investigation in this regard, the next section introduces a regulatory scale (adapted from a World Bank CSR tool) for mapping the range of government response to private environmental governance standards.

2.6 Public Sector Role in Co-regulating CSR

While the domestic policy role of private environmental governance is uncertain, there is an emerging broad consensus among public and private actors that governments *can* do much to enhance the effectiveness of CSR standards via supportive, coordinated and enabling policies, and by showing strong political leadership on CSR.[114] As well, governments and non-governmental organizations are recognizing that CSR standards can play a role in supplementing public policy.[115] Consequently, in many jurisdictions governments have responded eagerly to CSR.[116] This final section of the chapter assesses the key rationale for government engagement in CSR and outlines the spectrum of indirect to direct approaches to co-regulating CSR.

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[113] For literature on CSR and development see Calder & Culverwell (2005); Fox (2004); Fox et.al. (2002); Nelson (2006); Newell (2002); Ruggie (2004); Swift & Zadek (2002); Utting (2003); and Ward (2004).

[114] For literature and reports on government role in CSR in the case of developed nations see Albareda, et.al. (2007); Bartle & Vass (2005); Bell (2002); Bichta (2003); Bleishwitz (2003); European Commission (2006); GAO (2005); Hennebel, et al. (2007); Moon (2002a); NRCan (2004c); and Zappala (2003).

[115] Carey & Guttenstein (2008).

[116] A compendium of national policies supporting CSR within EU countries is included at: http://ec.europa.eu/employment_social/emplweb/csr-matrix/csr_matrix_en.cfm. In the U.S., the GAO recently prepared a summary of U.S. federal policies and programs supporting CSR. See GAO (2005).

2.6.1 CSR Co-regulation Rationale

Similar to companies needing to understand the business case for CSR, governments need to understand the public policy case for encouraging private governance authority. Private CSR standards represent both an opportunity and a potential threat to a government's policy agenda.[117] On the one hand, private governance presents an opportunity for governments to leverage the resources and capacity of corporations, lessening the government's regulatory costs and potentially achieving overall efficiency benefits.[118] On the other hand, there is uncertainty with the content and uptake of voluntary CSR standards and there is a potential danger that by placing sustainability decisions into the hands of private actors rather than democratically elected governments, public authorities may lose control over the local policy agenda.

The challenge for governments is, therefore, to find means to ensure that private regulations enhance rather than supplant public policy goals. Specifically, as with any voluntary initiative, the state may need to intervene to the extent of ensuring that private governance standards achieve three fundamental objectives: operate in the public interest; are effective in achieving their purported social and economic goals; and have credibility in the eyes of the public or intended audience.[119] As well, the rationale for government engagement with CSR may necessarily include considerations of: national competitiveness; the potential to leverage private resources; popularity with the electorate; and win-win business and societal opportunities in enabling CSR.[120]

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[117] For discussion of the opportunities and challenges of government role in CSR see Lepoutre, et.al. (2007); Vogel (2005); and Zappala (2003).

[118] For example, the Canadian federal government (Industry Canada) explains that they promote CSR principles and practices to Canadian businesses because it makes companies more innovative, productive, and competitive. CSR helps make Canadian business more competitive by supporting operational efficiency gains; improved risk management; favourable relations with the investment community and improved access to capital; enhanced employee relations; stronger relationships with communities and an enhanced license to operate; and improved reputation and branding. See: (http://strategis.ic.gc.ca/epic/site/csr-rse.nsf/en/Home).

[119] Gunningham & Sinclair (2001).

[120] Carey & Guttenstein (2008); Zappala (2003).

2.6.2 Government Role in CSR

Although to date, CSR studies have largely focused on the corporate motivation and business case for "beyond-compliance" initiative, research is beginning to emerge regarding public governance and CSR.   In particular, as a consequence of concerns that the global CSR agenda is being dominated by northern economies; focused in large enterprises; and limited only to voluntary business activity,[121] several industry, academic and policy research organizations have recently turned their attention toward understanding the role of government in creating an enabling environment to "scale up" corporate responsibility efforts within developing and transitioning economies.[122] This research has, in turn, identified a large knowledge gap with respect to how and why governments are in fact engaging in CSR and leveraging voluntary CSR standards to deliver their policy objectives.[123]

Studies that have evaluated government role in CSR have identified a spectrum of potential government CSR engagement ranging from direct to indirect responses depending on the specific context. For example, from their case studies on government role in CSR in developing countries, the World Bank's FIAS Corporate Social Responsibility group identified a range of government approaches to enable CSR including mandating, facilitating, partnering and/or endorsing CSR initiatives.[124] Similarly, the ISEAL Alliance's recent comparative case study investigation of governmental use of voluntary standards identified three institutional arrangements:

- "Users": governments that have a direct relationship with the voluntary standards systems.
- "Supporters": governments that provide incentives related to affiliation to a voluntary standards systems; and

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[121] Christian Aid (2004); Fox (2004).

[122] For example, The World Bank's Business Competitiveness and Development Program, The Kennedy School of Government's CSR Initiative, the Keenan Institute, the Prince of Wales International Business Leaders Forum, the European Academy of Business in Society (EABIS) and the Responsible Competitiveness Consortium have all initiated research efforts to examine the role of public sector capacity in enabling CSR.

[123] Carey & Guttenstein (2008).

[124] See http://www.ifc.org/ifcext/economics.nsf/Content/CSR-diagnostic.

- "Facilitators": governments that provide a favourable policy environment or resources to facilitate the development of a multi-stakeholder voluntary standard.[125]

Other dimensions of government CSR response include a neutral role of just observing, or an unsupportive role of prohibiting or competing with the private standards.

Expanding on the these frameworks, the various approaches of government response to CSR can be situated along a '"scale of engagement" from observing to indirect co-operating to more direct enabling, endorsing and mandating self-regulatory standards and other CSR tools. Government CSR positioning (whether direct or indirect intervention) may also vary in terms of governance function whether at the rule-making, delivery or enforcement stages. Incorporating these two dimensions, the spectrum of government CSR co-regulatory role is mapped in Figure 2.5.

Figure 2.5: Government Role in CSR – Spectrum of Engagement

	Observe	Co-operate	Enable	Endorse	Mandate
Rule-making					
Delivery					
Enforcement					

Scale of Government CSR Intervention — Indirect ⟷ Direct

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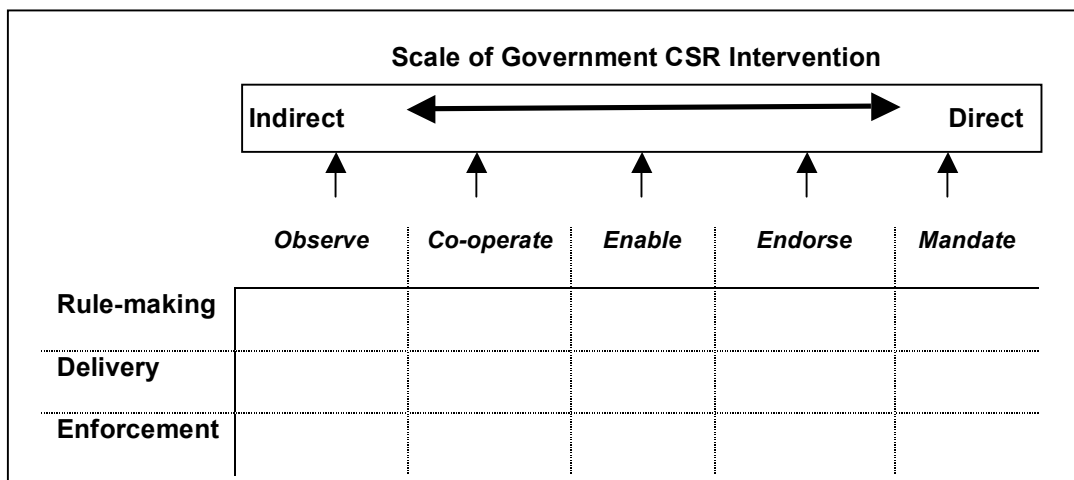
[125] Carey & Guttenstein (2008).

The categories of government response to CSR include:

Observing   ▪   Observing from the sideline rather than interfering – leaving CSR development, implementation and/or enforcement to market forces.

Co-operating   ▪   Providing informational and/or technical assistance.

Enabling   ▪   Facilitating CSR initiatives by providing incentives.

Endorsing   ▪   Setting best practice example by adopting CSR standards into administrative policies (e.g., public procurement standards).

Mandating   ▪   Establishing the CSR initiative as a legislated requirement (e.g., regulated self-regulation).

The indirect and direct ends of the spectrum represent essentially two schools of thought. On the indirect end of the spectrum the role of government is perceived to be that of supporting the CSR culture among enterprises and facilitating the development and implementation of the private standards through informational and incentive-based 'soft' approaches. The extreme, opposite direct end of the spectrum sees the role of government as establishing 'hard law' regulations with respect to CSR standards. Depending on how government positions itself from passive observer to mandating CSR standards, there are a number of mixed private-public co-regulatory approaches governments can employ to encourage effective CSR. Examples of the range of CSR co-regulatory roles at the various policy stages are summarized in Table 2.4.

Table 2.4: Government Role in CSR Co-regulation

	Indirect	**Direct**
Rule-making	Provide resources and technical guidance to standards development.	Participate in the negotiation of the rules and/or establish enabling baseline regulatory framework.
Delivery	Provide information, incentives and remove any administrative or policy barriers.	Adopt CSR standards into public administration and public procurement policies.[126]
Enforcement	Threaten to mandate CSR.	Mandate CSR.

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[126] McBarnet, Voiculescu & Campbell (2007); McCrudden (2007).

Proponents of direct approaches advocate that co-regulating CSR will speed up implementation and prevent CSR from becoming simply corporate propaganda and a 'green-wash' marketing tool.[127] Furthermore, state intervention will establish boundaries around CSR expectations, and ensure more even uptake of CSR rules.[128] The European Commission has clearly positioned itself as a proponent of voluntary versus direct "hard law" CSR intervention. EU member countries have therefore adopted 'soft' approaches to achieving CSR objectives by: promoting stakeholder dialogue and public-private partnerships; enhancing transparency and credibility of CSR practices and instruments; raising awareness; increasing knowledge, disseminating and awarding best practices; and ensuring a link between sustainable development objectives and public policies.[129]

Canadian government consultation with industry leaders on the question of government role in CSR also revealed an expectation of indirect rather than direct co-regulatory government response to CSR.[130] Specifically, company leaders recommended that the Canadian government could support CSR initiatives by: acting as a role model; disseminating best practices; recognizing companies that are leaders in CSR; providing incentives; and developing programs to support company CSR efforts.

Given what appears to be a consistent stated government preference in developed countries for indirect CSR co-regulation, it is curious that in the case of forest certification, governments have not only adopted indirect approaches but also demonstrated direct CSR co-regulation, including mandating this private governance mechanism. This puzzle is explored in the next chapter.

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[127] 'Green-wash' as defined in the Oxford dictionary refers to "disinformation disseminated by an organization so as to present an environmentally responsible image."

[128] NGO and civil society advocates of government intervention in CSR argue that there is a need to mandate CSR in order to speed up implementation and increase CSR scale. See Christian Aid (2004); and SustainAbility (2004). In addition, there is support from the business community who see CSR legislation as a way to level the playing field, provide clear direction among the array of voluntary codes and define clear CSR boundaries on public versus private responsibilities. See World Economic Forum (2008).

[129] European Commission (2004:3).

[130] NRCan (2004c).

2.7 Summary

This chapter began with an overview of the emergence of 'beyond-compliance' corporate and multi-stakeholder CSR initiatives and the institutionalization of these private rule-making efforts as private environmental governance mechanisms. I introduced a governance typology to classify private governance authority as a new mode of non-delegated governance versus the traditional state-centric hierarchical and delegated regulatory approaches. As well, I presented a co-regulatory governance map to clarify the range and optimal mixing of delegated and non-delegated self-regulatory and co-regulatory policy instruments within a co-regulatory governance system. Given the uncertain limits and prospects of CSR, the chapter reviewed the "good governance" criteria and perspectives regarding the evaluation of private environmental governance legitimacy, accountability and effectiveness. And finally, I introduced a CSR co-regulatory scale for mapping the public sector role in enabling CSR.

Overall, the purpose of the chapter has been to introduce the unique nature of emerging private environmental governance mechanisms and the important co-regulatory challenge for governments in determining how to respond to CSR efforts. I argued that rather than simply competing with and potentially subverting state authority, private governance systems can complement and supplement public governance capacity through co-regulatory approaches. In order to progress beyond the general theory to understand the applied empirical reality of the co-regulatory dynamic of government engagement in multi-stakeholder CSR standards, we turn now to the specific case of forest certification – the most well developed example of a private environmental governance system.

Chapter 3

Government Role in Forest Certification

3.1 Introduction

Forest certification is the leading example of a CSR private environmental governance mechanism. Over recent years, forest certification has emerged as an international standard of proof that forests are sustainably managed. Independent of formal state sanction, multi-stakeholder certification organizations are carrying out traditional state functions by developing, implementing and enforcing private forest management rules. Certification works by leveraging global supply chains, linking customer demand for certified forest products with producer supply. If a forest manager/owner is found by an independent, non-governmental certification body to be managing their forest in conformance with a set of international and regionally accepted sustainable forest management (SFM) principles and criteria, then a certificate is issued which enables the operator to bring their forest products to market as certified wood. The objective of forest certification is to encourage forest producers around the globe to voluntarily adopt progressive SFM practices.

In comparison to other CSR standards, participation in certification has been relatively enthusiastic and market demand continues to grow. Governments, industry and small forestland landowners have signed on, however, uptake has been uneven. Although certification was initiated to address a regulatory gap in terms of massive deforestation in southern tropical regions, it has instead been adopted as a supplementary forest policy tool in developed countries. Approximately 90 percent of the world's certified forests are located in industrialized nations in the northern hemisphere.[131] While certification struggles to achieve scale in developing regions, the rapid adoption in highly regulated global forest producing countries provides a window of research opportunity to evaluate the interaction of public and private rule-making authority and the newly emerging co-regulatory governance arrangements.

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[131] UNECE/FAO (2007a:105).

Assuming that forest certification rules align with the domestic forest policy agenda in developed countries, voluntary beyond-compliance certification initiative should in theory not only lessen a government's forest management regulatory costs but also lead to enhanced SFM policy and outcomes. The challenge for governments is to determine the optimal response to certification so as to enable private rule-making innovation and facilitate the potential forest governance benefits, yet also maintain state forest policy sovereignty. Governments *are* engaging in certification through a range of approaches, however the optimal government co-regulatory response is unclear.

As Glück, Rayner and Cashore summarize in their recent report on global forest governance trends, "the problem is not how to legitimate a new governance arrangement, but to determine the appropriate forms of co-existence between old and new governance, each with its own distinct sources of legitimacy…".[132] This chapter evaluates the nature and importance of the private-public co-regulatory dynamic between traditional state authority and private regulation in the case of forest certification systems. The chapter argues that forest certification systems are fundamentally a co-regulatory governance mechanism, relying on state authority, a baseline regulatory framework and government support. I define and assess the various "forms of co-existence" between forest certification and traditional regulatory and self-regulatory policy instruments within hybridized co-regulatory forest governance systems. And, in conclusion, I argue that as per conditions within the domestic forest regime, there are a range of indirect to direct approaches by which governments can co-regulate certification in parallel to traditional regulation, with the potential to enhance overall forest governance capacity.

The chapter follows a similar progression to Chapter 2, and includes four sections: certification emergence and evolution, certification classification, certification co-regulation, and government role in certification. To begin, I examine why certification emerged and argue that it has evolved into two increasingly similar global multistakeholder CSR programs – the PEFC and the FSC – operating for the most part in northern developed regions with high forest governance capacity. I then review the

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[132] Gluck, Rayner, & Cashore (2005:72).

classification of certification as a non-state market driven governance system and assess how certification private authority and traditional public authority interact within both the domestic and international political arenas. The next section analyzes certification as a co-regulatory policy instrument. Specifically, employing the co-regulatory matrix introduced in Chapter 2 (Figure 2.3), I evaluate how certification standards overlap with command-control regulation, delegated modes of self-regulation and emerging forms of regulated self-regulation. The final section explores the issues regarding state engagement in certification and highlights the spectrum of government role.   Drawing on the CSR co-regulatory scale developed in Chapter 2 (Figure 2.5), I map the range of potential indirect to direct government co-regulatory approaches to certification at the development, implementation and enforcement stages of forest certification governance. The chapter turns now to the challenge of governing forests.

3.2 The Emergence & Evolution of Forest Certification

3.2.1 The War in the Woods & Tropical Deforestation

Throughout history, forests have been critical to human settlement, providing the essential food, fuel and shelter for expanding human populations. However, with rapid industrialization over the past two centuries, accelerating consumptive demands have resulted in a dramatic decline in forests around the world. Specifically, global forest area has been reduced by 40%, with 54 countries losing as much as 90 percent or more of their forest cover.[133] Despite these alarming figures, there are some positive trends. Over the past 15 years, global forest cover has been relatively stable and has even been increasing in some areas.[134] However, deforestation and forest degradation continue to increase in

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[133] Millennium Ecosystem Assessment (2005:587).

[134] Deforestation rates have slowed in the temperate forests of Europe, China and North America due to reforestation and afforestation efforts, as well as a logging ban in China. Between 1990 and 2005, global forest area was relatively stable, shrinking at an annual rate of approximately 0.2 percent. There was an annual loss of 50,000 km2 of primary forest, but also an average annual increase of 30,000 km2 of planted and semi-natural forests. See UNEP (2007:88). (The Chinese government banned logging in natural forests in 1999 after extensive and devastating floods on the Yangtze in 1998 – partially attributing the floods to logging in the headwaters of the river.)

several "hot spots" – namely, the tropical regions of South America, Asia and Africa.[135] These ecologically rich tropical forests are rapidly disappearing, largely through conversion to more economically lucrative agricultural crops (e.g., soy) and fast growing forest plantations.[136] Presently, primary forests comprise one-third of the global forest area.[137] These last remaining "frontier forests" include not just the Brazilian Amazon and South East Asian tropical rainforest, but also the temperate rainforests of the pacific northwest coast of North American and the vast northern Russian and Canadian boreal forests.[138] Halting tropical deforestation and protecting "ancient primary forests" are among the top priority global environmental advocacy concerns.[139]

It is of note that terms such as ancient primary forest, frontier forest, endangered forest and high conservation value forest are often used interchangeably to refer to primary, old growth forests that are undisturbed by human activity. However, the terms have different (politically-derived) meanings to different organizations. Fundamentally, the various terms were coined for communications and advocacy purposes rather than necessarily derived from forest science research.[140]

In northern temperate regions during the 1970s and 1980s, public concerns greatly increased over the protection of non-timber forest values such as wildlife, recreation, aesthetics and cultural values. As well, during this period, scientific research confirmed the essential soil, water, biodiversity and climatic ecological services provided by forests. In response, many governments revised their forest laws to consider conservation values including forest preservation and forest restoration objectives. As a consequence, overall,

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[135] In the period 2000-2005, 55% of global deforestation occurred in only 6% of the world's forests. Of the world's total forest loss, 48% is occurring in Brazil and 13% in Indonesia. African forests are also being deforested but account for only 5.4% of the world's total forest loss. See Hansen, et al. (2008).

[136] Since 1987, the largest forest conversions have occurred in the Amazon Basin, South East Asia and Central and West Africa. See UNEP (2007:85). The loss of natural tropical forest is estimated at 15.2 million ha per year. See Millennium Ecosystem Assessment (2005:597).

[137] UNEP (2007:89). *Primary forests* are those which have been undisturbed by humans.

[138] World Resources Institute (1997). *Frontier forest* is a term coined by WRI as part of their advocacy campaign to encourage the protection of "the world's last remaining intact natural (not human disturbed) forest ecosystems".

[139] The term *Ancient primary forest* was coined in the 1980s as part of the Ancient Forest Campaign to protect the old growth forests of the U.S. Pacific Northwest.

[140] See Bull, et.al. (2001) for a review of the various definitions. See the *Forest Ethics* website for an example of the interpretation of the terms: http://www.forestethics.org/article.php?id=235.

temperate forest cover expanded.[141] However, with unchecked global demand for paper and forest products and increasingly mechanized forest harvest practices, timber production continued to expand and forest conflicts also increased. For example, forest management in North America in the 1980s and 1990s was largely characterized by a "war in the woods" – heightened political battles between governments, the forest industry and environmental organizations over clear cutting harvest practices and the protection of old growth forest.[142]

Persistent and mounting forestry conflicts revealed a fundamental challenge to forest governance – achieving a balance among a range of interests and shifting forest values. Governments and forest companies gradually realized during this period that sustainable forestry was not just about maximizing timber production but also about achieving ecological preservation and respecting social and cultural forest values. In the early 1990s, in response to societal pressures, major producer countries such as Canada, Sweden and Finland further revised their forest laws to balance timber production and ecological objectives. As well, governments initiated voluntary and collaborative approaches to increase corporate responsibility and encourage greater "stakeholder dialogue" and engagement in forest governance decisions.

It was also at this time that society awoke to the global crisis regarding the rapid loss of primary tropical forests and the linkage of deforestation to climate change. Satellite images showing vast clear-cut forest areas visible from space sounded global alarm bells.[143] During the 1980s, environmental non-governmental organizations (ENGOs) achieved greater global co-ordination and began to call on governments for international law to address weak tropical forest governance. Specifically, ENGOs wanted to increase the accountability of multinational corporations such as Aracruz, Mitsubishi and

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[141] UNEP (2007:85).

[142] In British Columbia, there were ongoing valley-by-valley contests (e.g., Stein Valley, Clayoquot Sound, Great Bear Rainforest, etc.) between forest companies and ENGOs over the clear-cut logging of old growth forests. See Coady (2002). In the U.S. Pacific northwest, heightened controversy over logging in spotted owl habitat (in old growth forests) resulted in the virtual shutdown of harvesting on U.S. national forestlands. In Sweden, advocacy campaigns were launched against forest companies such as STÖRA to halt the logging of the country's northern "ancient forests." See Gamlin (1988).

[143] UNEP (2005). Also see NASA images of deforestation at : http://visibleearth.nasa.gov/:.

McDonald's Corporation that were deemed to be taking advantage of minimal forest laws to ravage tropical forests.[144] However, state efforts led to disappointment. As I examine in the next section, ENGOs soon reversed their position on the prospects for an international forestry agreement, turning instead to developing a private governance mechanism – forest certification.

3.2.2 The Failure to Establish a Global Forest Convention

Despite repeated attempts over the past 15 years, the global community has been unable to negotiate a *legally binding* agreement on forests.[145] This is not only because establishing international law is inherently difficult but also because forests present a unique global environmental governance challenge.

Forests are important to protect as they provide essential local ecological services and resources, as well as supply vital global benefits.[146] They are commonly described as "the lungs of the planet" and giant "greenhouse gas sinks" taking in and storing vast amounts of carbon dioxide and emitting oxygen as their by-product. As well, forests constitute some of the last remaining tracts of wilderness on the planet, providing critical habitat for the growing list of threatened and endangered species.

Forests are fundamentally difficult to govern because they represent both a public good and a private resource. For example, carbon sequestration and forest habitat biodiversity are global public goods – no one pays and everyone benefits. However, timber is also a private resource under sovereign state authority. Governments have historically

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[144] See Carrere & Lohmann (1996); Dauvergne (1997:14; 2001:81). Also see the World Rainforest Movement website: *Brazil: The Paradigmatic Case of Aracruz*, WRM Bulletin No. 13 (1998) http://www.wrm.org.uy/bulletin/13/Brazil.html.

[145] There have been many state-led international co-operative initiatives that have also been unsuccessful in curbing tropical forest degradation (e.g., theTropical Forestry Action Plan, conservation concessions and debt for nature swaps). See Sayer et.al. (2008). However, the critical focus here is on the failed attempts to establish *binding* international forest law.

[146] "Forests provide for half of the world's terrestrial plant and animal species and contain 50% of the world's terrestrial organic carbon stock…more than three quarters of the world's accessible freshwater comes from forested catchments and water quality declines with decreases in forest cover.... Global forests also annually provide over 3.3 billion cubic meters of wood (50% for fuelwood) and 300 million people in poor rural areas depend on forest ecosystems for their subsistence and survival." See Millennium Ecosystem Assessment (2005:587).

managed their forests to maximize resource benefits in the national interest, for example, to provide material for navy ships, state building construction, fuel energy and to generate jobs and capital. Reconciling national interest with global public benefit is thus, a key global forest governance challenge. As Lipschutz and Rowe explain, "because forests are in effect private resources whose market (*timber*) value is easily determined, there is considerable reluctance to give away any of that value in the pursuit of some poorly-defined global good whose benefits are widely spread and difficult to quantify."[147]

Strong national interest has been a fundamental roadblock to the establishment of a global forest convention. Southern developing states and northern industrialized countries have simply not been able to agree on the balance between economic, social and environmental considerations to facilitate global forest product trade, protect domestic interests and also prevent deforestation and forest degradation. Intergovernmental attempts to protect the global public forest good through a global convention began in the 1990s.[148] There were two unsuccessful rounds of negotiations, the first occurring at the preparatory meetings prior to the 1992 United Nations Conference on Environment and Development (UNCED), and the second taking place between1995-1997 under the auspices of the Intergovernmental panel on forests.[149] At the 1992 UNCED in Rio de Janeiro, northern countries argued for a global responsibility approach through a legally binding convention while Southern states wanted sovereign discretion.[150] The G77 countries such as Malaysia, India and Brazil were strongly opposed to any kind of global forest regulation, essentially viewing it as "an attempt by industrialized countries to gain control of tropical forests" without any form of compensation.[151] Thus, instead of a legally binding agreement, the UNCED negotiations resulted in the adoption of the "Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable

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[147] Lipschutz & Rowe (2005:110).
[148] At the June 1990 G-7 meeting, industrialized countries issued a statement calling for the negotiation of an international convention on forests to curb deforestation and protect biodiversity. See Sedjo, Goetzl & Moffat (1998:8).
[149] Dauvergne (2005:172-173); Humphreys (1999:251).
[150] Bernstein & Cashore (2004:47).
[151] Lipschutz & Rowe (2005:118).

Development of all Types of Forests"[152], as well as, a general chapter of Agenda 21 on "Combating Deforestation". While governments achieved consensus around a broad set of SFM principles, the non-binding UNCED outcome essentially reinforced the status quo and "bound no one to do anything."[153]

NGOs became frustrated and disappointed with the failed state-based efforts leading up to Rio and at the1992 conference and hence, changed their position from proponents to opponents of a legally binding convention.[154] As Lipschutz and Rowe explain, "NGOs came to believe that any state-based international agreement would only foster increased global trade in timber and further boost already high rates of deforestation."[155]

Thus, sparked by the failure of state governments to co-operatively agree on a binding forest convention, the WWF along with other global ENGOs disengaged from the formal international negotiations to pursue a separate, private multi-stakeholder global forest governance process targeted directly at corporations. The Forest Stewardship Council (FSC) forest certification scheme was subsequently launched in 1993.[156]

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[152] The goals of the *Forest Principles* include, "to ensure sustainable management, conservation and sustainable development of all types of forests in order to meet the economic, ecological, social, cultural and spiritual needs of present and future generations."

[153] Fogel (2002) in Lipschutz & Rowe (2005:118).

[154] As well, in 1990, prior to UNCED, the WWF had attempted and failed with a proposal to the ITTO to establish an independent scheme to assess and certify tropical forest sustainability. The proposal was a follow-up to ITTO's 1985 pledge to only trade in forest products from sustainably managed forests by 2000. See Humphreys (1996). A September 2004 joint NGO statement to the United Nations Forum on Forests (UNFF) summarizes the NGO lack of support for a binding global forest convention stating that the convention would fail to address the underlying causes of forest loss including: lack of recognition of Indigenous Peoples' rights; unsustainable consumption and production patterns; and unsustainable financial and timber trade flows http://www.fern.org/pubs/ngostats/page.html.

[155] Lipschutz & Rowe (2005:117).

[156] An interim FSC Board was formed in 1992 with funding by the WWF and support by the Rainforest Alliance's SmartWood program (Gale, 2006:5). The Board included 7 members representing indigenous people (1), southern countries (2), industry (2), audit organizations (1) and the global environmental movement (1).

3.2.3 Competing Forest Certification Programs

The Forest Stewardship Council

Environmental and civil society non-governmental organizations along with invited industry officials formed the FSC to address the governance gap in global forest management – particularly, the inadequacy of government response to the deforestation and degradation of tropical forests. Governments were explicitly excluded. The intent was to work directly with progressive companies to encourage the adoption of "beyond compliance" SFM practices. Having recently observed the difficulties and failure at UNCED, the FSC founders wanted to make sure that governments did not unduly influence, stall or marginalize the FSC process. (The UNCED forest principles were, however, included in the development of the FSC standard.) Beyond government exclusion, membership in the FSC was open to all individuals and organizations with a stake or interest in forest governance. They could participate in one of three equally balanced economic, social or environmental chambers comprising the General Assembly. The FSC also ensured that northern and southern groups were represented equally within each of these chambers. And finally, the FSC encouraged similar multi-stakeholder engagement within the national and/or sub-national FSC regional processes that reported to the FSC International General Assembly. All FSC bodies operated on the basis of consensus decision-making.[157]

The FSC participatory structure was designed to address shortcomings that had been observed with the international forest negotiation process including the exclusion of civil society actors and the weighting of industrial regions and economic trade considerations over developing regions and environmental and social issues. In developing the standard, the FSC leveraged governmental and non-governmental SFM principles, programs and standards. These included: the 1989 WWF certification proposal to the International Tropical Timber Organization (ITTO); the Rainforest Alliance's *Smartwood certification*

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[157] The FSC defines consensus as the absence of sustained opposition but does not require unanimity. In the case of a vote, "decisions shall require both the affirmative vote of a simple majority of members within each sub chamber, and 66.6% of the total voting power registered by Associates in good standing (calculated as provided for in these By-laws) with exception of Board elections" (FSC By-laws 2006).

program (established 1989) and the Scientific Certification System's *Forest Conservation Program* (established 1991); as well as the forest principles and indicator measures developed through various international processes (e.g., Rio Forest Principles, Agenda 21 and the Helsinki process[158]). The FSC emerged as an SFM performance standard consisting of a set of international sustainable forest management principles and criteria focused on addressing: protection of old growth forests, prevention of illegal logging, protection of endangered species and habitat, restriction in use of chemicals, enhancement of wellbeing of local communities, shared benefits from the forests and respect for Indigenous peoples rights[159] – all issues that had been inadequately addressed in the intergovernmental negotiations. As well, the FSC certification program included an independent audit process and an eco-label.

The institutional capacity of the FSC program as a voluntary, global multi-stakeholder initiative was unprecedented. Over 130 participants from 24 countries attended the 1993 founding meeting in Toronto, Canada.[160] The FSC structure and process mimicked the constitutional norms and mechanisms of democratic states and created a new private political arena for sustainable forestry deliberation and global forest governance decision-making.[161] With the financial support of several European governments, yet by leveraging global market forces rather than state-based authority, the FSC was able to steer past the impasse of the intergovernmental effort and succeed where states had failed – by reaching consensus on a set of global SFM rules that would be enforced through independent audit.[162]

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[158] Initiated in 1990, the Helsinki process involved a series of ministerial conferences with 35 European countries to develop a set of sustainable forest management criteria and indicators. The Helsinki resolution (1994) provides a definition of sustainable forest management (http://www.mcpfe.org/).
[159] Plantations management was added as an additional principle in 1996.
[160] Conroy (2007:63).
[161] Gale (2006:6); Pattberg (2007); Tollefson, Gale & Haley (2008).
[162] Several governments, including Austria, the Netherlands, the U.K., Mexico and Switzerland have provided funding for the FSC. The majority of funding over the first two years was provided (in 1992) by the Austrian government. They re-directed approximately US$1.2 million from a rescinded law/program that had been intended to restrict the import of tropical timber but had been challenged as a barrier to trade under GATT. See Bartley (2003:448).

In order to generate certification demand, ENGOs launched "markets campaigns" targeting large forest products customers in the U.K., Germany, the Netherlands, Belgium and the United States. The campaigns involved approaching buyers and advising them that unless they stopped buying wood products from "endangered" forests and insisted that their wood product purchases were sourced from FSC certified forests, their stores would be boycotted.[163] In response, customers turned to their forest product suppliers and requested FSC certification and, in some instances, cut off demand for certain "high conservation value" forest products. For example, in early August 1998, the Rainforest Action Network (RAN), the Action Resource Center and Earth First! hung a large banner ("Home Depot: Stop Selling Old Growth") at the corporate headquarters of the largest home improvement retailer in the world.[164] A year later Home Depot announced it would stop selling wood from endangered forests by the end of 2002 and establish a procurement preference for products certified as sustainable by the FSC.

National Forest Certification Programs[165]

While the FSC was intended to supplement state-based forest law and provide a market-based reward for progressive SFM efforts, most forest industry associations initially perceived the standard as a regulatory threat and many governments saw the institutional capacity of the FSC as a potential challenge to their state sovereignty. The result was a flurry of response by forest industry associations and governments around the world (in the mid to late 1990s) to develop their own competing forest certification programs (Table 3.1). For example, the Canadian Pulp and Paper Association (CPPA) initiated a multi-stakeholder process under the Canadian Standards Association to develop the *CAN/CSA-Z809* forest certification standard (first published in 1996). In the United States, the American Forest and Paper Association (AF&PA) revised its membership code of conduct to establish the *Sustainable Forestry Initiative Principles and Implementation Guidelines* (SFI) certification standard (1995). The Malaysian

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[163] Protest demonstrations involved: "information flyering, guerilla theater, banner hangs, civil disobedience, old growth product stickering, wood product dumps, ethical shoplifting, dead rainforest tours and intercom takeovers." See Krill (2001:2).
[164] Krill (2001:2).
[165] In this context, national certification programs refer to competitor programs to the FSC and not the FSC's national and sub-national regional standards.

government initiated the Malaysian Timber Certification Council (MTCC) in 1998 and in 1999 the European small private forestland owners established the *Pan-European Forest Certification programme (PEFC)*.[166] Additional subsequent programs include CERTFOR in Chile, CERFLOR in Brazil, and the Australian Forestry Standard.

Table 3.1 Forest Certification Programs

Certification Program	Initiated by	Year Created
Forest Stewardship Council (FSC)	NGOs together with forest industries	1993
Sustainable Forestry Initiative (SFI)	American Forest and Paper Association	1995
Canadian Standards Association (CSA) SFM System	Forest Products Association of Canada & Canadian government	1996
Malaysian Timber Certification Council (MTCC)	Ministry of Primary Industries and Malaysian Timber Council	1998
Programme for the Endorsement of Forest Certification (PEFC)	Associations of small forest owners	1999
CERTFOR	Chilean government and Chile's wood manufacturer's association	2002
Australian Forestry Standard (AFS)	Ministerial Council on Forestry, Fisheries and Aquaculture & the forest industry	2003
CERFLOR	Ministry of Development, Industry and Trade	2003

Source: Ozinga (2004:34).

Globally there are now over 50 voluntary forest certification standards. However, five standards account for 97% of the certified forests world-wide. These include:

- Canadian Standards Association SFM standard (CAN/CSA-Z809);
- Sustainable Forestry Initiative (SFI);
- The American Tree Farm System (ATFS) (for U.S. small private landowners);
- The Programme for the Endorsement of Forest Certification (PEFC); and
- The Forest Stewardship Council (FSC).[167]

Increasingly the portfolio of major certification schemes has been reduced to two lead systems (FSC and PEFC) as many national standards are achieving endorsement under the international PEFC umbrella program. For example, in 2005, both the CSA and SFI standards were endorsed under the PEFC and, as of 2007, ten additional programs are currently under consideration including the U.S. ATFS program as well as the national

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[166] The name was changed to the Programme for the Endorsement of Forest Certification in October 2003.
[167] See Appendix B for a description of these programs.

certification systems for Estonia, Gabon, Italy, Poland, Slovenia and the United Kingdom.[168] The PEFC program includes 23 endorsed national standards and covers more than two-thirds of the total global certified forest area. As mentioned earlier, as of 2006, he FSC accounted for approximately 27 percent of the global certified forest and PEFC programs for roughly 70 percent. As well, some forests have been "dual certified" – certifying with multiple certification schemes at the same time for the same forests. For example, approximately 1.5 million hectares of Sweden's 6.9 million certified hectares are certified to both the FSC and PEFC standards.[169]

3.2.4 Certification Effectiveness

Although certification is gaining acceptance, the on-the-ground forest impacts are largely unknown. Part of the difficulty is that some outcomes are very hard to quantify. For example, determining the indirect effects of process improvements such as greater public consultation, stakeholder learning, and increased transparency is complex. Another challenge is timing. It is simply too early to measure some effects. For example, many forest improvements will not be realized until well into the next harvest cycle which in some forest communities could be as long as 70-80 years from now (e.g., biodiversity effects).[170] In addition, it can be difficult to isolate causation; i.e. whether certification or some other internal or external political, social or economic factor caused the changes in forest management behaviour. And finally, the ultimate purpose of certification is a point of ongoing debate, thus leading to confusion over the definition and measurement of certification effectiveness. Is the intent to reward the good practices of the forest leaders or gradually raise the performance bar among the laggards?   For example, it is mainly the "good actors" with already well-documented forest plans and procedures who have sought and readily achieved certification. By reinforcing and rewarding leading practices

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[168] UNECE/FAO (2007a:108). The ATFS received PEFC endorsement in August 2008.
[169] UNECE/FAO (2006:99).
[170] Some studies have steered around these challenges by examining the certification audit corrective action requests to determine the extent of forest practice improvements. See Newsom, Bahn & Cashore (2006); Rametsteiner & Simula (2003); and Tikina (2008). Others have surveyed forest managers regarding their perceptions of the degree of change in forest practices resulting from certification. See Tikina et.al. (2009). In addition, McDermott et.al. (2008) assessed forest certification effectiveness by comparing private forest rules to prescriptive legislated requirements within and between political jurisdictions.

rather than necessarily improving lagging forest management, to what extent is certification proving effective in solving forest management problems?

Given these many complexities, some studies have looked beyond the direct "problem-solving" capacity of certification, to the indirect social, political and economic consequences of certification such as creating a market advantage for large-scale forest operators in developed regions, and encouraging the development of similar private standards in other industry sectors.[171] As well, some scholars have examined certification effectiveness by simply looking at uptake - i.e. who has certified and at what rate as compared within and across various regions.[172] On this basis, certification is achieving success in some regions (Europe and North America) while failing in others (tropical countries).

Uneven Uptake

Certified forest area has increased steeply over the past decade to 294 million hectares.[173] However, this represents only 7.6 percent of the 3.9 billion hectares of global forests. In addition, as explained, the majority of uptake has been in northern temperate regions.[174] Although a key initial driver of certification formation was concern about tropical deforestation, it has turned out that the certified areas are typically the better managed and expanding northern forests (see Figure 3.1). Less than 1 percent of tropical forests have been certified and most is managed plantation forest not natural rainforest.[175] Contributing factors to the low uptake in tropical regions have included a lack of demand from south-east Asian customers for certified product; the lack of a price premium; and high costs of implementation due to the lack of a strong regulatory framework.[176]

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[171] Auld, Gulbrandsen & McDermott (2008).
[172] Studies examining certification effectiveness in terms of successful uptake include: include Ebeling & Yasue (2009); Espach (2006); and Gulbrandsen (2005b).
[173] UNECE/FAO (2007a:107).
[174] UNECE/FAO (2007a:109).
[175] UNECE/FAO (2007a:111).
[176] Segura (2004).

Figure 3.1: Percentage Certified Forest Area by Region, 2007

Region	Percentage
North America	35.0%
EU	52.0%
CIS*	2.3%
Oceania	5.0%
Africa	4.0%
Latin America	1.3%
Asia	0.3%
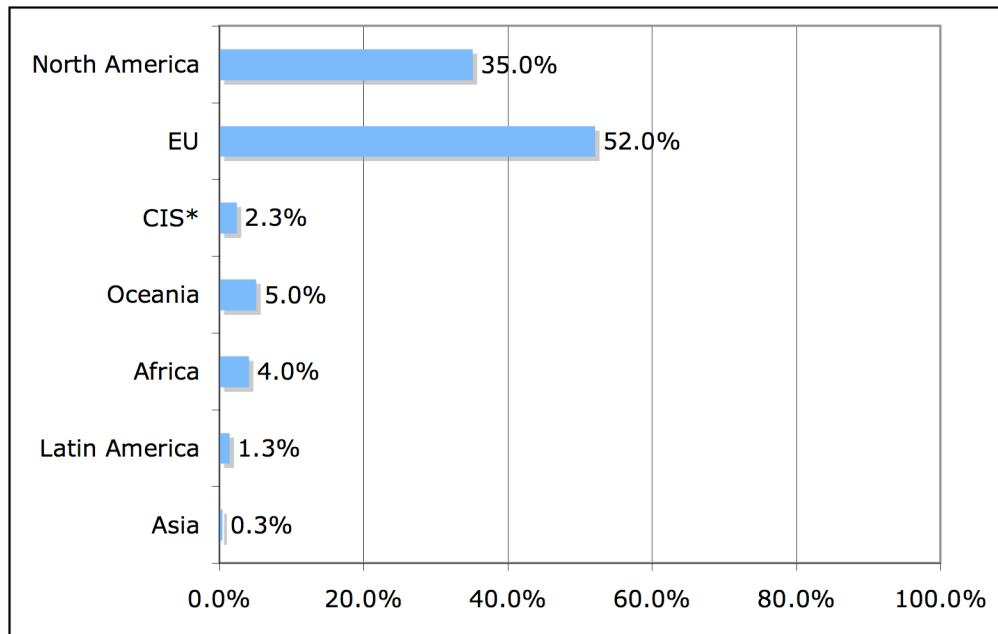
(* Commonwealth of Independent States)　　　　　　Source: UNECE/FAO (2007a:111).

Certification uptake has been uneven not only between geographic regions but also between the various forest owner categories. A key barrier to successful participation has been that the majority of programs are designed for larger industrial operators with the resources to develop forest management plans and a land base large enough to address biodiversity forest values. Certification among small landowners, particularly in developing regions has been minimal. While most certification programs have now developed options for the small private landowner (for example, group certifications), creating incentives to cover implementation costs and ensuring applicability of certification to this group of forest owners remains a challenge across all regions.

3.2.5 Certification Drivers

Certification is voluntary and adds additional costs, so in the absence of a regulatory penalty, why would a forest owner or operator participate?   An expected answer is that there is a market benefit, in particular a price premium for certified products. However, this has not been the case.   The majority of customers have been unwilling to pay more. Other factors beyond the price mechanism have therefore been driving certification uptake.

Initially, industry associations were a key motivator, requiring member companies to become certified as a condition of membership. For example, in January 2002, the Forest Products Association of Canada's (FPAC) committed its membership to achieving SFM certification (CSA, SFI, FSC) on all lands under their management by the end of 2006. One month before the commitment there were 17 million hectares certified and 3 years later the area had quintupled to 86.5 million hectares.[177] As well, SFI participation was initiated with the AF&PA announcement in 1995 that enrollment in the SFI program would be mandatory for all of its industry members.[178]

As the vast majority of certification adoption has been in jurisdictions with high public capacity and well-established forest management legal frameworks, fear of increasing government regulation has been a driver of certification uptake. As well, companies have certified in response to market-based and advocacy pressures. Figure 3.2 shows the results of the United Nations Timber Committee 2002 member survey highlighting ENGO pressures, customer demands and market access as important certification drivers.

Figure 3.2: Certification Drivers, 2002
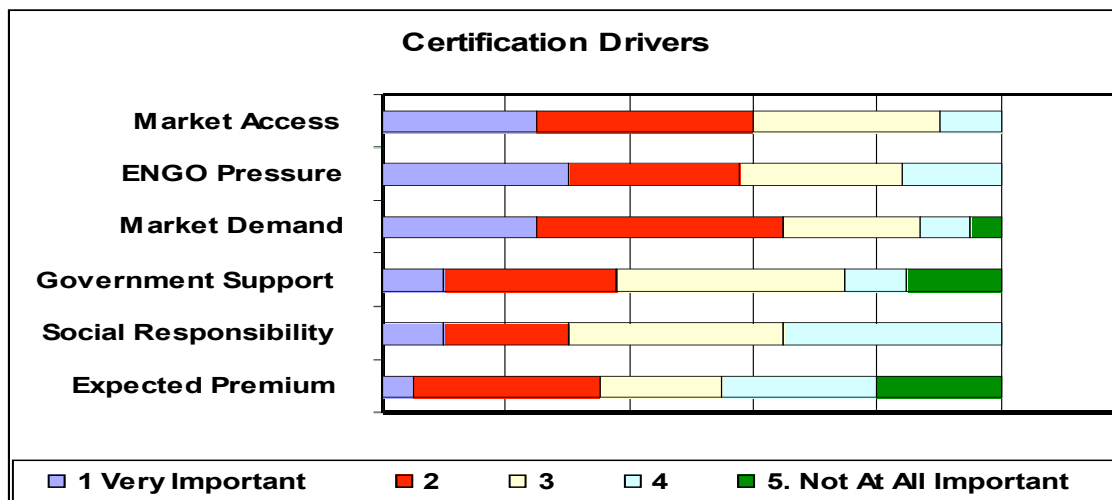
Source: UNECE/FAO (2002:15).

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[177] FPAC (2006:2).
[178] (www.sfiprogram.org). Of the association's 250 members, only 16 withdrew following the announcement. See AF&PA (2000) in Cashore, Auld & Newsome (2004:104).

Forest companies pursued forest certification in order to meet expected growing export demands for certified forest products, with customer specifications largely driven by ENGO advocacy pressure. Although certification is voluntary, forest producers feared losing access to offshore customers if their forests and forest products were not certified. Although certification markets are slowly developing, maintaining market access in the face of ENGO boycott has been and continues to be a significant certification driver.[179]

Despite the lack of a price premium, many companies identified a business case for certification in terms of enhanced corporate reputation, supply chain efficiencies, mitigating risk and achieving continual improvements in forest ecosystem conditions.[180] As well, the business case for certification is increasing with climate change initiatives including the development of carbon markets and increased demand for woody biomass removal.[181]

In some cases, companies have pursued forest certification out of commitment to social responsibility and an "enlightened self interest" to be good corporate citizens and maintain their "social license to operate". However, increasingly, forest producers are approaching certification simply as a necessary cost of doing business rather than as a means of demonstrating CSR and/or achieving a particular competitive advantage. For example, the vast majority of certified roundwood continues to be marketed without any reference to certification.[182]

A fundamental determinant of certification uptake is whether and on what basis forest owners consider certification to be a legitimate form of forest rule. Drawing on sociological theory, forest governance scholar Dr. Ben Cashore argues that forest

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[179] For example, ENGOs are continuing their markets campaigns. In the U.S., Forest Ethics is targeting catalog producers such as Victoria's Secret and Sears/Lands End to stop sourcing fiber from endangered forests (e.g., the Canadian Boreal forest) and establish procurement policies requiring FSC certification.
[180] Metafore (2004:5-6).
[181] For example, the California Climate Action Registry (CCAR) only allows the carbon sequestered from certified SFM forests to be registered in their carbon listing. As well, the growing demand for woody biomass energy is leading to environmental concerns and the certification of biomass removal. See UNECE (2007a:116).
[182] UNECE/FAO (2007a:112).

companies have granted certification various forms of pragmatic, moral and cognitive legitimacy.[183] Pragmatic legitimacy refers to the instrumental or business case for certifying. Companies that certify because it is "the right thing to do" have granted certification moral legitimacy. And finally, with cognitive legitimacy, companies participate in certification as it is deemed "an accepted cost of doing business". While the pragmatic business case initially dominated and continues to influence company certification motivation, there appears to be a gradual evolution towards the inclusion of moral and cognitive drivers. Drawing on neo-institutional theory, Bernstein and Cashore describe this as a shift from a "logic of consequence" based on pragmatic individual rational calculation to a "logic of appropriateness" that combines moral and cognitive legitimacy.[184] Further, they argue that although not yet empirically tested, this is a positive shift as institutions that are granted moral and cognitive legitimacy tend towards greater durability than those based on pragmatic cost-benefit calculation. In other words, moral and cognitive legitimacy increases the likelihood that certification systems will persist.

State engagement in certification lends moral and cognitive legitimacy and, hence, encourages certification institutional durability. As the forest management legislator, government involvement, therefore, sends a very strong signal that certification is an accepted forest rule and expected forest activity. Specifically, government provision of certification information, technical guidance and/or financial incentives; establishment of procurement policies; certification of public land; and/or the legislating of certification uptake have all been key certification drivers.

Beyond market, ENGO and governmental certification drivers, the competition between the FSC and the various national certification programs has also contributed to certification uptake. For example, industry associations in Canada and the U.S.

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[183] Cashore (2002). For the sociological theory regarding legitimacy see Suchman (1995).

[184] Bernstein & Cashore (2007:355). The logic of appropriateness is a perspective that sees human action as driven by socially constructed rules of appropriate or exemplary behavior, organized into institutions. Rules are followed because they are seen as natural, rightful, expected, and legitimate. See March & Olsen (1989:30-31). The logic of consequence perspective refers to actors' behaviors that are driven by material interests and where choices are made through a rational calculation of what is in the individual's interest. See March & Olsen (1989:160-162).

encouraged certification largely as a defensive tactic to secure support for competitor national certification schemes over the FSC certification program in order to prevent regional marginalization. As well, the PEFC and FSC are constantly adjusting their standards relative to each other to gain legitimacy and facilitate adoption. [185]

Stepping back, the above analysis of forest certification drivers draws attention to three fundamental points. Firstly, certification appears to be shifting towards a more durable institution as acceptance and uptake evolve from pragmatic cost-benefit motivation to including cognitive and moral considerations that certification is "simply the right thing to do". Secondly, although certification is described as a market-driven mechanism, societal and governmental drivers are also influencing forest certification uptake. And lastly, the competition between the FSC and the various national certification programs has encouraged standard revisions that have facilitated certification uptake.

The battle between the various programs has also contributed to the evolution of the forest certification private governance regime over the past decade. The next section reviews the credibility debate and argues that the "certification wars" over differences have led to increasing similarities among the leading certification programs.

3.2.6 Credibility & Mutual Recognition

There has been and continues to be extensive debate and considerable confusion about the differences, merits and drawbacks of the various forest certification programs.[186] ENGOs argue that the FSC is the only credible standard. However, industry supports the availability of competing standards, as well as, "mutual recognition" between the FSC and PEFC programs.[187] Governments also support choice and mutual recognition.[188]

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[185] For example, national PEFC schemes have raised their performance standards to match FSC. And FSC has relaxed its rules regarding the harvesting of old growth forests in order to gain support in British Columbia and to accommodate the certification of forest plantations in tropical regions. See Bernstein & Cashore (2004:53).
[186] For comparisons of the certification standards and evaluation frameworks see Abusow (2001); CEPI (2004); Commonwealth of Australia (2000); CPET (2006); FERN (2004); FPAC (2006); Meridian Institute (2001); and WWF/WorldBank (2006).
[187] Griffiths (2001).
[188] Koleva (2006).

Two key points of debate have concerned the degree to which the standards prescribe performance requirements and the extent to which NGOs or industry influence the standard development process. In general, industry has considered the FSC an ENGO-driven standard with overly prescriptive performance requirements. ENGOs criticize the PEFC (including CSA and SFI) for being "industry tick-box exercises that exclude social and environmental NGOs"[189] and fail to adequately address key sustainable forestry issues such as plantations, old growth and indigenous peoples.[190]

Groups such as Greenpeace, the World Wildlife Fund (WWF) and Friends of the Earth refuse to accept mutual recognition as they do not view the PEFC and FSC standards as equivalent and fear that mutual recognition would put downward pressure on the FSC requirements.[191] Industry and governments, however, support mutual recognition. They argue that maintaining flexibility of choice between certification programs is important as one standard will not easily address the diversity of forest types and ecosystems or the wide range of forest tenure and operating arrangements; and a lack of choice will potentially create market distortions.[192] Despite the impasse, mutual recognition discussions continue and have now surfaced largely with respect to legality and sustainability definitions in the context of countries establishing procurement policies to avoid the import of illegal timber.[193]

In order to alleviate confusion and avoid uninformed biased preference for one scheme versus another, governments and non-governmental organizations have developed various criteria to assess whether a certification program is credible.[194] These include:

Openness	• Does the certification system provide opportunities for input and participation by stakeholders?

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[189] Roberts (2007).
[190]FERN (2004); World Wildlife Fund (2001).
[191] In 2001, Greenpeace and WWF rejected a proposal by the International Forest Industry Roundtable to create an international framework for mutual recognition of PEFC and FSC programs. See UNECE/FAO (2001).
[192] FPAC (2006); Koleva (2006).
[193] UNECE/FAO (2006).
[194] See note #185. Also, see Nussbaum & Simula (2004) for an overview of the various evaluations.

Transparency	•	Is the certification decision-making process conducted in a way that is visible and transparent to interested parties?
Free of Bias	•	Does the certification decision-making body include an array of interests and backgrounds?

In addition, credible certification schemes include an accreditation process to ensure the capability and capacity of certification auditors. And finally, accepted certification standards have a requirement for third-party independent certification audit and regular independent monitoring.

Although PEFC and FSC standards incorporate all of the above credibility criteria, [195] groups with a political agenda to promote or denigrate a particular standard continue to introduce additional attributes that are referred to as "legitimacy threshold criteria".[196] These new criteria fuel the existing debate as well as spawn new considerations. Fundamentally, the ongoing competition between certification standards constitutes an adaptive process that is providing critical feedback and encouraging ongoing changes to both PEFC and FSC standards.[197] In debating the differences, rather than driving the standards further apart, the PEFC and FSC have become increasingly similar in design and content as they compete for acceptance.

Through several rounds of revisions, all of the leading certification programs now include performance and management system elements; multi-stakeholder oversight; third party audit requirements and eco-label and chain of custody certification options. There is

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[195] For example, in 2004, the UK government established the Central Point for Expertise on Timber (CPET) to assess the five internationally recognized certification schemes and provide guidelines for central government departments on legal and sustainable timber procurement. In the first assessment all five forest certification schemes were found to meet UK government requirements for legality, but only two (FSC and CSA) met the requirements for sustainability. In April 2005, SFI and PEFC were reassessed and accepted as proof of legal and sustainable timber. See CPET (2006). Also see: (www.proforest.net/cpet).

[196] "Mutual recognition" criteria judge whether an individual certification scheme is credible, whereas 'legitimacy threshold' criteria differentiate between the credibility of the various attributes of the various standards. See Humphreys (2006:136).

[197] An additional aspect of the credibility debate is that disagreements have formed within the FSC itself. Some traditional FSC supporters are protesting that the FSC has lost its credibility by awarding certification to unsustainable forestry operations. These internal contests are also providing critical feedback and encouraging ongoing adjustments and revisions to the FSC program. See: FSC-watch website at: www.fsc-watch.org and also www.rainforestportal.org. As well, see Counsell & Loraas (2002); Elad (2001); and Roberts (2007).

already mutual recognition *within* the two lead certification schemes as the FSC and PEFC have together accredited or endorsed over 50 national or sub-national standards.[198] Increasingly, mutual recognition is occurring *between* the FSC and PEFC as customers, governments, financial institutions and industry associations request that forests be certified to one of the accepted SFM certification programs. Large global forest and paper customers such as Centex Homes, Hallmark Cards, Lowes, Office Depot, Staples and Time Inc. all have inclusive purchasing policies that recognize the various SFM certification standards.[199] Financial institutions such as the $240 billion CalPERS Fund have established sustainable forest management standards stating that that their timber investments require certification of the forestland "by an independent 3rd party".[200] As well, public and private landowners are mutually recognizing the various standards by dual certifying forestlands to both FSC and PEFC standards, and certification audit organizations are now offering dual-audit services. And finally, some governments are mandating public land certification to at least one of the sustainable forest management systems; and are mutually recognizing the PEFC and FSC programs by establishing inclusive public procurement policies that accept certification to any of the recognized credible certification standards.

Over the past 10 years, many organizations have dedicated a great deal of attention and effort to comparing and assessing the credibility of the various certification standards. But instead of driving the standards further apart, the debate over differences has encouraged increasing harmonization. The leading certification standards have converged in design and content, and most forest customers have adopted purchasing policies that mutually recognize the PEFC and FSC programs. To understand forest certification as a governance mechanism, therefore, requires an inclusive approach that considers the overall dynamic of both PEFC and FSC rule-making systems.

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[198] UNECE/FAO (2005:91).

[199] For example, Office Depot's 2004 Environmental Stewardship Report states that Office Depot will "…work with key suppliers to promote the use of environmentally preferred fiber sourced from forests that are managed in accordance with recognized certification standards…"

[200] Sacramento Business Journal, Feb 19, 2008.

Returning to the beginning of this section, forest certification emerged because it was needed – state governments were failing to adequately address the rapid loss of tropical forests. Non-state actors established the FSC as a private mechanism to fill this international forest governance gap. But rather than spurring the improved governance of tropical forests, the FSC sparked the development of competing national certification standards and the certification of northern temperate and boreal forests. The result is the overlap of certification systems with public forest law in industrialized forest producing regions. In the next section I argue that certification is still needed; however, the nature, dynamics and purpose of certification have changed. In the high public capacity regions where certification is operating, it is not filling a governance gap so much as serving as an additional policy instrument that is supplementing state governance capacity through hybridized co-regulatory governance arrangements.

3.3 Classifying Forest Certification Governance

Forest certification is a unique governance phenomenon. Through multi-stakeholder decision-making bodies that mimic traditional democratic institutions, corporations and non-governmental organizations develop, implement and enforce transnational private forest rules by leveraging market supply chains. Forest certification is an example of voluntary self-regulation, corporate social responsibility and a private environmental governance mechanism; however it is also distinct within each of these classifications (see Table 3.2). It is important to understand these differences, as forest certification is in many respects an ideal form of private governance as compared to other voluntary initiatives. As well, these distinctions are a source of governance capacity.

Table 3.2: Forest Certification Private Governance Classification

Private Governance Classification	Definition	Forest Certification Private Governance Distinction
Voluntary Self-regulation	Voluntary rules and standards are developed and enforced by private organizations.	Forest certification includes multi-stakeholder decision-making and independent enforcement (unlike an industry association code of conduct).[201]
Private Environmental Governance Mechanism	Private actors are involved in authoritative rule-making that was previously the prerogative of governments.	Forest certification includes democratically designed decision-making bodies that that gain rule-making authority through market acceptance.
Corporate Social Responsibility	Corporate voluntary initiatives that integrate social and environmental stakeholder expectations (often going beyond legal requirements).[202]	Forest certification systems include a multi-stakeholder rule-making and adjudication body; a prescriptive standard; and an independent enforcement mechanism.

In comparing forest certification to specific examples of private voluntary initiatives, the distinctions noted in Table 3.2 become apparent. For example, in contrast to self-regulatory codes of conduct such as the chemical industry's Responsible Care program, certification systems are open, transparent, multi-stakeholder and independently audited, as opposed to closed, industry-dominated and driven by association membership.[203] In contrast to eco-labeling programs (e.g., The German Blue Angel and the Canadian Ecochoice programs), certification systems have dynamic, continually improving requirements rather than static environmental quality measures.[204] And finally, as compared to other CSR standards (e.g., ISO 14000, the Global Reporting Initiative, The Global Compact, etc.) certification systems prescribe 'hard rules' rather than flexible commitments; turn to the market and global supply chains to create incentives and include 3rd party audit enforcement mechanisms.[205]

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[201] As described in Section 3.2.3, various groups have initiated the lead certification systems: NGOs led the creation of the FSC; industry associations initiated the SFI and CSA; and small forestland owners established the ATFS and PEFC programs. However, all programs now have multi-stakeholder rule-making processes and independent audit.

[202] Depending on the jurisdiction, a CSR initiative may fall within compliance or go beyond compliance.

[203] Auld, Bernstein & Cashore (2008:18).

[204] Bernstein & Cashore (2007:349).

[205] Cashore, Bernstein & McDermott (2007).

3.3.1 Non-state Market-driven (NSMD) Governance

Environmental governance scholars have adopted various labels to capture forest certification's unique governance qualities including: civil regulation,[206] transnational business regulation,[207] supra-governmental regulation,[208] private "hard law" regulation,[209] and non-state market driven governance (NSMD).[210] All of these terms highlight the private regulatory capacity of forest certification systems.

As Cashore and his colleagues explain, beyond leveraging global supply chains and including a 3rd party independent audit enforcement mechanism, NSMD systems[211] are distinct private governance mechanisms as they establish dynamic deliberative forums (not dominated by business interests); and they develop prescriptive hard law rules.[212] These characteristics contribute governance capacity that provides NSDM systems with private rule-making authority beyond other self-regulatory CSR initiatives.

As well, a key source of NSMD system distinction is the location and source of governance authority and the role of government.   As summarized in Table 3.3, the location of policy authority is with market transactions; the source of authority is from the evaluation by external audiences; and governments do not play the role of policy-maker but rather are considered an interested group with indirect facilitating or debilitating influence.[213] When/if governments use their sovereign authority to require adherence to private standards, then the concept of NSMD governance ceases to exist as the system is no longer market-driven but rather becomes government-driven.[214] Public authority, by its absence, is a categorical condition of NSMD governance. While government role in certification is acknowledged as important, NSMD theory limits state

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[206] Bendell (2000); Meidinger (2003a).
[207] Pattberg (2006).
[208] Meidinger (2008).
[209] Cashore, et al. (2007).
[210] Cashore (2002); Cashore, Auld & Newsom (2004).
[211] NSMD systems include certification efforts in other sectors including: Fairtrade Labeling Organizations (FLO) International (1997), the Marine Stewardship Council (1999), the Sustainable Tourism Stewardship Council (under development) and the Initiative for Responsible Mining Assurance (under development).
[212] Cashore, et al. (2007:6-8).
[213] Cashore (2002:504).
[214] Cashore (2002:510).

engagement to actions that are deemed to not invoke the government's sovereign authority. As Cashore outlines, these include:

- Through existing policy rules which play a background role in NSMD systems;
- By acting as a traditional interest group in the NSMD policy-making process;
- By initiating procurement policies;
- As a landowner certifying their own public lands;
- By providing resources to help groups certify; and
- By providing expertise in standard development.[215]

Under the NSMD classification, forest certification is considered a purely private authority mechanism, establishing private forest rules independent of state authority.

Table 3.3: NSMD Authority

Features	Traditional Government	Shared Governance	NSMD Governance
Location of authority	Government	Government gives ultimate authority (explicitly or implicitly)	Market transactions
Source of authority	Government's monopoly on legitimate use of force, social contract	Same as traditional	Evaluations by external audiences, including those it seeks to regulate
Role of government	Has policy-making authority	Shares policy-making authority	Acts as an interested group, landowner (indirect facilitate or debilitate)

Source: Cashore (2002:504).

As private hard law regulation, forest certification operates at both international and domestic levels. In the global political arena, forest certification overlaps with multilateral institutions and international state-led co-operative forest governance efforts. At the domestic level, certification replicates the law-making functions of governments. However, in each instance, certification private authority is not simply supplanting traditional state authority. As argued in the next two sub-sections, the authorities are coincident.

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[215] Cashore (2002:510).

3.3.2 Certification as a Global Governance Mechanism

In terms of global forest governance, forest certification behaves as transnational private regulation.[216] Certification systems have gained legitimacy and institutional capacity to establish and promote rules and norms around the issue area of global sustainable forest management. PEFC and FSC certification programs are therefore contributing to the overall global forest regime, operating alongside multilateral hard law conventions (e.g., Convention on Biodiversity, Convention on International Trade in Endangered Species, etc.) and soft law non-binding agreements (e.g., the U.N. Forest Principles).[217]

The public and private mechanisms within the global forest regime have strengths and weaknesses. In general, state-based multilateral mechanisms are slow and encumbered by national interests but are generally structured to encourage broad inclusion and are accountable and enforceable through international organizations and state legal authority.[218] Private certification systems are flexible and responsive and transcend borders to address local to global concerns. But they also lack democratic accountability and as a voluntary mechanism have weak enforceability and uncertain durability.[219] Neither certification nor intergovernmental processes have been effective on their own; however, together they offer the potential for more effective global forest governance. Ideally, public and private mechanisms interact alongside each other in the global arena, compensating for weaknesses and drawing on respective strengths to contribute to expanded global governance capacity.

However, conceptually, there is a difference of perspective among international relations and global governance scholars as to whether private forest governance authority can

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[216] Pattberg (2005).

[217] Dauvergne (2005); Humphreys (1996, 2006).

[218] Specifically, civil society organizations criticize international forest governance processes for bias towards industrial interests; falling short of protecting forests, promoting ecosystem-based forestry and respecting the interests of indigenous peoples and local communities; and lacking binding commitment to ensure compliance. See Gulbrandsen (2004:83).

[219] Although forest certification organizations incorporate due process in terms of multi-stakeholder decision-making, certification bodies are ultimately un-elected and self-selected and therefore, lack democratic accountability to the general public. The durability of certification as an effective governance mechanism is uncertain as ongoing compliance can only be encouraged through the threat of certificate suspension rather than by means of a formal state-based coercive mechanism.

constitute a complementary force to traditional state-based international co-operative efforts within the forest regime. As Chapter 2 (section 2.5) outlines, traditional statists view sovereignty as autonomous and authority as zero-sum and, therefore, argue that private governance through market-based certification inherently competes and potentially supplants traditional government authority, resulting in a retreat of state leadership in global co-operative efforts.   Because forest certification is viewed to be in direct contest with state sovereignty, there is a call for greater state intervention to re-embed market forces within authoritative state control.[220]

New governance scholars argue that there has been an emergence of post-sovereign arrangements whereby private and public authorities operate in parallel within a broader interdependent hybridized political arena, thus, supplementing overall global governance capacity and transforming rather than supplanting state sovereignty. [221] For example, Kobrin describes this as a "new medievalism" whereby governance authority is located simultaneously at multiple overlapping sites.[222]   From the new governance perspective, forest certification can be complementary to traditional international mechanisms rather than an assumed competitive threat to state-based co-operative efforts.[223]

This dissertation supports the new governance position regarding shared authority. If certification were supplanting public authority, there would be less participation and support of international forest governance institutions, and greater state reliance on forest certification systems. But this is not the case. Intergovernmental forest governance negotiations continue[224] and governments that are engaging in certification are enabling certification as one tool among their traditional array of governing instruments.   As

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[220] Humphreys (2006); Lipschutz & Fogel (2002).

[221] Falkner (2003); Karkkainen (2004).

[222] Kobrin (1998).

[223] Gulbrandsen (2004); Haufler (2003); Pattberg (2006).

[224] For example, in April 2007, the UNFF reached another non-binding agreement on forests (*The Non-legally Binding Instrument on All Types of Forests*). The agreement was presented to the U.N. General Assembly for adoption in October 2007. The agreement is focused on enhancing co-operation between countries on achieving global forest goals by 2015 and encouraging the implementation of national forest programs. Other active international forestry governance forums include: the ITTO; the Ministerial Conference on the Protection of Forests in European; the WTO (regarding forest trade aspects); and the World Bank (regarding forestry development project financing issues).

argued in Chapter 2 (section 2.4.3), new governance mechanisms such as certification, eco-labeling and voluntary industry codes and agreements can complement rather than necessarily replace traditional regulation within co-regulatory arrangements.[225] Fundamentally, with the emergence of certification, the state is not in retreat. Rather than substituting for international institutions, certification is co-existing alongside state-based, co-operative efforts contributing to a multi-centric global forest regime. Not only do certification programs overlap with international mechanisms by incorporating international SFM principles but also, as Gulbrandsen argues, there are various dimensions whereby certification supplements rather than supplants international forest governance.[226] These include:

- Enabling greater inclusion and balancing of powers of economic, ecological and social groups in forest governance decisions;
- Ratcheting and/or strengthening of environmental and social performance standards through certification rules regarding specific forest management issues;
- Ensuring enforcement of sustainable forest principles and encouraging the continual improvement of forest practices through third party, independent auditing;
- Engaging a large spectrum of forest producers, thus impacting forest practices across a wide geographic reach; and
- Promoting trade in sustainable forest products through chain of custody certification and eco-labeling.

So, given the respective strengths and weaknesses of international and forest certification mechanisms, their interaction can be complementary within a flexible, multi-tiered global forest regime with multiple overlapping sites of public and private agenda-setting and decision-making authority. While scholarly debate continues regarding the implications of private governance authority in the global arena, the more complex dynamic is actually playing out at the domestic level. In the international realm where there is an absence of a sovereign world government, it can be argued that certification is filling a governance

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[225] See Ayres & Braithwaite (1992); Gunningham & Grabosky (1998).
[226] Gulbrandsen (2004:83).

gap. However, at the domestic level within developed countries (where certification is occurring), not only is there an established sovereign state authority but also there are already well-developed forest institutions.   With forest rules and forestry agencies already in place, public and private rule-making authorities are directly overlapping within these high public capacity regions. As argued in the next section, the resulting hybridized co-regulatory forest governance arrangements go beyond the theoretical classification of non-state market-driven governance.

3.3.3 Forest Certification as Domestic Forest Law

Within the domestic policy environment, certification replicates the agenda-setting and forest policy delivery and enforcement functions of governments. In the effort to institute clear, enforceable standards for forest management, certification is essentially a non-governmental law making mechanism.[227] As explained in section 3.3.1, certification is classified in the environmental governance literature as a purely private, non-state market-driven governance (NSMD) mechanism and private hard law regulation. Employing the co-regulatory map of policy instruments introduced in Chapter 2 (Figure 2.3), this positions certification in the bottom left quadrant constituting a market-driven self-regulatory policy tool with non-delegated private governance authority (Figure 3.3). As shown, forest certification can be considered a distinct policy mechanism in contrast to traditional state-based policy instruments such as command-control regulation and delegated self-regulation that reside within traditional state authority.

Figure 3.3: Forest Certification as Non-State Market Driven Policy Instrument

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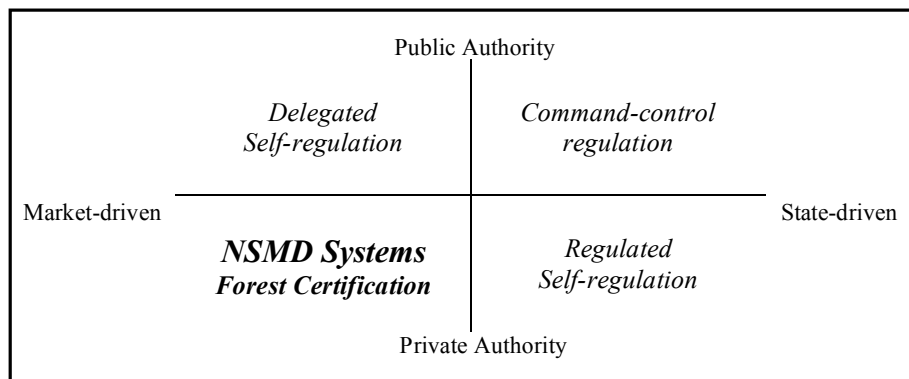
[227] Meidinger (1997, 2003a).

Certification *is* a unique policy instrument in terms of its initiation by private actors and its non-delegated private governance authority, outside of formal state sanction. However, this is only a partial account of the forest certification governance dynamic. Upon closer examination, forest certification is not entirely market-driven nor do certification systems constitute purely private authority. For example, in their formulation, certification rules overlap with and depend on existing forest laws and legal frameworks. Implementation hinges on policy alignment and regulatory compliance, and governments play a key role in their sovereign capacity to oversee, facilitate, legitimate and even enforce certification standards. In other words, certification constitutes a co-regulatory governance mechanism with coincident public and private rule-making authority that is "driven" by governments as well as markets.

Fundamentally, while the NSMD classification treats the state as an interested party on the same level as other landowners and participating groups, governments are different. In their inherent capacity as sovereign law-maker, governments have special status and are therefore unlike any other interested stakeholder. Therefore, any government certification activity will have implications that transcend the influence of other groups. As shown in Table 3.4, many of the government activities that NSMD theory lists as "acceptable" because they do not invoke state authority (e.g., initiating procurement policies, creating financial incentives, providing background legal framework, etc.), [228] in fact, have significant influence on certification design, implementation and uptake precisely because they do engage state authority. As well, several of the examples in Table 3.4 show how governments are driving certification acceptance and uptake by enabling and endorsing certification systems.

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[228] See Cashore (2002:510).

Table 3.4: Forest Certification State-based Drivers & Public Authority Overlap

Governance Function	Non-State Authority	Overlapping Governance	State-based Driver	Public Authority Engaged
Formulation (Agenda-setting)	Private actors initiate non-delegated self-regulatory standards.	Framework legislation encourages the initiation of self-regulation.	✓	✓
		Governments support the initiation of national certification schemes.	✓	
Negotiation (Rule-making)	NGOs and Corporations deliberate over rules and process. Governments are refused formal participation.	Certification draws on forest policy to establish private rules.		✓
		Certification standards incorporate legal compliance.		✓
		Governments provide technical, administrative and/or financial support for standard development.	✓	
Implementation (Delivery)	Landowners implement certification.	Governments provide technical and information support and financial incentives to facilitate and encourage private landowner certification.	✓	
		Governments legitimize certification standards by certifying public land.	✓	
Monitoring & Enforcement (Compliance)	Third party audits conducted by independent, accredited private certification organizations. Private enforcement through threat of loss of certificate if non-compliant.	Governments leverage certification audits to streamline regulatory compliance audits and monitoring requirements.	✓	
		Governments mandate forest certification for licensees operating on public land.	✓	✓
		Governments establish procurement policies favouring certified wood and paper products.	✓	✓

Ultimately, NSMD classification is only a partial account of the forest certification governance phenomenon. Forest certification *is* unique with respect to its non-delegated private authority; however, certification systems also overlap with public authority and rely on public governance capacity. As argued in the next section, public and private authority interact alongside each other at the formulation, delivery and enforcement

stages within certification co-regulatory systems i.e. overall governance authority is
expanded rather than zero-sum.

3.4 Forest Certification Co-regulatory Governance

Although certification and government programs overlap and interact, there has been
very little investigation of the role of government in forest certification or the interplay
between forest certification and forest policy.[229] As mentioned previously, for the most
part, the environmental governance literature has conceptualized forest certification as a
purely market-based mechanism independent of state authority.   As well, a contributing
factor to the lack of enquiry into certification co-regulatory governance is that forest
certification systems are still a relatively new phenomena – barely a decade old in most
jurisdictions. The public-private dynamic has only recently begun to play out as
certification adoption increases and as the standards and state forest regulations go
through their respective revision cycles. Understanding and managing this interplay
therefore constitutes an emerging area of policy research as well as an applied
governance challenge. This section employs the governance matrix developed in Chapter
2 (Figure 2.3) to evaluate how forest certification overlaps and interacts with traditional
regulatory approaches within a co-regulatory forest governance system (Figure 3.5).

Figure 3.5: Forest Certification Co-regulatory Governance

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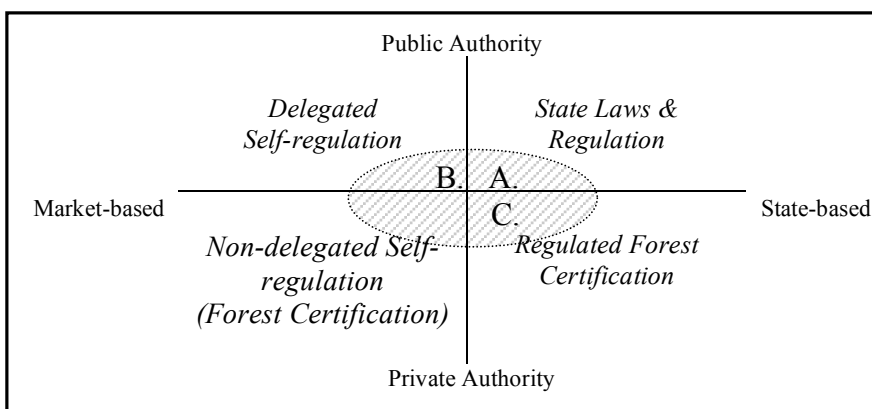
[229] Studies examining government role in certification include Rametsteiner (2002); and Segura (2004).
The literature on forest certification interaction with public policy includes Boström (2003); Cashore &
Lawson (2003); Elliott (2000); Gunningham & Sinclair (2002b); Hysing & Olsson (2005); Meidinger
(2003a); and Rametsteiner & Simula (2003).

As shown in Figure 3.5, certification systems intersect with traditional forest law and state delegated self-regulatory policy mechanisms (Areas A and B). As well, certification has in some instances become directly embedded in forest legislation as an example of regulated self-regulation (Area C). These instances of certification co-regulation are outlined below.

3.4.1 Certification & Forest Law

Forest certification rules mimic and overlap with public forest laws and regulation (see Figure 3.6). For example, in their comparative study of forest policy attributes across regions, forest governance scholars McDermott and colleagues conclude that "there is significant cross-fertilization between certification standards and government policies…certification standards are largely shaped by state-based regulatory norms…"[230] State laws not only have an impact on the formulation, implementation and enforcement of certification systems, but also forest certification has an impact on forest laws and state forest administration.   There is a dynamic synergy between the public and private rule-making systems.

Figure 3.6: Forest Certification Overlap with Forest Law
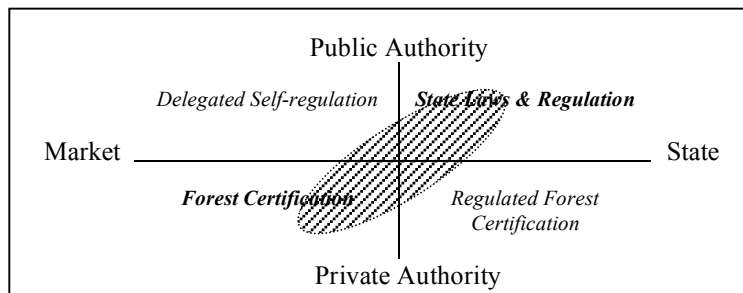
For instance, in terms of the influence of state laws, certification relies on an existing regulatory framework to: provide contract and property law; as well as to enable the chartering of the certification body and the awarding of conformance certificates to specific forest owners and defined forest areas. Certification must also respect established forest laws and agreements in order to be considered legitimate and not prohibited by governments. In their formulation, forest certification programs have

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[230] McDermott, et al. (2008:67-68).

therefore, been designed to align with state-based SFM principles and criteria, as well as include consideration and respect for local forest laws and international agreements.

For example, all accredited and endorsed certification standards include legal compliance:

- According to FSC By-law #9, *"The FSC seeks to complement national legislation and international treaties and agreements promoting environmentally appropriate, socially beneficial and economically viable forest management."*[231] The first of the ten FSC international principles relates to compliance and specifically states that, "*Forest management shall respect all applicable laws of the country in which they occur, and international treaties and agreements to which the country is a signatory...*"

- Section 7.3.4 of the Canadian CSAZ809 standard regarding "Rights and Regulations" states that the certified organization shall, "*demonstrate that relevant legislation and regulatory requirements that relate to ownership, tenures, and rights and responsibilities in the defined forest area (DFA) have been identified and complied with.*"

- And the eighth of the nine SFI principles is a requirement, "*to comply with applicable federal, provincial, state and local forestry and related environmental laws, statutes and regulations.*"[232] As well, the SFI standard is framed by federal best management practices (BMPs) as defined through U.S. environmental and forest legislation.

- The CSA standard's performance framework is structured around the Canadian Council of Forest Minister's criteria and indicators adapted from the SFM criteria developed through the Montreal Process (intended for use by the 14 non-European countries with temperate and boreal forests).[233]

- The FSC International standard incorporates the Helsinki criteria as well as the U.N. Forest Principles.

Certification systems not only rely on public law to establish contracts between the various parties, but also rely on formal partnership arrangements with governmental agencies to perform accreditation services in order to ensure the independence and competence of certification audit organizations. For example, the PEFC requires all

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[231] http://www.fsc.org/en/about/documents/Docs_cent/3.
[232] www.sfiprogram.org.
[233] The Montreal Process criteria are very similar to, and address the same goals as the criteria developed in parallel by European countries through the Helsinki Process.

certification audit firms to successfully complete an accreditation program through an internationally recognized accreditation body. As examined in Chapters 4 and 6, in Canada, a federal crown corporation (The Standards Council of Canada - SCC) reviews and approves the CSA Z809 audit firms[234]; and in Sweden, PEFC audit firms are accredited by the Swedish Board for Accreditation and Conformity Assessment (SWEDAC) – a public authority under the Ministry for Foreign Affairs.[235]

While certification is classified as an NSMD system and therefore, considered an example of "governance without government", forest certification systems are, in fact, closely connected with government and even influence public forest policy. As legal scholar Meidinger explains, "the larger discussion of continual improvement in forestry standards and practices stimulated by certification processes is likely to infuse government legal requirements in various ways, including changes in formal rules and informal implementation practices."[236] Very simply, with the emergence of forest certification, public and private rules and structures overlap and interact. State regulatory capacity plays an important rule in certification development, implementation and enforcement. Ultimately, forest certification is a case of governance *with* government.

3.4.2. Certification & Self-regulation

As outlined in Section 3.3, forest certification systems are an example of voluntary self-regulation, yet have certain distinguishing features. The main difference is that unlike traditional forms of self-regulation (e.g., professional codes) forest certification gains its legitimacy and rule-making authority through external actor acceptance rather than from government alone. In other words, certification is an example of *non-delegated* self-regulation – the state has not officially handed over forest rule-making responsibility to private actors.

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[234] The Standards Council of Canada (SCC) reports to Parliament through the Minister of Industry and oversees Canada's National Standards System http://www.scc.ca/en/programs/iso_reg/environment.shtml.
[235] See: www.swedac.se.
[236] Meidinger (2003b:315).

Figure 3.7: Forest Certification Overlap with Self-regulation
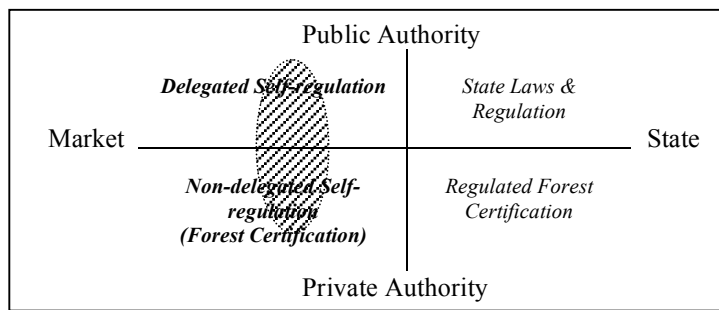
While distinct from *delegated* self-regulation, forest certification programs also share features (e.g. voluntary implementation and compliance) that overlap with state-sanctioned self-regulatory programs (Figure 3.7).[237] Applying the range of self-regulation definitions presented in Chapter 2 (section 2.4.2), Table 3.5 summarizes the various classifications of certification as a self-regulatory policy tool.

Table 3.5: Forest Certification Self-Regulatory Governance Classification

	Self-regulation Mode	*Forest Certification Self-regulation Overlap*
Regulatory Scope	Group Self-regulation	✓ Conformance to industry-wide set of principles.
	Individual Self-regulation	✓ Firm-specific local rules developed under some of the standards (e.g., CSAZ809).
	Economic Self-regulation	✓ Corrects for unaccounted externalities (e.g., deforestation, riparian damage, etc.) by setting conditions for market entry.
	Social Self-regulation	✓ Protection of non-timber values such as cultural forest values and maintenance of biodiversity through predictable, long-term ordering of the behaviour of forestry firms.
Rule-making	Industry Self-regulation	✓ Some certification standards developed solely by industry but all standards now
	Multi-stakeholder Self-regulation	✓ incorporate multistakeholder input.
	Pure Self-regulation	✓ Private actors formulate the rules.
Delivery	Private Self-regulation	✓ Private actors are responsible for implementation and ensuring conformance.
	Regulated Self-regulation	✓ Implementation relies on regulatory compliance and government co-operation.
Enforcement	Voluntary Self-regulation	✓ Certification rules enforced through private, independent, accredited audit organizations.
	Mandated Self-regulation	✓ Some governments are mandating forest certification on public land and including certification in public procurement policies.

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[237] For example, as evaluated and argued in Chapter 6, the Swedish frame law forest legislation that was introduced in 1994 included *delegated* self-regulatory forest policies (e.g., voluntary green plans and forest reserves) that overlapped with the private forest rules and consequently enabled non-delegated forest certification governance mechanisms (See Chapter 6, Section 6.5).

• *Regulatory Scope*

Forest certification schemes can be classified as both *group self-regulation* and *individual self-regulation*. For example, firm-specific local rules are developed under some standards (e.g., CSAZ809; and SFI) and all standards require conformance to an industry-wide set of principles and criteria.   As well, certification can be considered both an *economic self-regulatory* and *social self- regulatory* governance mechanism. Certification corrects for unaccounted negative environmental externalities such as deforestation, riparian damage, etc. through setting specific conditions for market entry and also addresses the protection of non-timber public goods such as cultural forest values and the maintenance of biodiversity through instituting "predictable, long term ordering of the behaviour of forestry firms."[238]

• *Rule-making authority*

In terms of private rule-making authority, when first introduced, certification schemes represented both *industry self-regulation* (e.g., the SFI program in the U.S.) and *multi-stakeholder self-regulation* (e.g., the FSC and CSA programs). However, *all* of the lead standards are now plural in their design, incorporating economic, environmental and social stakeholders (including governments in some cases) in the negotiation, development and revisions of the standards. Certification is an example of pure self-regulation, as rules are developed without formal state sanction.[239]   However, certification also goes beyond this as the rules also incorporate state forest laws.

• *Responsibility for Delivery*

At the rule-delivery (implementation) stage, and in terms of Knill and Lehmkuhl's regulatory typology (see section 2.4.2b), forest certification is an example of *private self-regulation*.[240] Private actors are responsible for implementation and ensuring conformance to forest certification SFM objectives independent of government intervention. However, forest certification schemes can also be classified as *regulated*

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[238] Haufler (2001); Meidinger (2003a:267).
[239] Schulz & Held (2004).
[240] Knill & Lehmkuhl (2002).

self-regulation. As outlined in the previous section, the standards incorporate and rely on legal compliance and government agencies oversee auditor accreditation.

• *Enforcement*

At the enforcement stage, and with respect to the Gunningham and Rees regulatory typology (see section 2.4.2c), forest certification is an example of *voluntary self-regulation*.[241] Rules are formulated by industry, NGOs and other non-state actors and enforced through independent, accredited 3rd party auditors. However, in recognition of an opportunity to brand their forest policy with an independent 3rd party stamp of approval, an increasing number of governments are formally intervening to mandate forest certification. This represents a shift from *voluntary self- regulation* to *mandated self-regulation* as explained in the next section below.

If the above assessment has seemed at all confusing, this is because it is confusing. Scholars are applying different terminology (highlighted in italics) and different regulatory typologies to describe various forms of self-regulation at the various stages of governance. The complexity is compounded, as forest certification does not easily conform to a single definitional category. Forest certification standards have differed in their formulation, design and evolution and reliance on public institutions, thus spanning the various self-regulation classifications. What *is* clear from this analysis is that certification extends beyond its classification as a non-state market driven system, overlapping with delegated forms of self-regulation – regulation that falls under the shadow hierarchy of the state.

3.4.3 *Forest Certification & Regulated Self-regulation*

In industrialized regions (where certification adoption is occurring), governments are increasingly adopting meta-governance approaches in response to voluntary certification, i.e. they are regulating the self-regulatory forest certification mechanism (see Figure 3.8).

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[241] Gunningham & Rees (1997).

Figure 3.8: Forest Certification & Regulated Self-regulation
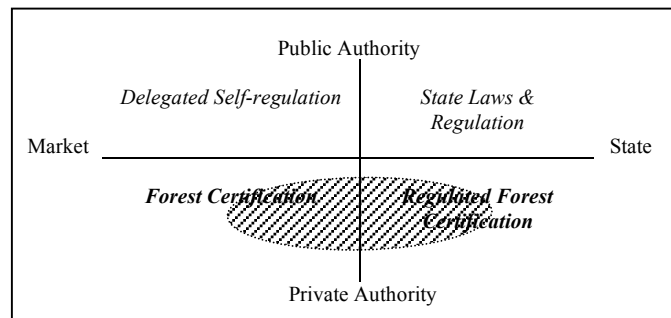
For example, some governments are mandating forest certification – directly integrating certification into their statutory regimes.[242] As well, an increasing number of governments are incorporating certification directly into public procurement policies.[243] These are both examples of regulated self-regulation as the state is officially sanctioning a private self-regulatory initiative by requiring compliance. Governments are also directly integrating certification into the public administration of forestlands by certifying state-owned forests. In addition, governments are directly leveraging certification to increase the overall resource capacity of the state; for example, by using certification audits to supplement state monitoring programs and forest law enforcement.

With direct state adoption and mandating, certification becomes both a market and state-driven private governance instrument (as shown by the shaded area spanning the lower quadrants in Figure 3.8). Ideally, these newly emerging meta-governance arrangements result in an overall expansion of forest governance capacity, supplementing rather than supplanting state forest laws and complementing rather than subverting a government's policy authority. In advanced industrialized countries with high public capacity to maintain "a respected and efficient legal system and a vigilant and consistent regulatory enforcement presence",[244] governments are not retreating in response to certification so

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[242] For example, see the discussion in Chapter 4 regarding the legislating of certification on public forestland within the Canadian provinces of Ontario and Quebec (section 4.7.3), and in Chapter 5, (section 5.4.1d) regarding the state of Michigan's decision to legislate the certification of its state-owned forestland.
[243] For a good overview see Simula (2006).
[244] Webb (1999:43).

much as redefining their regulatory roles towards co-regulatory governance approaches that leverage and facilitate CSR initiative.

3.5 The Spectrum of Government Role in Forest Certification

Forest certification is a potentially positive development for governments as the private sector is voluntarily taking on traditional public responsibilities to ensure the sustainable management of the forest resource. Certification should presumably save governments time and money. As legal scholar Errol Meidinger posits, "certification programs can be seen as likely to strengthen governmental regulatory programs where they exist, and possibly to lay the groundwork for them where they do not."[245] With increasing certification adoption, the state is ideally transformed towards a co-regulatory role – enabling and leveraging private governance authority as appropriate, thus supplementing rather than subverting state capacity and policy authority.   However, the public-private balance and forest governance outcomes are largely determined by the baseline administrative capacity of the state and how government positions itself in response to private certification initiatives.

Inherently, governments are key actors in certification as they regulate forest practices, own public forestland and are significant buyers of wood products. In the large consumer countries, the key government certification role is establishing procurement policies that favour certified forest products. Within forest producing nations, governments play a significant certification role by establishing forest laws and providing a supporting regulatory framework. As well, because certification systems overlap with state forest law, governments also ensure the ongoing alignment and congruity of certification programs with the state's forest management goals and objectives. Ultimately, the challenge for governments is determining their optimal response to certification so as to leverage the adaptive, flexible and innovative private rule-making mechanisms within the domestic forest policy mix while maintaining policy sovereignty to regulate SFM accountability.

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[245] Meidinger (2003a:283).

3.5.1 Rationale and Benefits of Government Engagement

Fundamentally, the rationale for government role in forest certification is to ensure fair market play (economic rationale) and a desirable quality of sustainable forest management (ecological and social rationale).[246] Government benefits from supporting certification include: potentially enhanced stakeholder agreement on SFM; improvements in forest management; possible reduction in enforcement and monitoring costs; and greater market and public confidence in forest policy.[247] Some governments have encouraged certification as a means to brand their local forest practices as superior and promote their forest industry's competitiveness in global markets.[248] As well, governments lacking capacity have an incentive to leverage certification to achieve forest policy objectives.[249]

In October 2005, the UNECE timber committee held a policy forum on *The Role of Government in Forest Certification*. Government, industry and NGO participants from developed and developing countries identified a range of government roles.[250] The five common expectations of government included:

- Ensure compliance of SFM standards with laws and regulations.
- Intervene in certification to prevent monopolies, unbalanced market conditions and/or trade distortions.
- Participate as a neutral party in moderating between the different certification programs and encourage mutual recognition.
- Prepare public procurement rules that are inclusive, non-discriminatory and harmonized between countries.
- Offer certification technical and financial assistance for capacity building in developing regions.

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[246] Rametsteiner (2000).
[247] Bass (2003); Kanowski, Sinclair & Freeman (1999).
[248] Tokarczyk & Hansen (2006).
[249] Cashore, Newsom, Gale & Meidinger (2006); Ebeling (2005); Ebeling & Yasue (2009); Espach (2005).
[250] Koleva (2006).

3.5.2 Challenges of Government Role in Certification

A key issue that has prompted all governments to keep a close eye on forest certification is the potential for certification to act as a technical barrier to trade and create competitive disadvantage. [251]   As well, governments have been concerned about the implications of increasing private authority for democratic process and state sovereignty over the domestic forest policy agenda.   Government certification response has, therefore, included consideration of the intended and unintended effects of certification on forest owners, the forest economy and forest policy objectives. In particular, as outlined below, governments have been particularly focused on ensuring that certification does not: discriminate against small private forest owners and operators; create trade distortions; and/or introduce sustainable forest management disincentives.[252]

Small Landowner discrimination

Certification increases the overall financial costs of forest management that translates to a larger per hectare certification expense for the small forestland owner than the larger industrial operator.[253] For example, as shown in Figure 3.9, there is a significant difference in the median average total costs per hectare per year of the FSC (in the U.S.) and SFI (in Canada and the U.S.) for certified forests under 4,000 hectares as compared to the larger certified forest areas with costs ranging from $0.07/ha to upwards of $40/ha.[254] In response to the cost inequity, some governments have provided the smaller forest owners with informational and technical support, as well as financial incentives to minimize market discrimination.

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[251] As long as certification remains voluntary, there is no contravention of WTO rules or EU procurement directives. However, as governments establish public procurement policies, questions are arising as to whether certification becomes a technical barrier to trade. As well, as long as certification remains an NGO standard, it is not considered under WTO rules. However, as governments become directly engaged in certification programs and adopt certification in procurement and state forest policies, certification may be considered a technical standard under the WTO. See Koleva (2006:23).

[252] Rametsteiner (2002).

[253] There are forest planning, documentation, monitoring, auditing and consultation requirements that add variable expenses as well as fixed costs per hectare of certified forestland.

[254] Cubbage, Moore, Henderson &Araujo (2008).

Figure 3.9 Median Average Total Costs for Certification in the Americas by Ownership Size ($/ha/yr), 2007
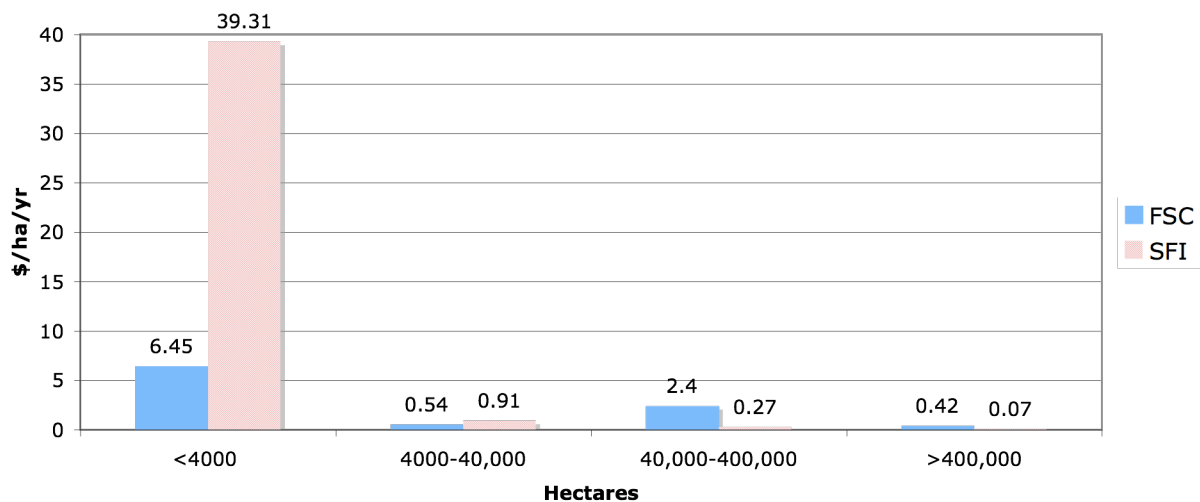
Source: Cubbage and Moore (2008); Cubbage, et al. (2008).

Trade Distortion

Forest concession operators in tropical regions are mainly small to medium-sized enterprises. These regions typically have weak regulatory frameworks and low forest law implementation and enforcement.   Small forest operators generally lack forest management plans and documented procedures and, in the absence of a price premium for certified timber, can't bear the increased marginal costs associated with certification.[255]   Thus, for developing regions, market requirements for certified timber can act as a non-tariff barrier to trade essentially barring access to premium markets such as Europe, Japan and North America and resulting in the diversion of their forest product to regions with less discerning legality and sustainability requirements (e.g., Egypt, China, India).

An underlying challenge of achieving global forest management responsibility through certification is that uptake is the most feasible in jurisdictions that have

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[255] For example, as explained by the Ghana Forestry Commission at the UNECE meeting in October 2005, "in Ghana, the forest industry is fragmented and has serious liquidity problems. In the short to medium term, forest areas may not qualify for certification because of lack of management plans, even for those forests which are legally operated. For the few that do meet certification standards, the small-scale owners are unable to afford to join a scheme." See Koleva (2006:7).

public governance capacity, yet, it is most required in regions that lack this capacity. Consumer countries are therefore incorporating a "phased approach" in the design of their timber procurement policies in order to lower the barriers to certification uptake in developing regions with weaker regulatory institutions.[256]

An additional source of potential trade distortion stems from the lack of harmonization of timber procurement policies, particularly among EU member countries. In an attempt to accommodate the range of local stakeholder interests, the various PEFC and FSC certification programs have been interpreted differently by governments in different countries resulting in a form of technical trade barrier and thus a potential distortion of forest product trade-flow. In response, governments have been advocating mutual recognition of PEFC and FSC standards and thus greater harmonization of procurement standards (see Section 3.2.6).

SFM disincentive
On the one hand, certification can aid in the implementation of forest laws by requiring legal compliance. On the other hand, by raising the cost of market access, there is also the potential for certification to create perverse market effects in terms of actually encouraging illegal logging and discouraging SFM improvements, particularly in developing regions and among small forestland owners. Creating forest management performance requirements that are too high and too rigid simply excludes the marginal forest operators rather than encouraging greater legality and SFM improvements.

In response, as mentioned above, governments are pursuing incremental approaches that phase in legal and sustainable certified timber requirements (see

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[256] Through the EU's Forest, Law, Enforcement, Governance and Trade (FLEGT) process to address illegal logging, governments are now supporting a phased procurement approach towards developing regions, beginning with a requirement for 'legally' supplied timber and then eventually achieving 'sustainable', certified wood supply (www.illegal-logging.info). As well, industrialized countries are encouraged to provide capacity building resources and assistance to assist with developing certification in these regions. See Koleva (2006:21).

footnote #256). Governments are also supporting the development of alternative certification options for small forest operators (e.g., FSC and PEFC group certification programs to reduce marginal costs). As well, governments have supported the development of national and regional forest certification standards in order to ensure that local sustainability challenges are accommodated.

3.5.3 Indirect & Direct Government Certification Approaches

Depending on the context, there are various governmental approaches to certification. As outlined in Chapter 2 (section 2.6.2), government response to a CSR initiative such as forest certification can vary along a spectrum from not taking any action at all, to cooperating, enabling, endorsing and even mandating forest certification (Figure 3.10). Government positioning can also differ whether at the rule-making, implementation or enforcement stages.

Figure 3.10: Spectrum of Government Role in Forest Certification

	Observe	Co-operate	Enable	Endorse	Mandate
Rule-making **Implementation** **Enforcement**	E.g., Leave certification to market forces.	E.g., Provide information and technical support.	E.g., Provide incentives and lower political barriers.	E.g., Adopt certification on public land.	E.g., Legislate certification
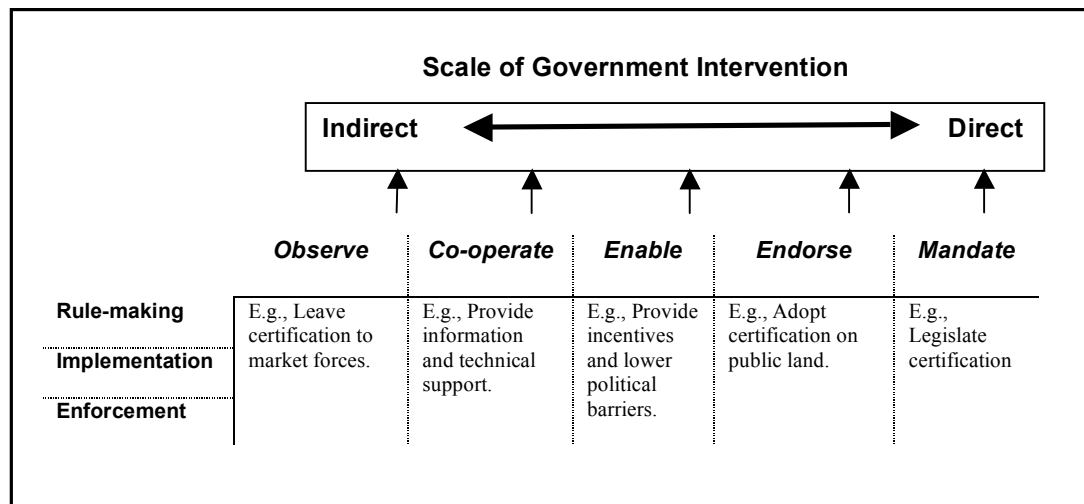
The danger if a government completely ignores certification (leaving it to market forces), is that private forest rules unintentionally discriminate against certain landowners, create trade disadvantages and take forest management in a direction that is counter to state objectives – with adverse consequences for the sustainability of the forest and/or local community. As well, if the state has weak forest laws and low governance capacity, by ignoring certification, these governments may be placing forest policy agenda-setting and

rule-making authority completely in the hands of unaccountable organizations – substituting private for public authority and subverting state sovereignty. In order to avoid these worst-case scenarios, a government's approach will therefore necessarily vary in terms of direct to indirect engagement at the rule-making, delivery and enforcement stages of forest certification.

3.5.4 Government Positions on Certification

Beyond the need to provide a legal framework and act as a watchdog to ensure policy alignment and prevent market distortions, government practices and attitudes towards forest certification differ within and among countries and regions. For example, at the 2005 UNECE policy forum, government officials presented a range of positions (Table 3.6). Developed countries defined their role in terms of non-interference, confining government role to ensuring an appropriate legal framework, providing necessary information for guiding certification alignment with government forest policy and establishing procurement policies (e.g., U.S., Canada, Sweden, Austria and Germany). However, developing and transitioning countries emphasized the significance of public capacity and government role in developing and supporting the implementation of certification programs (e.g., Brazil, Ghana, Malaysia, Russia).

Table 3.6: Summary of Government Forest Certification Positions (UNECE, 2005)

Country	Representative	Government Certification Role
Sweden	National Board of Forestry	"Certification is a voluntary agreement between buyers and producers so government has no role in certification but there is interaction between the National Forest Process &certification."
U.S.	USDA Forest Service	"The federal government does not intervene in forest certification. It does not act as a standard setting or accreditation body nor does it favor any one certification scheme."
Canada	Canadian Forest Service, Natural Resources Canada	"The federal government views certification as a business decision. The provinces own about 70% of Canadian forestland and they take different approaches to certification. Most leave the matter to individual companies. The federal government is drafting a timber procurement policy which will likely include reference to certified products but not to a particular system."
Norway	Department of Forest and Natural Resources Policy, Ministry of Agriculture and Food	"Government representatives participated in the development of the Living Forest national standard with the role of promoting the C&I of the MCPFE as a reference to ensure that forest certification in Norway would be in accordance with the SFM policy developed at the European level, as well as nationally."

Country	Representative	Government Certification Role
Germany	Federal Research Centre for Forestry and Forest Products	"Government role is to set the legal framework and establish timber procurement policies."
France	International Timber Affairs, Ministry of Agriculture and Fisheries	"Forest certification is a voluntary private initiative complementary to public policies for SFM. The government has certified 100% of the state forests in France and government role in certification is to draw up procurement policies."
Austria	Forest Policy and Information Division, Federal Ministry for Agriculture, Forestry, Environment and Water Management	"The government does not interfere in certification activities. Its role is confined to setting up the appropriate legal framework and providing information necessary for guiding management and certification. Certification is market-oriented and best carried out by the private sector and business community. The government should be attentive to preventing market distortions and build capacity for certification as long as it does not lead to market distortions. As well, certification should be the subject for State-owned forests."
Russia	North Forest Research Institute, Federal Forest Agency	"There is a significant government role to support certification as a mechanisms to ensure SFM. The government is involved in the development of a national standard."
	Saint Petersburg State Technological University of Plant Polymers	"The role of government in the certification process is essential for the Russian Federation, where new forest legislation has not yet been adopted and most forests are under government control."
Czech Republic	Czech Republic Forest Management Institute	"In the Czech Republic, forest certification is a private business and the government has no role in it. The government does not support a particular scheme and it is interested in promoting mutual recognition between schemes."
Malaysia	Malaysian Timber Council	"The government has played a significant role in certification. The MTCC was set up and funded by the state."
Brazil	Permanent Mission of Brazil	"The government initiated the certification process in Brazil, helps communities build the capability to implement the schemes and ensures civil society participation….governments have a role in assuring SFM and certification can be an important tool to this end."
Latvia	Ministry of Agriculture	"The government has accepted the FSC scheme to certify its state forests based on UK customer preference. The FSC invited the government to participate in the Latvian FSC meetings. The government views certification as a tool that only verifies that a forest is sustainable. Certification does not bring sustainability."
Ghana	Ghana Forestry Commission	"Governments could cover the full costs of certification for the first five years… As well, the role of government could be to address common problems within the various SFM regional processes through engagement with ENGOs in the process of development of harmonized national standards. And they could set up reliable national systems to control possible dilution of certified products with non-certified fiber."

Ultimately, government positioning and response to certification is contextual. It will vary by region and the respective forest governance conditions. For example, the state may play a greater or lesser role in certification depending on whether it is a weak or

strong state; a producer or consumer country; as well as depending on the characteristics of the domestic forest policy regime (e.g., reliance on prescriptive versus voluntary regulatory approaches and the extent of public versus private land tenure). As governance scholar Boström states, "new governance arrangements are tangled and shaped by existing patterns in different countries."[257] The case studies in the next three chapters focus on the three critical jurisdictions where certification co-regulation is occurring – in the highly regulated and high private capacity top global forest producing nations of Canada, the United States and Sweden.

3.6 Summary

Forest certification emerged as a form of transnational private 'hard law' in response to failed state-led efforts to establish a binding international forest convention. By reviewing and evaluating the development and evolution of forest certification, this chapter argued four key initial points. Firstly, approximately 90 percent of certification uptake has been in developed regions with high public capacity and well-established forest law and, therefore, it is in these industrialized regions where the most heightened and evolved governance dynamic regarding public-private authority interaction in forest policy is occurring. Secondly, while market actors are a driver of certification uptake, governments have also played a role in encouraging certification uptake, and the government role is becoming increasingly important to the ongoing legitimacy of certification programs and maintenance of certified forest. Thirdly, the global private forest regime includes *both* FSC and PEFC standards and these standards are converging in design and content and are increasingly mutually recognized in practice. And finally, forest certification constitutes a complementary global governance mechanism within the global forest regime and a supplementary governance mechanism within a government's optimal co-regulatory mix of public and private forest policy instruments.

The chapter then turned to the classification of certification as a non-state market driven mechanism. In addressing certification firstly as a global governance mechanism and then as a domestic policy tool, I argued that while certification is a unique private

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[257] Boström (2003).

governance mechanism (in terms of gaining legitimacy through the market supply chains and having an independent private enforcement mechanism), it is neither purely market-driven nor a purely non-state mechanism. Certification standards overlap with public authority, rely on regulatory frameworks and embed international forest principles and legal compliance. As well, governments are directly engaging in certification. Rather than a substituting policy mechanism, certification can complement the traditional forest policy mix, expanding overall governance capacity.

Section 3.4 evaluated the co-regulatory policy mix. By assessing the overlapping private-public co-regulatory dynamic of certification with state law, delegated self-regulation and emerging forms of regulated self-regulation, I argued that certification is more accurately considered a case of governance *with* government than *without* government.

The final section outlined the rationale, benefits and implications of government engagement in certification. Governments are faced with the challenge of determining their optimal response to certification so as to minimize any adverse economic or social effects and maximize potential benefits to the forest, forest owners, the forest economy and local forest communities. I presented a map of the spectrum of government role from indirect to direct engagement at the various rule-making, implementation and enforcement stages and presented a summary table providing examples of the range of official government positions towards government role in certification from "non-intervention" to "significant actor". Ultimately, certification uptake and outcomes will be determined by the baseline governance capacity of the state and how government positions itself.

Overall, this chapter has argued that while the classification of certification as a non-state market-driven mechanism captures its private governance distinction, it is not a sufficient label. Not only do public and private authority overlap within forest certification governance systems, but also governments are driving and leveraging these CSR standards as one tool within their overall hybridized policy mix. It is important to appreciate and better understand the public-private dynamic of the role of the state in

certification systems, as optimal co-regulatory approaches will facilitate private rule-making innovation alongside state regulatory authority so as to potentially enhance adaptive governance capacity to achieve sustainable forest management solutions.   The next three chapters evaluate forest certification co-regulation as it has emerged and evolved over the past 15 years in Canada, the United States and Sweden.

Chapter 4

Canada: Government Authority in Forest Certification

4.1 Introduction

Canada is the global leader in forest certification. There is more independently certified forest area in Canada than any other nation.[258] Canada is also an international leader in environmental forest policy. As concluded in a recent international comparative review of forest policy and regulation, "Canada is undeniably among the world's most environmentally progressive forest producers…the regime of environmental forest policy in Canada is, in the aggregate, among the most stringent in the world."[259] So, if forest policy and governance capacity are already strong and well established in Canada, what role is certification serving? Are private certification systems complementing or competing with state rule-making authority?

This chapter evaluates the response of Canadian provincial governments to forest certification and through the evidence presented argues that certification has not resulted in a retreat of government but rather the engagement of government authority in forest certification, supplementing not subverting traditional state forest governance capacity. Specifically, the chapter demonstrates how across similar sub-national forest policy regimes (high public land ownership, industrial forestry and strong forest regulation), provincial governments have co-regulated certification by encouraging and participating in standards development, enabling implementation and mandating forest certification on public land. As well, I argue that while the rationale for *why* government's engaged in certification was similar as a result of similar forest regime conditions, the variance in *how* government's responded to certification was influenced by the three key factors that played out differently in each region. These included: industry expectations of

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[258] The Canadian national certification standard (CSA Z809) accounts for more than one half of PEFC-certified forest worldwide. Canada also accounts for almost ¼ of the FSC certifications world-wide. See: Canadian Sustainable Forestry Coalition (www.certificationcanada.org), as well as FPAC (2007) and UNECE/FAO (2007a:111).

[259] Cashore & McDermott (2004:11).

government role; ENGO advocacy pressure; and certification-policy alignment as per the stage of the policy cycle.   Overall, the chapter addresses three central questions:

- Why did provincial governments participate in certification;

- How did governments engage at the standards development, implementation and enforcements stages of certification; and

- What factors influenced each government's unique certification response.

This comparative evaluation draws on my case study investigation of provincial government certification response that I carried out over a sixteen-month period from April 2004 to August 2005.[260]   I conducted approximately 45 semi-structured telephone and in-person interviews with a cross-section of forest industry, government, academic, and non-governmental organizations from Canada's lead forest-producing regions – British Columbia, Ontario, Quebec and New Brunswick (see Appendix A).[261]

The chapter begins with a brief overview of forestry and forest certification development and adoption in Canada and a comparative summary of the key factors that define the forestry sectors of the four provinces included in the study.   I then assess each province in terms of: the history of certification uptake; forest company certification adoption; and the government's response to certification at the standards development, implementation and enforcement stages.   The chapter then turns to a comparative analysis of the cases. Drawing on the analytical tools presented in Chapters 2 and 3, I firstly, map and analyze the spectrum of provincial government engagement in forest certification from indirect to direct co-regulatory approaches at the standard setting, implementation and enforcement stages.   I then identify and evaluate the conditions and factors that influenced provincial government certification response and contributed to the variance in co-regulatory approach between jurisdictions.

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[260] This study was conducted under Environment Canada's Environment and Economy Scholarship Award Program and with the support of Dr. Peter Dauvergne's *Global Environmental Politics of Corporate Social Responsibility* project (funded by the Social Sciences and Humanities Research Council of Canada).
[261] As well, I shared the study results with the UNECE timber committee at their October 2005 policy forum on government role in certification. I also presented the research findings in a poster presentation at the Dartmouth College workshop on industry self-regulation in February 2006.

4.2 Forestry & Certification in Canada

Canada has vast diverse forest regions (only Russia and Brazil have greater total forest area) that account for one fifth of the world's temperate rainforest and over one third of the world's boreal forest, as well as, twenty-five percent of the planet's remaining frontier forest.[262] Beyond the country's unique natural endowment, there are five key aspects that characterize forestry in Canada. Firstly, the forests are 93 percent publicly owned.[263] Secondly, provincial governments have the exclusive power and constitutional authority to legislate forest management on Crown forestland.[264] Thirdly, provincial governments delegate the responsibility for the management of public forestland to the private sector by means of long-term licensing agreements called *Crown forest tenures*.[265] Fourthly, 90 percent of the timber harvested in Canada occurs within old growth and primary forest.[266] And finally, Canada is the world's largest exporter of forest products with over 80 percent going to its southern neighbour, the United States. All of these factors have contributed to Canada's enthusiastic participation in forest certification.

4.2.1 Certification Development & Adoption in Canada: National Level

As of January 2008, there are 137.9 million hectares of certified forest in Canada.[267] SFM certification adoption in Canada has been rapid, largely occurring between 2002

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[262] "Frontier forest" is a term coined by the World Resources Institute and refers to the world's remaining large intact natural forest ecosystems. See World Resources Institute (1997:45).

[263] The provincial governments own 77% and the federal government owns 16% of Canada's public forestland. See NRCan (2007:3).

[264] Crown land refers to state-owned public land. The provinces implement prescriptive forest laws for the enhancement, conservation and management of forest resources within their provincial boundaries. Most federal forestland is designated national park or for research or national defense purposes and is not subject to harvesting activities. The federal government is responsible for forest issues related to the national economy, trade and international investments, federal lands, parks and Aboriginal peoples. See NRCan (2007:3).

[265] Over 40% of public forestland is under renewable timber license agreements with private forest companies. In most developed countries public lands are managed directly by a public agency (e.g., USFS) or a public corporation, (e.g., Australia, Sweden, New Zealand, Germany). Canada is unique in delegating management responsibility to the private sector. In Canada government agencies are largely relegated to the roles of regulators and enforcers. See Haley (2006) and Haley & Nelson (2007:631).

[266] Primary forests are forests that have been continuously wooded and undisturbed by human activity. Old growth refers to forest stands dominated by mature or over-mature trees that have not been significantly influenced by human activity. The terms are often used interchangeably. See FAO (2002).

[267] Canada has 309.8 million hectares of forestland and of this, 294.7 million hectares are not reserved and therefore, potentially available for commercial forest activities. Of the 294.7 million hectares, 144.6

and 2005 (Figure 4.1). In January 2002, the member companies of the Forest Products Association of Canada (FPAC) committed to certifying all of their forest operations by the end of 2006. This goal was achieved and FPAC members now account for approximately 80 percent of all certifications in Canada.[268] Several companies certified initially to the ISO 14001 environmental management system standard prior to seeking SFM certification.[269]

Figure 4.1: Forest Certification Uptake in Canada (1999-2007)
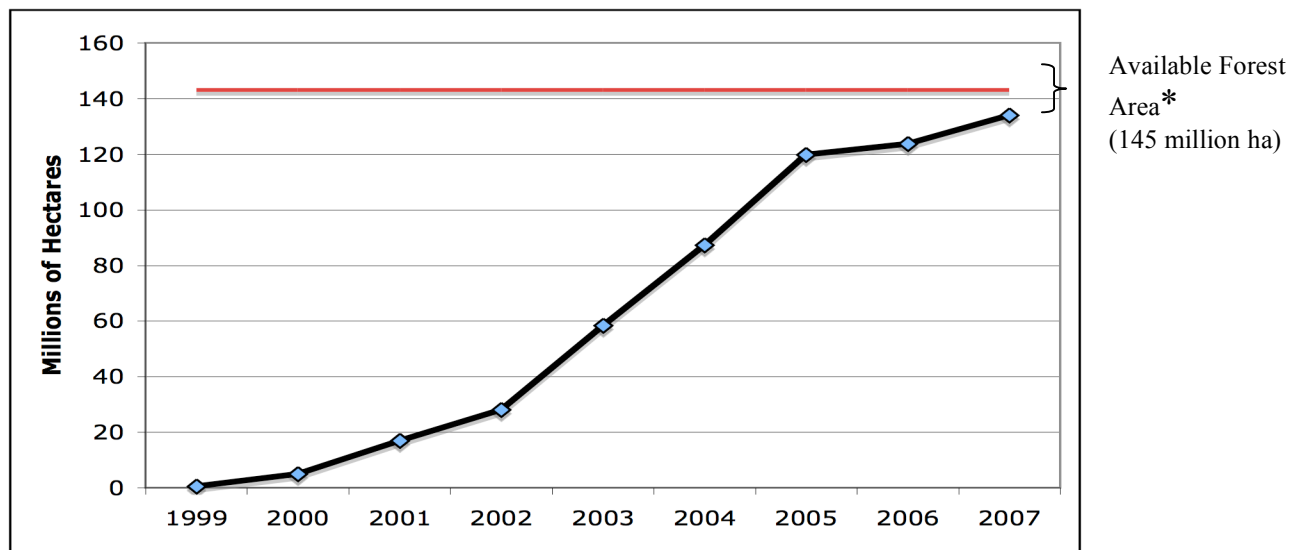
*See footnote #267.

The majority of certification adoption in Canada has been to the Canadian national CSA Z809 sustainable forest management (SFM) standard, established in 1996.[270] The Canadian forest industry initiated the CSA SFM standard-setting process in October 1993

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million are considered accessible and therefore, most likely subject to forest management activities. See NRCan (2007).

[268] FPAC (2007).

[269] For example, in 1999 several major Canadian corporations had certified to the ISO 14001 standard including: Tembec, MacMillan Bloedel, Interfor, Irving, TimberWest, Weldwood and Canfor. See Kiekens (2000).

[270] There was a three-year delay from 1996 to the first CSA certification in 1999 largely due to the rigorous environmental management system (EMS) documentation and public participation elements to the CSA standard. Under the CSA Z809-1996 standard, companies were required to implement an EMS and also establish a local multi-stakeholder advisory group to define SFM measures for the defined forest area and incorporate these indicators into a long term SFM plan. Both were time-consuming activities.

in competitive response to the FSC.[271]   The industry feared the FSC would develop a monopoly position in the market and impose overly prescriptive environmental requirements on forest companies particularly regarding clear cutting logging practices and harvesting in old growth forests. The federal government was also concerned about the potential economic and international trade implications of the FSC in terms of the standard encouraging potential market discrimination towards Canadian forest products.[272] The Canadian industry acted quickly. As Dr. Fred Gale explains, "in October 1993, at the same time as FSC-International was holding its inaugural meeting, the Canadian Pulp and Paper Association (now called FPAC[273]) offered the Canadian Standards Association (CSA) a one million dollar contract to develop SFM standards for the industry…the CSA agreed …and established a Technical committee that had its first meeting in July 1994."[274] ENGOs agreed to participate in the multi-stakeholder CSA-led process as members of the Technical Committee. But the leading groups soon withdrew their support when it became apparent that the standard was being developed in competition with the FSC and would be more focused on process-based management system elements than prescriptive SFM requirements.[275]   The CSA standard was released in October 1996.

FSC Canada was initiated in January 1996.   The first Canadian regional FSC standard (for the Maritime provinces) was completed in 1999.[276]   The American SFI standard

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[271] The Canadian Standards Association is a lead standard setting body in Canada. It is a not-for-profit membership-based association that that functions as a neutral third party, providing a structure and a forum for developing technical product and process standards.

[272] Volpe (2004).

[273] In 2001, the Canadian Pulp and Paper Association (CPPA) changed its name to the Forest Products Association of Canada (FPAC) to broaden the focus of the organization.

[274] See Gale (2002:10). The technical committee included forest companies, governments, academics, scientists, technical experts, and non-governmental, environmental and Aboriginal organizations. In establishing goals and indicators of sustainable forest management, the CSA SFM system adopted the CCFM criteria and indicators as a starting point for developing a "value set" at a local or forest management unit level. The six Canadian criteria are a requirement in the CSA system, with some flexibility for developing indicators at the local level through public participation. See CSA (1998).

[275] See Rhone, Clarke & Webb (2005:257). The Chief executives of WWF Canada and the Sierra Club of Canada were included in the Technical Committee membership list but did not attend meetings and "felt their names had been misused to give credibility to the Technical Committee." See Elliott (2000:305).

[276] As of early 2008, there are four regional FSC standards in Canada: The Maritime standard (1999; revised 2008); The National Boreal standard (August 2004); the FSC-B.C. regional standard (October 2005); and the Great Lakes-St.Lawrence, Laurentian standard (under development). For background on the development of these respective FSC regional standards see Tollefson Gale & Haley (2008).

became a certification option in Canada in 2001 and as of January 2007 accounts for approximately 25 percent of the certified forest area across Canada – the CSA Z809 represents 60 percent and the FSC 15 percent.[277]

Canadian Federal Government Role in Forest Certification

The provinces have constitutional authority for the management of Canada's public forestland. The federal government's role in forest management in Canada is limited primarily to national level concerns such as trade and commerce, international relations, science and technology, federal lands and parks and Aboriginal affairs. The Canadian federal government took an interest in certification largely because of the potential trade implications and also to ensure that certification requirements aligned with Canada's national SFM criteria and indicators as incorporated in the country's *National Forest Strategy*.[278] The federal government took a direct role in the initiation and development of the CSA Z809 standard. The government's actions followed from the National Forest Strategy adopted in 1992 that included a commitment to develop a national certification system within five years.[279] The federal government provided funding and support for the development of the national CSA standard through the Standards Council of Canada.

In 1998, the Canadian Council of Forest Ministers (CCFM) established a forest certification working group to ensure that certification systems were applicable to the Canadian context; fit within fair international standards; and were not used in foreign markets as discriminatory trade barriers. This was followed in March 1999, with the Canadian Forest Service release of the report, *Forest Certification: A Canadian Governmental Perspective* summarizing the provincial and federal government's CCFM certification discussions.   The document affirmed that governments in Canada supported

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[277] See FPAC (2007), www.fpac.ca/documents/Certification_jan07_EN.pdf.
[278] In 1992, Canada was the first country to develop a National Forest Strategy committing to the achievement of SFM on a national level. See: http://nfsc.forest.ca. For a description of the CCFM's SFM Criteria and Indicators see CCFM (1992, 1995).
[279] Section 4.12 of the National Forest Strategy states, "Industry and governments will work cooperatively to pursue joint technical discussions aimed at internationalizing product standards, codes and certification procedures." Section 4.13 states, "By 1995, industry and governments will develop and put into operation a means of identifying and promoting Canadian forest products that reflect our commitment to sustainable forests and environmentally sound technologies." See CCFM (1992).

forest certification as a tool for demonstrating Canada's sustainable forest management record and that Canadian governments were neutral towards the various SFM standards rather than supporting one system over another.[280]

In May 2001, the federal parliamentary Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources tabled its final report, *Forest Management Practices in Canada as an International Trade Issue.*[281] For over three years, the Committee had been investigating the linkage between Canadian forest management practices and Canadian forest product exports. Five of the ten Committee recommendations pertained to the role of government in forest certification. In response to concerns over fair competition, the committee found that there should be several recognized certification systems available in Canada and that each should respect the principles of openness, transparency, accountability and equity. As well, the committee recommended that in cooperation with the provinces and territories, the federal government should encourage the training of SFM certifiers; ensure the maintenance of the policy-making and regulatory functions of governments and international institutions; and promote the international mutual recognition of certification systems.

In summary, the federal government played a direct enabling role in certification through supporting the development of the national CSA-Z809 certification standard. In addition, the federal government played a key influencing role as the Canadian Forest Service, the CCFM committee and the recommendations of the 2001 federal Standing Committee all guided the provincial governments in their certification responses.

4.2.2 Provincial Forestry Administration & Certification Uptake

British Columbia, Ontario and Quebec are the largest forested and timber producing regions in Canada.[282] Although much smaller, New Brunswick is also a significant forestry region in Canada as the New Brunswick economy is the most dependent upon

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[280] See http://ecoforestry.ca/forum/proceedings/kumi/index.htm.
[281] Volpe (2004).
[282] Approximately 70% of Canada's timber harvest occurs in Quebec, Ontario and British Columbia. See the National Forestry Database http://nfdp.ccfm.org.supply/quick_facts_e.php.

the forest sector as a percentage of their gross domestic product (GDP).[283]   All provinces
have comprehensive forest law frameworks that enable and support sustainable forest
management. All provinces also delegate most Crown forest management
responsibilities to private operators through forest license arrangements. Table 4.1
provides a provincial comparative summary.

Table 4.1: Provincial Forestry Comparison (2004)

Characteristic	Quebec	New Brunswick	Ontario	British Columbia	CANADA
Population (millions)	7.5	0.75	12.3	4.2	31.8
Total land area (million ha)	136.5	7.1	91.8	92.5	909.4
Total productive forest area (million ha)	43.6	6.1	22.0	60.6	309.5
% Provincial forest ownership	89%	49%	91%	96%	93%
Annual harvest (2002) (million m3/yr)	39.6	10.1	26.3	73.6	189.2
Value of forest exports (2003) (billions)	$10.7	$2.3	$8.5	$12.6	$39.6
Contribution to provincial GDP	4%	8.6%	1.4%	7.2%	--
Certified forest (million ha) – Dec 04.	6.6	4.7	13.2	29.3	57.7
Certified forest (million ha) – Jan 2008	17.7	4.3	26.3	51.5	137.9
Provincial Forest legislation	Forest Act (1986, 2001 revised)	Crown Lands & Forests Act (1982)	Crown Forest Sustainability Act (1994)	Forestry and Range Practices Act (2004) – replaced the Forest Practices Act (1994).	--

Sources: Abusow (2004); Messier & Leduc (2004); NRCan (2004b).

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[283] The forestry sector in New Brunswick (pulp and paper, wood products and forestry & logging) accounts
for 8.6% of the provincial GDP. See Statistics Canada (2002).

The majority (80 percent) of Canada's certified forest area is located in British Columbia, Ontario, Quebec and New Brunswick. B.C. has the most certified forest area, followed by Ontario, Quebec and New Brunswick. In 2004, New Brunswick had certified the greatest percentage of its total productive forest (78 percent) and Quebec the least (8 percent). Certification has occurred rapidly in each province over the past several years. Companies in British Columbia were the first on board with SFM certification. For example, MacMillan Bloedel and Weldwood were the first to certify to the CSA standard in 1999 and 2000. Irving Forest Products in New Brunswick was an early adopter of the FSC – certifying to the FSC International principles in 1997. Ontario has been the leader in terms of total FSC certified forest with Tembec and Domtar's FSC certifications accounting for 35 percent of Ontario's certified forest area.[284] Certification in Quebec has lagged behind the other provinces with the majority of forests certified in 2005-2006.

This chapter focuses on British Columbia, Ontario, Quebec and New Brunswick not only because these provinces represent coast-to-coast coverage of the major forested and forestry producing regions in Canada but also because they provide a representative spectrum of varying government and industry engagement in forest certification. Although the provinces are relatively similar in terms of their industrialized forest economies and prescriptive forest policy regimes, they have positioned themselves differently with respect to their roles in certification. For example, New Brunswick and Ontario both mandated certification while British Columbia and Quebec have taken different co-regulatory approaches (Figure 4.2). The next four sections of this chapter evaluate each of these provincial cases.

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[284] These percentages are as of January 2008. In September 2008, AbitibiBowater announced its commitment to FSC certify its 3.2 million hectares of forestland in Ontario, Quebec and Nova Scotia.

Figure 4.2: Provincial Government Certification Approach

4.3 British Columbia

In the early stages of certification development through the 1990s, the B.C. provincial government took a relatively passive role with respect to certification implementation and enforcement but was a direct proponent and participant in the development and promotion of the CSA national SFM standard. Over the past decade, as certification programs have gained in uptake and legitimacy, the government's role in certification has been shifting. The B.C. Ministry of Forests has become more directly engaged in the FSC-regional standard-setting process; has been encouraging the alignment of certification with the new results-based forest legislation; and has also certified the provincial Timber Sales organization. British Columbia was an early proponent and certification adopter and continues to play a leading certification role in Canada and the world. As of 2008, B.C. is the top region in North America in terms of total certified forest area.

4.3.1 The Provincial Context

Just over 40 percent of Canada's timber volume is located in British Columbia and the province produces over one half of the nation's lumber exports. Historically, large industrial forest companies have accounted for approximately 80 percent of the provincial timber harvest and operate primarily on public land.[285] Virtually all (95 percent) of B.C.'s forests are publicly owned and under strict forest law. The B.C. Ministry of Forests and Range[286] is the main agency responsible for protecting and managing the 60 million ha of provincial forestland, as well as, "providing the basis for a globally competitive forest industry with high environmental standards; and maximizing net revenues to the Crown."[287] The province sets the allowable annual harvest level for the Crown land and delegates forest management responsibilities to forest licensees largely through volume-based tenure arrangements.

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[285] In 2002, the government established the B.C. Timber Sales Office and introduced a "take-back" policy to reallocate some industrial forest tenure to small businesses and First Nations forest operators.
[286] Also referred to as the Ministry of Forests (MoF) and the B.C. Forest Service.
[287] BCMoF (2003).

B.C. is also home to a stunningly unique global ecological endowment. This western Canadian province has a greater diversity of forest types than any other jurisdiction in Canada or the U.S., and also has 20% of the world's remaining temperate rainforest. With iconic 1000 year old trees towering over 80 meters in height and up to 19 meters in circumference, these undisturbed ancient coastal forests have been the focus of global campaigns to stop their destruction from clear-cutting industrial logging practices. International preservation battles have played out in B.C. since the early 1980s particularly in the pacific coastal regions of South Moresby Island (Gwaii Haanas) (1985), Carmanah Valley (1989), Clayoquot Sound (1993), and the Great Bear Rainforest (1995-).[288] Devastating media images in the 1980s and 1990s of slashed, scarred and eroding B.C. forest landscapes shocked the global community and led to the view that there was a regulatory failure occurring in B.C.

Timber-based industries are the foundation of the B.C economy and the environmental campaigns against the B.C. forest sector were consequently of concern to every citizen in the province. Market access, jobs and prosperity were threatened. The government responded in the early 1990s by revamping the province's forest legislation, establishing a protected areas strategy (PAS); conducting a timber supply review; and initiating province-wide land-use planning public consultation processes (CORE and LRMP).[289] As well, the government introduced a new Forest Practices Act (1994) and very detailed, accompanying Forest Practices Code regulations (1995). The new forest policy regime constituted a much more stringent prescriptive approach than the government's previous policy approach that had relied for the most part on the inclusion of contractual obligations and voluntary guidelines in forest operational plans and permits.[290]

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[288] Stanbury (2000).
[289] The PAS was established in 1992 committing the province to achieving protection of 12% of the provincial land base by the year 2000. A 3-year timber supply review was initiated in 1992 to review and re-set the province's allowable annual cut. The CORE (Commission on Resource and Environment) was established in 1992 to develop regional land-use strategies. The LRMP (Land and Resource Management Planning) consensus-building process was established in 1993 to help guide resource management objectives on Crown land at the local level.
[290] Rhone, et al. (2005:265).

Fundamentally, certification succeeded in B.C. because both the forest industry and the government faced the same challenge. Both needed to rebuild domestic and international trust in the province's implementation and enforcement of sound sustainable forest management practices. Independent third party certification was viewed as an opportunity to complement recently revised forest legislation and win-back market and societal confidence in the province's forest sector.

4.3.2 Forest Certification Uptake in British Columbia

Certification in British Columbia occurred rapidly, increasing from 210,000 hectares in May 1999 to just over 50 million hectares at the end of 2007. Industrial companies hold over 90 percent of the SFM certifications issued in the province (Table 4.2).

Table 4.2: B.C. Major Forest Certification Holders, January 2008

Standard	Major Licensees	Certified Area (ha)	% of the province's certified area	Date of Initial Certification(s)	Total Certified (ha)
FSC	Tembec	564,776	1%	Nov 2004-Sept 2006	
				BC FSC Total	**577,295**
CSA	Abitibi Bowater	2,132,736	4%	Dec 2004	
	Ainsworth	887,194	1.7%	Dec 2004	
	BCTS	4,014,110	7.8%	Apr 2005–Aug 2007	
	Canfor	15,443,833	30%	July 2000	
	Tolko	3,406,927	6.6%	March 2003	
	Fort St.John	2,550,000	5%	Oct 2003	
	WFP	904,528	1.8%	May 1999	
	Weyerhaeuser	954,000	1.9%	March 2001	
				BC CSA Total	**33.1 million**
SFI	BCTS	4,585,261	8.9%	Feb-Dec 2007	
	Interfor	2,229,073	4.3%	Jan 2001-May 2004	
	LP	3.016,750	5.8%	Sept 2001-July 2005	
	P&T	1,173,588	2.3%	Nov 2002-Aug 2005	
	Timberwest	482,293	1%	Dec 2000-Dec 2007	
	West Fraser	5,100,000	10%	Dec 2001-Nov 2005	
				BC SFI Total	**17.8 million**
				B.C. TOTAL	**51.5 million**

Source: CSFCC (2008).

The largest certification holder in the province is Canfor, followed by West Fraser and the government's Timber Sales program (BCTS). As shown in Table 4.2, the majority of certified forest has been to the CSA Z809 standard. As of 2008, only one *major* operator in B.C. (Tembec) has obtained FSC certification, accounting for 90% of the provincial FSC total. The other significant FSC holder in the province is the First Nations-owned company, Iisaak Forest Resources which FSC-certified 87,393 hectares of coastal old growth forest in Clayoquot Sound in 2001.[291]

4.3.3 B.C. Forest Company Certification Response

Overall, B.C. forest companies were leaders in initiating and supporting the CSA standard but laggards with respect to FSC acceptance and adoption. Given the history of antagonism with environmental groups, B.C. forest companies were initially afraid of the economic consequences of the ENGO-led FSC and immediately positioned themselves as promoters of the competing national certification scheme – the CSA Z809 SFM standard.

B.C. companies were the first in Canada to achieve CSA forest certification.[292] By the end of 2003, every major BC forest company had either achieved or was in the process of achieving forest certification.[293] The biggest obstacle to CSA certification in B.C. was figuring out how to certify a defined forest area under a volume based tenure arrangement.[294] Companies were uncertain how to address shared licensee responsibilities and were also unclear as to how a licensee could apply for certification

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[291] Iisaak Forest Resources was established in 1998 as a joint venture between MacMillan Bloedel and local Nuu-chah-nulth First Nations: Ahousaht, Hesquiaht, Tio-o-qui-aht, Toquaht and Ucluelet. These First Nations became the sole owners of Iisaak and Tree Farm License 57 in 2005.

[292] Haliburton forest in Ontario was the first formal FSC certification in Canada in 1998. J.D. Irving's Black Brook operation in New Brunswick was certified to the FSC International principles in October 1998 but not formally announced. MacMillan Bloedel's North Island operation and Weldwood of Canada's 100 Mile House division dual certified to the CSAZ809 and ISO 14001 standards in May 1999 and December 1999 respectively. Canfor certified initially to the ISO 14001 standard in 1999 and followed soon after in July 2000 with CSA Z809 certifications of its northern Vancouver Island (TFL 37) and central B.C. (TFL 48) tree farm licenses.

[293] With the exception of TFL 48, these certified forests have all changed ownership. MacMillan Bloedel's north island division and Canfor's TFL 37 are now owned by Western Forest Products. And Weldwood's 100 Mile House division is owned by West Fraser and has changed from CSA to SFI certification.

[294] Forest licensees in B.C. are allocated an annual allowable cut that is distributed across a timber supply area (TSA) – resulting in a "swiss cheese" pattern of isolated pockets of timber rather than one contiguous defined forest area. Isolating the applicant's forest management responsibilities among the other licensees operating in the TSA was a certification challenge.

without the provincial government as a co-applicant (given that the government owned the land and was responsible for setting the harvest level). In the absence of clear direction, several companies focused initially on ISO certifying their facility (rather than the forest) and SFM certifying their smaller area-based tree farm licenses (TFLs).

While there were several issues with the FSC, the key operational reasons the standard achieved very little traction in B.C. were FSC principle #3 that recognized "the legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources" and principle #9 regarding the maintenance of primary forest. Given that the majority of First Nation's land claims in B.C. were unresolved and the majority of timber harvested in B.C. was old growth forest, the industry anticipated that the FSC in B.C. would severely restrict forest access creating dire economic consequences. For example, Canfor conducted an FSC pilot on their Dawson Creek Tree Farm license and determined that FSC certification would reduce their harvest by 35 percent.[295]

Despite the risk of lost market access resulting from ENGO boycotts and customer pressures[296], B.C. forest companies did not accept or pursue FSC certification.[297] The delay in establishing a regional FSC standard reflected the defensive industry position.

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[295] Interview with Ken Higginbotham and Lee Coonfer, Canfor, January 11, 2005.
[296] In January 1998, the chairman of B&Q announced that they would only source FSC certified wood products by the end of 1999 i.e. "they would be phasing out the sourcing of hemlock stair parts from B.C. where there is reluctance to go with FSC certification" (Cashore, Auld, Newsom, & Egan, 2006:62). In 1998, in response to pressure from the BBC magazine, German publishers suspended their contract with Western Forest Products. In August 1999, MB's major client the Home Depot announced its preference to purchase FSC certified wood products. In response, both companies indicated their intention to consider FSC certification, however, neither company ended-up FSC certifying their operations.
[297] Out of concerns regarding FSC becoming an established production standard in the province, B.C. (coastal) forest companies directed their efforts to addressing the protection of high conservation value forests through the *Joint Solutions Project* (JSP) rather than through FSC certification. The JSP was a collaborative initiative (with industry and ENGOs) independent of the FSC, and running in parallel to the government LRMP land use planning process. The purpose was to establish protected areas and promote ecosystem-based management (EBM) on the north and central coast. See http://ilmbwww.gov.bc.ca/citbc/ebm.html for a description of the EMB goals and principles. The JSP (now referred to as the Rainforest Solutions Project) led to the eventual signing in February 2006 of the historic Great Bear Rainforest agreement with the province and Coastal First Nations to protect 1/3 of these coastal forests and to implement EBM throughout the region. See http://savethegreatbear.org/solutions/. An FSC audit of 2.2 million hectares of the mid-coast (within the Great Bear Rainforest) was conducted in November 2008.

Although FSC-B.C. was established in 1996, it took almost ten years for a regional standard to be approved in 2005.[298]

4.3.4   B.C. Government Certification Response

a)   B.C. Government Certification Positioning

In 1993, when certification emerged, the B.C. government was preoccupied with the development and implementation of new forest legislation, regulations and comprehensive forest management programs and was immediately wary of the FSC private forest governance scheme. The government believed that a negotiated consensus on sustainable forest management values and objectives had already been achieved with the citizens of the province through land-use planning and didn't want the issues re-opened particularly under ENGO direction. As Don Wright, ADM of the Ministry of Forests (at that time) explained, "The government had already invested a lot of dollars in a green agenda and had struck a fair balance with the Forest Practices Code and the Protected Areas Strategy. FSC was the ENGO agenda not the provincial agenda."[299]

Absorbed in the challenges of implementing provincial programs and new regulations, the government viewed the FSC's private governance rules as a competitive threat to their forest policy agenda.   Yet, the government also acknowledged that third party independent certification was an opportunity to re-build confidence in the B.C. forest sector that had been shaken by the international ENGO boycotts and protests. The government's position was therefore, to support certification as long as it was appropriate to the B.C. context and aligned with the province's forest legislation.

Initially, the B.C. government had hopes that they could counter the negative global campaigns and European boycotts against B.C. forest products and set the record straight with offshore customers by simply better communicating B.C.'s proactive sustainable

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[298] See Cashore, Auld & Newsom (2004) and Tollefson, et al. (2008) for an account of the difficulties with the BC FSC regional standard-setting process.
[299] Interview with Don Wright, February 1, 2005. Wright was ADM in the Ministry of Forests from 1993 to 1995.; Vice-President at Weldwood 1997-2001 and Deputy Minister, Ministry of Forests and Range 2001-2003.

forest management laws and practices. The Intergovernmental Affairs Group (out of the premier's office) initiated a European delegation in order for the B.C. premier to meet with overseas buyers, governments and media to promote B.C. forest practices and the province's new forest policy initiatives. However, the European meetings proved largely ineffective.[300] Officials came home with the realization that regulatory reforms only went so far in addressing the concerns of the ENGO campaigns and restoring international market trust. A more integrated strategy that involved environmental and First Nations organizations, as well as, the federal government was required. As Premier Dosanjh announced in October 2000, "market challenges for B.C. forest products require an integrated, collaborative response…we must work together…to make sure we continue to supply the world with the highest quality wood products available anywhere."[301] Although the government had major concerns about the FSC (estimating the annual cut would be reduced by upwards of forty percent[302]), they were cautious about taking sides between the CSA and FSC programs. The government formally adopted a position of "passive neutrality". As Don Wright explains, "the government was torn between two constituencies…on the one side there was industry and the CSA standard, and on the other side the ENGOs and FSC…the government wanted good relations with the ENGOs but also needed industry prosperity…the government felt that if they supported CSA they would lose ENGO support and if they supported FSC they would discourage industry …therefore, the government decided to support the *principle* of certification."[303]

From 1995 to 2000, certification gained increasing government attention. For example, the Ministry of Forest's 1995/96 annual report mentioned certification in just one sentence regarding the province's work on developing a long term forest vision, "…the ministry will be participating in domestic and global efforts to develop an internationally acceptable system of certifying sustainable forest practices."[304] However, by 2000, the MoF's 1999/2000 annual report dedicated a full page to outlining the government's

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[300] Interview with Johanna den Hertog, Special Advisor, Ministry of Forests, February 8, 2005. See also BCMoF (1998, 2000c).
[301] BCMoF (2000c).
[302] Interviews with Don Wright, Feb 1, 2005 and David Morel, Ministry of Forests, February 14, 2005.
[303] Interview with Don Wright, February 1, 2005.
[304] BCMoF (1997:9).

Certification of Forest Products Initiative – an integrated collaborative arrangement with the Ministry of Employment and Investment and the Ministry of Environment, Lands and Parks to "ensure that provincial government interests are properly factored into certification strategies."[305]

From 2001-2005, the forest policy regime in B.C. shifted from a prescriptive to a results-based regulatory approach.[306] Over this period the government continued to demonstrate increasing certification engagement and acceptance not just through the certification of BCTS but also in exploring the alignment of certification with forest policy and programs.   In 2002, the government formally stated its position on certification,

> As a market instrument, certification operates outside of the regulatory framework established by governments. However, the B.C. government has a specific interest in certification because it has the inherent potential to affect access to markets, reinforce sustainability requirements for forest management and support or contradict domestic and international legislative and policy goals.[307]

Overall, the B.C. government viewed certification as an additional policy tool that depending on the government's role could either add or subtract value with respect to the achievement of the province's SFM goals (Table 4.3). The government therefore adopted a co-regulatory approach that would maximize the positive and minimize the negative potential policy impacts of certification.

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[305] BCMoF (2000b).

[306] In 2001, the government announced its *New Era of Sustainable Forestry* commitments including the objective of "cutting the forestry regulatory burden by one third by 2004, without compromising environmental standards." See BCMoF (2003:7).   Given provincial budget constraints the Forest Ministry was directed to streamline the FPC and pursue more efficient and effective alternative arrangements with the forest industry and other stakeholders for policy delivery. See BCMoF (2003:6). In response, during 2002/03 Ministry of Forests staffing levels were cutback 14.5 percent and the ministry's budget was reduced by 15.5 percent. See BCMoF (2003:3).   And in 2004, the government finalized new legislation – the *Forest and Range Practices Act* (FRPA) to replace the Forest Practices Act (1994). Rather than enforcing highly prescriptive operational- level forest regulations, the new Act focused on enabling outcome. Under the FRPA the government set the forest conservation objectives and then forest licensees were to determine how best to meet those objectives, including monitoring and enforcement to ensure effective results. The Act emphasized much greater professional and company accountability and raised new questions about the role of certification as a policy tool to contribute to the province's forest conservation objectives.

[307] BCMoF (2002b).

Table 4.3: Positive and Negative Certification Policy Value

How can certification add value?	How can certification subtract value?
• International communication tool.	• Privatize 'policy' issues such as land use, protected areas, zoning
• Operationalize "multiple value" forestry at each enterprise level.	• Add costs beyond market benefits.
• Create other policy options besides legislation.	• Create unpredictable forestry requirements.
• Support environmental standards through market benefits.	• Create inequities and market access problems due to varying standards.
• Positive market incentives towards best practices.	• Diminished public involvement or say in forest policy issues.

Source: den Hertog (2000:5-6).

b) B.C. Government Role in Certification Development

When forest companies in B.C. and the CPPA (renamed FPAC) initiated the development of the CSA national standard in 1993, the B.C. government lent their support and became a member and active participant on the CSA Technical Committee. The province had already been working with the federal government and the other provinces through the CCFM to develop Canada's national set of criteria and indicators for sustainable forest management (see Section 4.2.1). These national criteria formed the basis of the CSA standard. Although not formally acknowledged or communicated by the participating governments, the CSA standard was essentially taking the CCFM criteria and indicators from the development to the implementation stage - giving the national SFM criteria and indicators "legs to walk on."[308] In addition, the B.C. Ministry of Forests contributed to Canada's national advisory committee on ISO environmental and labeling certification standards.[309] Although cautious about the FSC, the provincial government also engaged as a non-voting member in the FSC-BC standard-setting process arguing that it was, "better to be involved at the table at the start than after the fact."[310] The government also

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[308] Interview with Paul Wooding, Canfor, January 20, 2005. As well, the preamble to the guidance document for the CSA standard asserts that CSA Z809 will, "ensure that the CCFM criteria for SFM are being met."

[309] BCMoF (2000b:27).

[310] Interview with Johanna den Hertog, Special Advisor, Ministry of Forests, February 8, 2005. Two B.C. government officials participated in the FSC-B.C. regional process – one from the Ministry of Forests and another from the Ministry of Environment, Lands and Parks.

participated in federal delegations to Europe, U.S. China and Japan to market Canadian forest products and promote that the CSA SFM program conformed to international SFM criteria and met ENGO concerns.[311]

Unlike many other forest producing regions that were focusing on the supply-side in terms of facilitating an increase in the volume of available certified fiber, the B.C. government put a greater deal of emphasis on the demand side – actively promoting and marketing B.C. forest practices and B.C. certified wood to export customers.[312] In October 2000, Forest Minister Doyle explained "…our work with industry and certification groups helps us respond to buyers who are increasingly seeking certified wood products….but we also need to make sure our customers know B.C.'s record of conservation improvements to our forest practices over the past decade….we will communicate B.C.'s record of producing quality products using quality forestry methods and B.C.'s commitment to doing an even better job."[313] Careful to protect their policy authority, the government's message consistently stressed the importance of communicating the province's regulatory strength together with the message of third party independent certification-forest policy alignment in B.C.

c) B.C. Government Role in Certification Implementation

The B.C. government was directly engaged in the development of the FSC-BC and CSA standards, but took a more indirect passive role in the implementation of the standards, encouraging licensees to certify but not endorsing or creating incentives for the adoption of a particular standard. B.C. companies were generally frustrated with the government's lack of leadership in helping to solve some of the initial certification hurdles, particularly in choosing between the various standards and regarding the certifying of volume-based tenures. Some companies described the government as a "fence-sitter".[314]

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[311] Interview with Johanna den Hertog, Special Advisor, Ministry of Forests, February 8, 2005.
[312] See BCMoF (2000c). In 2003, the province created the agency Forestry Innovation Investment Ltd., and under this the B.C. Market Outreach Network to promote the B.C. forest sector internationally.
[313] BCMoF (2000c).
[314] Interviews with B.C. forest companies January-March 2005 (see Appendix A).

In order to track certification and facilitate adoption, the government hired a certification implementation coordinator; established a dedicated unit to address certification issues and monitor certification developments worldwide; and designated a contact in each of the ministry's 46 regional and district offices to provide information and assistance to licensees applying for certification.[315] For the most part, the government delegated its certification implementation role to the regional and district offices. As explained by several B.C. companies, the head office in Victoria observed and the districts led.[316] District MoF, Ministry of Environment and federal Department of fisheries and oceans (DFO) staff participated and provided technical guidance to local CSA certification public advisory groups. The level of government support not only varied by district but also by the individuals involved. For example, B.C. local district office employees were particularly enthusiastic in providing the Dawson Creek and Fort St. John certification projects with a high level of support.

A key government concern with respect to certification implementation was to ensure the applicability of certification programs to B.C. and their alignment with provincial, national and international forest policy and agreements. Fundamentally, the government wanted to be sure that the various certification systems complemented rather than supplanted the province's forest policy agenda. Specific government initiatives in this regard included working cooperatively with forest licensees to pilot test the CSA and FSC certification standards in several regions.[317] The pilots also included testing certification with the province's small business program in these regions.[318] A few months later in June 2000, the government appointed a thirteen member multi-stakeholder advisory council on certification. As newly appointed Forest Minister Jim

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[315] BCMoF (2001).

[316] Interviews with B.C. forest companies January-March 2005 (see Appendix A).

[317] The three projects included: the Morice, Fort St.John and Kamloops timber supply areas. The government also tested the FSC system in their small business program in the Kootenay Lake district. The government also pilot tested an ISO 14001-based provincial environmental management system (EMS) at the Prince George, Salmon Arm and Sunshine Coast forest districts. See BCMoF (2000d). The EMS pilot was a follow-up to a November 1999 PricewaterhouseCoopers gap analysis of SBFEP certification. The PwC report found that the SBFEP was well positioned for SFM certification but should start with the development of an EMS compatible with the ISO 14001 standard. See PricewaterhouseCoopers (1999).

[318] The small business forest enterprise program (SBFEP) manages forests and makes harvesting and timber opportunities available through individual licenses to small and value-added businesses. The SBFEP is the largest licensee in the province accounting for approximately 13% of the province's allowable annual cut.

Doyle announced, "I have asked representatives from the forest sector, First Nations, environmental groups, labour and local communities to provide advice on implementing certification in B.C. quickly and efficiently….we need to work together and identify how certification can work to support our economy and protect our environment."[319] In the spring 2000, the provincial government was announcing certification implementation as a key policy priority.

In this same announcement the government commissioned a study to assess the issues and options for government role in forest certification in British Columbia. Based on input from stakeholders across the province, the consultant's report concluded that "government should work co-operatively with licensees and other interests in implementing forest certification but should remain neutral on the merits of alternative certification systems."[320] The report also provided 15 recommended actions for the government to take over the next 2-3 years.[321]. These ranged from providing information, training and technical advice to facilitate certification uptake to encouraging greater integration and alignment of certification and forest policy.

The government's interest in enabling certification was reinforced with the new Liberal government's agenda (elected in 2001) to streamline provincial regulation and with the introduction of the results-based *Forest and Range Practices Act* (FRPA) in 2004. For example, in the spring 2004, Dr. John Innes at the University of British Columbia was contracted to study the extent of the relationship between evaluations and monitoring conducted under the FRPA versus the monitoring and assessment of SFM practices under forest certification.[322] The government was interested in the co-regulatory opportunity to integrate the private governance system into the government's policy mix but was not clear on the compatibility of the two systems. While the report outlined a range of difficulties[323], it also stressed the significant potential for collaboration and interplay

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[319] BCMoF (2000a).
[320] BCMoF (2001).
[321] Brown & Greer (2001).
[322] Province of British Columbia (2005).
[323] Dr. Innes' study found that certification rarely measures the actual extent of change to the forest resource, whereas, the FRPA assesses the on-the-ground effectiveness of forest practices in achieving the

between the public and private systems – "that with further work and analysis the FPRA evaluation process could eventually incorporate certification measures, reducing the provinces' overall forest monitoring evaluation costs."[324]

d) B.C. Government Role in Certification Enforcement

The mandating of forest certification did not receive serious consideration in B.C.[325] The government approached forest certification as a voluntary, market-based private regulatory system separate from their traditional regulatory framework.[326] While the government was not supportive of enforcing certification on Crown land, the province did adopt certification for its own small business forest enterprise program (SBFEP) and eventually for all of B.C. Timber Sales.[327] In 2002, the government implemented a change in the legislation that would enable the government to enforce certification among its small forest operators.[328] In announcing the legislative amendment, the Forest Minister Michael de Jong stated, "the province is committed to sound forest and environmental management practices that are recognized both locally and internationally…by responding to the market demand for certified wood, we are working to make our forest industry more globally competitive."[329] As of January 2008, the government's BCTS program was the third largest certification holder in the province (see Table 4.2).

The government also looked for ways to leverage certification to lessen the province's regulatory costs. For example, the Forest Practices Board (FPB) investigated the

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province's specific resource values. As well, the investigation revealed that the select indicators employed under the FRPA constituted only a subset of the wider range of certification system indicators. As a result, "…the FRPA values may not be recognized globally as evidence that B.C.'s forests are being managed in a sustainable manner." See Province of British Columbia (2005:2).

[324] Province of British Columbia (2005).

[325] A proposal was brought forward to the Minister of Forests but never received traction (Interview with David Morel, MoF, February 14, 2005).

[326] BCMoF (2002b).

[327] The SBFEP permits the Ministry of Forests to sell Crown timber competitively to individuals and corporations who are registered in the program. In 2002, the SBFEP was moved into the newly created B.C. Timber Sales Office. The over 4 million hectares of the B.C. Timber Sales were first ISO 14001 certified and then CSA and SFI certified between January 2006 to December 2007.

[328] BCMoF (2002a).

[329] BCMoF (2002a).

potential to streamline their compliance audits by using certification audit results.[330] The pilot projects[331] revealed that certification audits did not align well with the province's compliance audits.[332] However, as of 2005, the Board's position was to not completely abandon the prospect of being able to use certification as a potential offset to streamline the Board audits but rather to look at opportunities on a case-by-case basis.[333]

In summary, the B.C. government's approach to certification consistently emphasized the role of certification in supporting not supplanting the province's strong regulatory regime. The government took an initial "hands-off" approach to the FSC as the early requirements did not align well with provincial forest policy, and pursued a direct co-regulatory role in the development of the CSA standard to ensure consistency with B.C. forest policy. Over the past decade, the government's role shifted from an indirect co-operative approach to certification implementation and enforcement to directly engaging in and enabling certification as a complementary co-regulatory policy tool.

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[330] The B.C. Forest Practices Board is an independent watchdog organization at arms-length from the government that conducts audits to keep both the government and private forest operators publicly accountable for their forest practices.

[331] A FPB pilot audit was conducted with Pope & Talbot in 2002 with co-operation from KPMG to test the alignment of ISO and SFI certification with the FPB audits. As well, in 2003, the Board conducted three audits of companies with ISO certification to see how the compliance and management system audit processes could work together.

[332] Overall, the study (Mosher, 2003) found that, "certification is based on different standards and aimed at a different audience". Specific conclusions included: Certification audit evidence lacks the same rigour as required by FPB audits (e.g., certification auditors only record exceptions or non-conformances whereas FPB auditors record all field observations); Some efficiencies may be gained by utilizing the certification auditor's review of the licensee's risk management control procedures (e.g., this reduced the sample size and time required in the field on the Pope & Talbot audit). However, these potential efficiency gains disappear when it is an operational area with low inherent risk (e.g., flat versus steep terrain); and ISO certification on its own does not go deep enough into forest landscape issues to be of value to a Forest Practices Board audit. The Board also identified that a critical challenge in being able to integrate certification successfully into their compliance audit process was the lack of certification transparency. The third party certification audit reports needed to include more detail on the audit findings and corrective actions and also be more accessible to the public.

[333] Interview with Chris Mosher, FPB, February 10, 2005.

4.4 New Brunswick

New Brunswick (N.B.) on Canada's east coast is a much smaller forest-producing province relative to Ontario, Quebec and British Columbia but it is one of the country's oldest industrial forestry regions and has been a forestry policy leader. Dating back to 1837, N.B. was the first province to establish forestry regulation (to protect state timber revenue). In 1883, it was a provincial leader in introducing forest conservation policy and again in 1937, it was the first province to introduce regulations that delegated public forest management silviculture and planning responsibilities to industrial forest operators.[334] In 1966, N.B. was also the first provincial government to create an integrated Natural Resources Department – combining forests with other provincial resource responsibilities for minerals and energy.[335] In April 2002, New Brunswick again demonstrated its forestry policy leadership by becoming the first region in North America to mandate forest certification.

4.4. 1 The Provincial Context

The provincial government owns just over half of the forestland in New Brunswick. 40,000 small private woodlot owners hold 29 percent and 18 percent is in industrial freehold.[336] The provincial Department of Natural Resources (DNR) has the responsibility for managing the Crown forestlands through the 1982 Crown Lands and Forests Act (CLFA). Under the CLFA, the province delegates public forest management responsibility to industrial forest companies through ten 25-year area-based Crown Forest Licenses (CFL). As of 2002, four companies accounted for 90 percent of the allocated forest license area: J.D. Irving (32%), UPM-Kymmene Miramichi Inc. (29%), Fraser Papers (16%) and Bowater (13%). St. Anne Nackawic Pulp Co. Ltd and Weyerhaeuser accounted for the remaining 10%.[337] Crown land accounts for about 43 percent of the

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[334] Clancy (2001:218).
[335] Howlett & Rayner (2001:36).
[336] Industrial freehold land is land held by individuals or companies with a wood processing facility.
Private land is land held by individual owners without a wood processing facility. See NBDNR (2004:3).
[337] NBDNR (2004).

total fiber supply in the province and 72 percent of this fiber is softwood.[338] Industrial freehold and private woodlots supply approximately 23 percent and 21 percent respectively. New Brunswick mills demand more fiber than locally supplied so the province relies on imports from Maine, Quebec and Nova Scotia.[339]

The DNR sets Crown forest management goals and objectives; regularly monitors and assesses CFL activities; reviews and renews the licenses every five years; and assigns the annual allowable cut. In return for access to public timber, licensees are required to prepare long-term forest management plans and annual operating plans and meet all government requirements. Smaller mills are allocated crown timber volume through sub-licenses. In 2004, there were about 80 sub-licensees operating in the province.[340]

There is very little primary forest remaining in New Brunswick, however 85 percent of the province remains forested. New Brunswick has the highest forest cover in Canada with over 6 million hectares of productive second growth. The province's Acadian forest includes mixed northern hardwoods, red spruce, fir, cedar, hemlock and pine species that were regenerated after intensive logging and agricultural clearing in the nineteenth century.

Compared to any other province, the New Brunswick economy has the strongest dependency on forestry with the forest sector contributing 9 percent of the provincial GDP.[341] Similar to all other Canadian forest producing regions, the N.B. forestry sector is export dependent with over 80 percent of its forest products shipped to U.S. customers.[342] N.B.'s largest forest sector is pulp and paper although the province also produces solid wood and manufactured wood products.

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[338] See APEC (2003:10). Of the province's 6.8 million m3 allowable annual softwood cut, 3.3 million m3 is from Crown land, 1.9 million m3 is industrial freehold and 1.6 million m3 from private woodlot. See NBDNR (2004:7).
[339] 17% of softwood fiber mill consumption is met by imports (1.5 million m3 out of total 8.8 million m3 consumed per year). See NBDNR (2004:7).
[340] NBDNR (2004:4).
[341] APEC (2003:12).
[342] See Industry Canada statistics: http://canadaforests.nrcan.gc.ca/nb?format=print.

4.4.2 Forest Certification Uptake in New Brunswick

All of the major forest certification holders in New Brunswick have certified to the U.S. SFI standard (Table 4.4).[343] Certification occurred rapidly over a two-year period between 2000-2003. All Crown forest licensees were certified by 2003. With two exceptions, sub-licensees certified under the scope of the major licensee certifications.[344]

Table 4.4: New Brunswick Major Forest Certification Holders, January 2008

Standard	Forest Operator	Certified Area (ha)	% of provincial certification	Date of Initial Certification(s)	Total Certified (ha)
FSC	Eel Ground Community Development Centre Inc.	2,853	<1%	Sept 2005	
				NB FSC Total	3,739
SFI	A.V. Kackawic	296,127	7%	Dec 2006	
	Abitibi Bowater	426,352	10%	Nov 2003	
	AT Limited Partnership	844,984	20%	July 2000	
	J.D. Irving	1,790,813	41%	Dec 2000-Dec 2003	
	UPM-Kymmene Miramichi	942,919	22%	Dec 2002	
				NB SFI Total	4,301,195
				NB TOTAL	4,304,934

Source: CSFCC (2008).

4.4.3 New Brunswick Forest Company Certification Response

J.D. Irving based in Saint John, New Brunswick, was the first forest company in Canada to achieve FSC certification in 1999. But as explained later in this section, the company shortly thereafter withdrew from the FSC program due to disagreement with the Maritime regional standard. UPM-Kymmene was the early certification leader to the ISO and SFI

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[343] The one exception is the Eel Ground Community Development Centre Inc. The Eel Ground First Nation is a leader in native forest management and with federal government financial assistance certified their 2,853 ha forest (on the north shore of N.B. just outside of the City of Miramichi) to the FSC Maritime standard in September 2005.

[344] Two sub-licensees (North American Forest Products and Groupe Savoie) certified on their own.

standards. Time Inc. is a major customer and had approached the company about providing SFM certified fiber and UPM responded.[345]

Although New Brunswick forest companies had initially intended to certify to the CSA standard (and many had achieved ISO 14001 certification in preparation), all N.B. companies ended up pursuing SFI certification.   A key reason all of the companies went with the same standard was to facilitate sub-licensee certification and provincial wood procurement.[346] Acting on government advice to try to reach agreement on a uniform certification approach the industry chose the SFI standard.   Reaching consensus was fairly straightforward as the industry had a history of working co-operatively to resolve critical provincial forest issues dating back to the spruce budworm infestation in the 1970s (see also Section 4.8.2b).[347]

Companies chose the SFI over the CSA standard for several reasons: Firstly, at this time (2001) there was little demand or recognition of the CSA standard; secondly, the vast majority of N.B. forest product is sold to U.S. customers so it made sense to certify to an American standard; thirdly, the N.B. forest industry relies on fiber from many private woodlot producers and the SFI had a strong emphasis on wood procurement; and finally, companies felt that CSA certification would take too long to achieve.[348] Companies in New Brunswick operate on Crown land under Forest Management Agreements that require public consultation on management plans every five years, whereas the CSA's 1996 standard required an ongoing local public advisory group.[349]   As the chief forester of Fraser Papers explained, "…we had our advisory committees and our management plans in place…the only hitch with the CSA process was that public participation

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[345] Interview with Jennifer Landry, UPM-Kymmene, February 18, 2005.

[346] The province allocates timber volume to sub-licensees under several licenses. To avoid sub-licensees potentially having to certify to several systems the industry agreed to a uniform certification approach. See Forest Certification Watch (2004a).

[347] Clancy, 2001:218.

[348] Interviews with Jennifer Landry, UPM- Kymmene, February 18, 2005; Scott Macdougall, J.D. Irving, February 17, 2005; and Yvon Poitras, N.B. Forest Products Association, February 14, 2005.

[349] This requirement was adapted in the next version of the CSA standard to better accommodate existing public participation processes.

demanded even more than we had already done.   It would have required us stepping back a couple of years and reworking our management plan."[350]

No forest company in New Brunswick sought FSC certification or participated on the Maritimes FSC regional committee because of the heightened politics around the development of the Maritime FSC standard and J.D. Irving's bad FSC experience. As well, the industry did not support the standard itself - perceiving the FSC Maritime standard to be a forest restoration standard rather than a forestry management standard.[351] Two small woodlots did achieve FSC certification in 2003.[352]

J.D. Irving & the FSC

In 1998, J.D. Irving FSC certified 570,000 acres of its Allagash Woodlands in Maine and 190,000 ha of its Black Brook forest operation in New Brunswick.[353] The FSC's Maritime standard had not been approved at this point so the New Brunswick forest was certified to the FSC's International principles while the Maine forest was certified to the U.S. North East regional FSC standard.   In June 2000, Irving abandoned its FSC certifications in both New Brunswick and Maine over disapproval of the Maritime standard.   Irving felt the standard had been developed without adequate industry representation; lacked scientific basis as it recommended the virtual elimination of biocides; and would create an uneven playing field between New Brunswick and its competing neighbour – the state of Maine.[354]   Although the forests between New Brunswick and Maine were very similar the FSC regional standards were very different. According to Irving's chief forester, the company cancelled its FSC certification because, "…we felt the standards were unreasonable and they didn't have broad stakeholder

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[350] Forest Certification Watch (2004b).
[351] Interview with Jennifer Landry, UPM, February 18, 2005. Jennifer was also chair of the New Brunswick SFI SIC at this time.
[352] Nagaya Forest Restoration Ltd. And Woodlot Stewardship Coop Ltd. FSC certified a total of 1.385 hectares.
[353] In 1994, Irving had an FSC-certification audit carried out by SCS auditors and was recommended for certification in 1997. However, the company delayed announcement of its certification until 1999. See Elliott (2000:159).
[354] Interview with Scott MacDougall, J.D. Irving, February 17, 2005.

support. They weren't consistent with other FSC standards in neighbouring regions or anywhere else in the world."[355]

4.4.4   New Brunswick Government Certification Response

a) New Brunswick Government Certification Position

The New Brunswick government's initial position (1996-2000) on certification was simply to observe and learn. The government participated in the federal government's CCFM certification committee and engaged in discussions with the other provinces to figure out how government's were positioning on certification. Before taking on any formal role, the government wanted to wait and see how its forest industry was going to respond to certification. The DNR initiated dialogue with the industry and through these discussions learned that companies such as UPM were pursuing certification to the ISO and SFI standards and that industry perceived certification benefits to include market access and continual forest management improvement.   As well, the government closely observed the difficulties that J.D. Irving had with its FSC certification and also monitored the battles taking place between the various certification systems. The government ended up clearly positioning itself in a neutral role – not interfering in the Irving dispute and not taking sides in supporting one standard versus another. When marketing N.B. forest products outside the province the government did not want to be seen as an FSC opponent and carefully communicated their support for SFM certification in general, not one particular standard. As explained by Doug Mason at the DNR, "The DNR saw certification as market-driven. We didn't think the government should take a role in promoting one system over another. Market forces shift and industry could end up losing market share and then the government could be liable."[356]

The New Brunswick government was very proud of its Crown land system and history of policy leadership in Canada. After observing and learning about certification and the industry's enthusiasm for provincial certification, the government again took a policy leadership role and became the first jurisdiction in North America to mandate forest

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[355] Forest Certification Watch (2004b).
[356] Interview with Doug Mason, DNR, February 9, 2005.

certification. Ultimately, the government approached certification as an additional forest management tool that was good for the forest industry and provided public assurance that the province was managing its forests well. As noted by DNR, "…it was better to have a third party independent auditor passing judgment than the Minister saying our forest practices were good. Certification removed the bias."[357]

b) New Brunswick Government Role in Certification Development

The N.B. government took a cooperative co-regulatory role in standards development. The DNR participated on the CSA technical committee and also attended the FSC's regional Maritime standard meetings as an observer. The government also had a supportive role in the Canadian Federation of Woodlot Owners initiative to develop a certification program for private woodlot owners.[358] The DNR rationale for engaging in the development of the various certification standards was to ensure policy alignment; i.e. prevent conflict between certification and the province's forest policy objectives.[359]

c) New Brunswick Government Role in Certification Implementation

Overall, the New Brunswick government also took on a co-operative role in facilitating certification implementation.   At the initial stages of certification adoption in the province, the industry called on the government to help them decide on which standard to pursue and to provide guidance on how to address sub-licensee certification.   The DNR suggested to the industry that they "discuss among themselves the opportunities and benefits of maybe working together under one system."[360] The industry followed the government's guidance in adopting a co-operative uniform approach by all certifying to the SFI standard.

Specifically, the DNR co-operated in certification implementation by providing technical assistance to the licensees when requested; offering clarification of provincial policy particularly during certification audits; and participating on the SFI implementation

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[357] Interview with Doug Mason, DNR, February 9, 2005.
[358] The Pan Canadian Woodlot Certification program was under development to complement the CSA, SFI and FSC programs and to apply to the over 450,000 private woodlot owners across Canada.
[359] Interview with Doug Mason, DNR, February 9, 2005.
[360] Forest Certification Watch (2004a).

committee (SIC).[361] As well, the government's mandatory certification requirement in 2002 spurred industry's certification implementation efforts.

Although certification of the 40,000 small private woodlots across the province was a provincial challenge,[362] the government did not directly intervene. Instead, they left the responsibility to forest companies to work out with the many private forest owners. And as mentioned previously, the government supported the efforts of the Canadian Woodlot Owners Association to develop and implement a feasible Canadian woodlot certification standard.

d) New Brunswick Government Role in Certification Enforcement

While the New Brunswick government initially took an indirect "wait and see" observational approach to certification, they ended up directly engaging by announcing in April 2002 that ISO 14001 certification would be required by all Crown timber licensees by the end of 2002 and SFI, CSA or FSC SFM certification by the of 2003. Industry had approached the government about mandating certification on Crown land. Licensees were already certifying and their forest management plans were already addressing certification requirements.[363] As well, customers such as Time Inc. were pressing for certified forest products and the industry saw provincial Crown land certification as a means to promote New Brunswick forest products and meet increasing market demands. The government saw opportunity in directly co-regulating certification as the costs of implementation were minimal (given that the Crown Forest Land Act aligned well with certification requirements) and mandating certification would promote the province's forest management legislation and vault New Brunswick back into a forest policy leadership position.[364]

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[361] The SIC worked to develop, endorse and set the bar on SFI Best Management Practices, as well as address issues such as the establishment of verification requirements for private land.

[362] The supply of fiber from the many woodlots in the province was described by one company as a "spider web" and hence, very difficult to track the source.

[363] For example, under their Forest Management Agreements licensees were required to address issues such as deer yards, protected areas and biodiversity.

[364] The mandating of certification on Crown land was implemented as a forest policy and not a regulation. Essentially, the policy enforced certification through the government's allocation of Crown timber under the CFLA. As explained by the DNR, "…it's up to the Minister to allocate the timber harvest to the

In 2004, based on follow-up to a consultant's study on how to increase Crown land wood supply,[365] the government focused attention on the interaction of certification and forest policy. Specifically, the DNR looked at the possibility of re-designing the province's Crown land compliance monitoring program along the lines of a certification audit system. The challenge was to determine ways to reduce overlap between certification auditing and provincial monitoring while "maintaining the custodial role of DNR on Crown land."[366] The province wanted to leverage certification capacity while avoiding ceding forest management authority. The DNR staff review of the Jaakko Pöyry study proposed three options to address the JPC recommendation to reduce overlap in licensee and DNR management/supervision of Crown lands (Table 4.5). The options included continuing with status quo DNR audits; substituting DNR audits with certification audits; or establishing a complementary public-private audit process.

Table 4.5: Certification Audit & Crown land Monitoring Program Alignment

Option	Option Description	Implications
Status Quo	DNR and licensees do regular field checks. An annual review pinpoints areas of concern. DNR performance evaluation at the end of the planning period.	DNR retains custodial role as effectively and efficiently as possible.
Replace DNR Crown land oversight with certification.	One system of verification on Crown land.	Certification will not cover the day-to-day inspections and will leave shortfalls in the inspection process. Certification can complement but not substitute for the work of experienced DNR field staff.
Have certification complement or reduce DNR oversight.	The Licensee would adopt a certification process that incorporates DNR's operational criteria and is implemented by a third party certifier.	The option would require more time and effort to implement but DNR oversight costs could be decreased leaving DNR staff with time and flexibility to devote to other activities.

Source: NBDNR (2004-31).

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licensees. Under the policy, if the licensee isn't certified then they won't be allowed to harvest their allocation" (Interview with Doug Mason, DNR, February 9, 2005).
[365] Industry and government jointly commissioned the Finnish Jaakko Pöyry Consulting (JPC) firm to examine the potential to increase wood supply on N.B. Crown land. The JPC report, *New Brunswick Crown Forests: Assessment of Stewardship and Management* was released in December 2002. In April 2003, an internal process was initiated within the DNR to evaluate the findings of the report. The DNR report, *Staff Review of the Jaakko Pöyry Report* was released in January 2004.
[366] NBDNR (2004:29).

In summary, the New Brunswick government positioned itself in a co-operative role to facilitate certification development and uptake in the province, and in a direct role in terms of mandating certification on provincial Crown land. The early difficulties involving J.D. Irving and the FSC regional standard positioned the government and industry in "damage-control" mode to reassure markets that New Brunswick forest management practices met international standards. Mandating certification was an intentional co-regulatory strategy for the government to promote N.B. forest products, win back market trust and re-confirm the province's historic forestry policy leadership.

4.5 Quebec

Quebec has the greatest total area of productive forest in Canada (14%), yet, the province lagged in terms of certification adoption. In 2004, Quebec accounted for only 7.6 percent of Canada's total certified forest area. Over the past decade, Quebec forest policy has gone through major reform and with the introduction of greater public participation and ecosystem-based management considerations the government also revised its approach to certification. Government role in certification shifted from non-intervention to actively facilitating certification as a complement to the province's forest policy regime. In December 2007 the Quebec government amended its legislation to enable the Minister to mandate certification and as of January 2008, Quebec ranks third in Canada in certified forest area.

4.5.1 The Provincial Context

Forest covers half of the province of Quebec and includes boreal, mixed forest and hardwood forest types. Softwood species located largely in the northern part of the province (e.g., fir, spruce, jack pine and larch) account for the majority of timber volume and annual harvest.[367] The hardwood forests in the southern part of the province are closely tied to the country's national identity as 90 percent of Canada's maple syrup production (and 70 percent of the world production) is from Quebec.[368] Quebec is Canada's leading paper producer and ranks second to British Columbia for logging and

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[367] MRNF (2007).
[368] NRCan (2004a:42).

wood product manufacturing.[369] The forest sector is a key contributor to the provincial economy. As well, Quebec has the highest total forest industry employment in comparison to any other province.[370]

The provincial government owns 89 percent of the total 49.8 million hectare forest area and 84 percent of the 43.6 million hectares of Quebec's productive forest area. 130,000 private woodlots own 13 percent of the productive forest (5.5 million hectares) and large industrial holdings account for 1.1 million hectares (3%). Public forests account for 76 percent of the annual 38 million cubic meters of timber harvested.[371]

The Department of Natural Resources and Wildlife (MRNF)[372] is responsible for the management of public forests under the provincial Forest Act (established in 1986 and revised in 2001). Similar to other Canadian provinces, the public forests are divided into management units that are then allocated to forest companies under 25-year Timber Supply and Forest Management license agreements (TSFMA). The government assigns the allowable annual cut; monitors licensee activity; and reviews and renews license agreements every five years. In exchange for access to public fiber, licensees prepare five-year management plans and agree to meet government forest development and protection objectives. In 2004, there were 239 TSFMAs across 114 common areas.[373] Private forests are managed through forest management agreements and municipal laws.[374]

Unlike other provinces, Quebec's Crown land is allocated to forest companies on a shared volume basis. Under the Quebec forest management system, TSFMA holders can "cohabitate" on a forest area. One licensee may be licensed to harvest hardwood while another may be given rights to a certain softwood species. In Quebec, public land license holders are therefore, collectively accountable for the forestry activities on the entire

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[369] Charest (2004:38).
[370] MRNF (2008:65).
[371] MRNF (2007).
[372] MRNF is the Ministère des Ressources naturelles de la Faune. Prior to 2006, the Ministry also included parks (Ministère des Ressources naturelles de la Faune et des Parc – MRNFP).
[373] MRNFP (2004).
[374] MRNFP (2003b).

management unit and submit joint five-year and general (25 year) forest plans. One

company is designated to write the plans and present them to the general assembly of

license holders for the management unit. No licensee has veto power and all must agree

on the plans.[375] Navigating this shared tenure arrangement has been a significant

certification challenge.

4.5.2 Quebec Forest Certification Uptake

Quebec certification occurred later than the other provinces with the majority of adoption

taking place between 2005-2006.   Quebec companies have divided their support between

the FSC, CSA and SFI standards (Table 4.6). On the basis of forest area, CSA comprises

the largest percentage share (67%), followed by FSC (25%) and SFI (11%). Presently,

Quebec has the second most FSC certified forest area in Canada, trailing just behind

Ontario.[376]

Table 4.6: Quebec Major Forest Certification Holders, January 2008

Standard	Major Licensees	Certified Area (ha)	% of provincial certified area	Date of Initial Certification(s)	Total Certified (ha)
FSC	Domtar	1,389,451	8%	Sept-Dec 05	
	Tembec	3,059,129	17%	Jul 05-Oct 06	
	Forestier de l'Est Lac Temiscouata	27,064	<1%	May 02	
				QUE FSC Total	**4.48 million**
CSA	AbitibiBowater[377]	8,034,318	45%	Nov 03-Dec 06	
	Kruger	2,160,335	12%	Nov 03-Mar 05	
	Produits Forestiers Saguenay Inc.	992,000	5.6%	Dec 05	
				QUE CSA Total	**11.19 million**
SFI	AbitibiBowater	63,473	<1%	Feb 05	
	Louisana Pacific Canada	1,600,135	9%	Dec 02	
	Smurfit-Stone	403,251	2%	Sept 06	
				QUE SFI Total	**2 million**
				QUE TOTAL	**17.7 million**

Source: CSFCC (2008).

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[375] MRNFP (2000).

[376] In August 2008, Kruger announced their intention to seek FSC certification of their 2.16 million hectares of forestland in Quebec.

[377] Abitibi-Consolidated and Bowater merged in October 2007.

4.5.3 Forest Company Certification Response in Quebec

Similar to other regions, Quebec companies certified to the ISO 14001 standard prior to pursuing SFM certification. A private woodlot owner's organization was the first to SFM certify – achieving FSC certification in May 2002.[378] Further FSC and CSA certifications were delayed due to difficulties particularly regarding the overlapping tenure arrangement in the province (see Section 4.5.3c). Louisiana Pacific certified their private and public land to the SFI standard in December 2002.   Kruger and AbitibiBowater (formerly Bowater and Abitibi-Consolidated) achieved CSA certification at their various operations from 2003 to 2006.

In July 2005, Tembec was the first large industrial company in Quebec to achieve FSC certification and the first to certify to the FSC Canadian Boreal Standard. Since 2001, Tembec had been working in a partnership with WWF to achieve innovation in SFM practices. Shortly following their FSC certification, Tembec signed a $120 million contract with The Home Depot company to supply certified forest products.   Domtar FSC certified their first forest area in Quebec in September 2005. Similar to Tembec, they wanted to gain international recognition and demonstrate their strong SFM commitment. As well, the company certified to the FSC as the standard had ENGO support and directly addressed First Nations.[379]

4.5.4 Quebec Government Certification Response

a) Quebec Government Certification Position

Initially, up until the Coulombe Commission report in 2004, the Quebec government adopted a neutral, "passive observer" role in forest certification, viewing it as a markets issue between forest companies and their customers. The government intentionally did not take the lead on certification, letting each company choose whether and how to participate in the voluntary governance program. As explained by government officials,

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[378] Groupement Forestier de l'Est du Lac Témiscouata is an enterprise owned by 436 woodlot owners and serves private woodlots in 6 municipalities in the Great Lakes and St.Lawrence forest region in the southern part of Quebec.
[379] Interview with Bernard Senécal, Domtar, March 18, 2005.

"It's up to every company to decide whether they are in or out".[380] While viewing forest certification as important to market access and useful to help with forest management in some places, the government stressed that certification does not substitute for legislation or public decision.[381] "It is the people of Quebec who have to decide. Certification can add to legislation not replace it."[382]

The government's position towards certification began to shift in 2001 alongside the amendments to the Forest Act (2001) and new regulations (RNI) in 2002.[383] For example, the MRNFP joined the CSA technical committee in 2002. In 2003, the Quebec government created the Commission d'étude sur la gestion de la forêt publique québécoise (the Coulombe Commission) to evaluate public forest management.[384] During this period, Quebec companies increasingly communicated to government their difficulties with implementing certification and began to call for direct government engagement to provide greater legislative flexibility and to mandate certification.[385] In December 2004, the independent Coulombe Commission released its report including 80 recommendations on the future management of Quebec's public forests.[386] The report compared Quebec to other forest producing regions and concluded that the province was lagging in several areas including certification adoption.[387] In particular, the Commission recommended that the government mandate forest certification.

In response to the Coulombe findings, Natural Resources Minister Pierre Corbeil explained, "…we had to stop the lax approach of the past years…we have a strong will to improve the transparency, independence and credibility of our forest management."[388]

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[380] Interview with Jean Legris and Germain Paré, MRNFP, April 6, 2005.
[381] MRNFP (2003a).
[382] Interview with Jean Legris and Germain Paré, MRNFP, April 6, 2005.
[383] MRNFP (2002).
[384] The Coulombe Commission was created in October 2003 to examine the economic, environmental, sustainable, social and regional aspects of Quebec's forests and to analyze long-term technical and scientific calculations and methods for forestry.
[385] QFIC (2004).
[386] The Commission found that Quebec's forests were being over-harvested and high graded; that provincial forests information was inadequate; and that the province was lagging behind other jurisdictions in sustainable forest management policy and certification uptake.
[387] MRNFP (2004).
[388] Forest Certification Watch (2005a).

The government recognized the importance of forest certification; that forest companies in Quebec were significantly lagging in certification adoption in comparison to other jurisdictions; and that government response was required. The Minister elaborated, "…we realized we were behind other provinces and needed to improve this and work with the companies to solve the problems on a case-by-case basis."[389] The government not only acknowledged that it needed to help facilitate the resolution of implementation issues but also needed to engage so as to avert future challenges, in particular by working with the certification programs to ensure they evolved and were adapted so as to be in line with the province's forest policy.[390]

b) Quebec Government Role in Certification Standard Development

The Quebec government did not participate in the initial development of any of the CSA, FSC or SFI standards.[391] As explained by the Montreal-based Forest Certification Watch organization, "The role of the Quebec government in terms of the development of CSA was limited, and in terms of FSC was even more discreet, resulting in significant difficulties between the requirements of the standard and the legal framework of the Quebec forestry regulations."[392] Recognizing how a lack of government involvement in standards development had contributed to certification implementation challenges in the province, the government subsequently joined the standard-setting and revision processes of all the various certification programs.

A Quebec government representative from the Ministry of Natural Resources joined the CSA Technical Committee in 2002 and contributed to the first round of revisions to the standard. As well, when the FSC established a branch in Quebec, the government's comfort with the FSC organization increased and the Ministry of Natural Resources joined the FSC Boreal and FSC Great Lakes-St.Lawrence regional standard setting processes as a non-voting member. In addition, the government provided financial

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[389] Forest Certification Watch (2005).
[390] Interview with Jean Legris and Germain Paré, MRNFP, April 6, 2005.
[391] Although the government attended the founding meeting of the FSC in Toronto in 1993, they walked away from the process, largely as they deemed the FSC approach to be insensitive to French Canada (Interview with Luc Bouthillier, Laval University, March 11, 2005).
[392] Forest Certification Watch (2005b:12).

support for public consultation and input on the review of the draft FSC standards.[393] The Quebec government also joined the provincial SFI implementation committee in 2003, one year after it had been established. The government's role in the various standards development processes was to provide technical information when requested and to harmonize certification requirements with provincial forest policy as much as possible.

c) Quebec Government Role in Certification Implementation

During the 1990s, the Quebec government took a non-interfering role in certification implementation – focusing on policy reform and leaving certification to the market. However, companies ran into implementation difficulties. They had two main challenges: shared volume tenures and legislative alignment. Firstly, it was hard for them to achieve agreement among all of the overlapping licensees on the shared common forest area. As one company explained, "it's not difficult to get agreement on the law but with certification it's different. It's hard to get visions to align."[394] Secondly, certification requirements that went beyond the law were not always consistent with the law. "The FSC Boreal standard calls for a 60m riparian buffer and Quebec legislation requires 20m. What should a company do? Break the law?"[395] Companies were stalled trying to figure out how to proceed without suffering a legal penalty.[396]

Companies, as well as other stakeholders in Quebec were enthusiastic about certification but frustrated with implementation hurdles and were looking for government commitment and engagement to support and facilitate certification. In response, in June 2004, the government participated in a series of meetings with the industry to learn about company efforts and to help resolve the certification implementation issues.[397] As well,

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[393] Interview with Jean Legris and Germain Paré, MRNFP, April 6, 2005.
[394] Interview with Guy Tremblay, Abitibi-Consolidated, March 23, 2005.
[395] Interview with Carl-Eric Guertin, Quebec Wood Export Bureau, March 14, 2005. As well, other areas of conflict included the leaving of standing trees and the decommissioning of roads – certification encouraged both and the legislation prohibited either.
[396] Companies could apply for an exception under clause 25.3 in the Forest Act but it could take up to 18 months for approval.
[397] Interview with Bernard Senécal, Domtar on March 18, 2005. At this time, Domtar was waiting for a response from the Quebec government in order to help proceed with an FSC pilot in Val D'Or, Quebec.

in early 2005, government's attention turned to addressing the various recommendations included in the Coulombe Commission report. This included recommendation 7.16 regarding greater government engagement in certification, "…that the Department adopt a proactive forest certification approach, notably in the following areas: promoting and actively supporting territorial certification; seeing that 3rd party participation processes for planning forest management activities be recognized by the certification system to avoid duplications; and participating more actively in the development and improvement of forest certification systems."[398]

d) Quebec Government Role in Certification Enforcement

A key component of the Coulombe report was recommendation 7.15 regarding certification enforcement. It recommended that, "all forest management units in Quebec public forests be engaged in a forest certification process under an internationally recognized standard by the end of 2007."[399] All forest companies in Quebec had made submissions to the Commission advocating greater legislative flexibility to meet certification requirements. On April 15, 2004, the Quebec Forest Industry Council (QFIC) had made a formal announcement specifically calling on the provincial government to " require all companies charged with planning and carrying out forestry work on public forest lands to have their practices certified by an independent accredited agency."[400] The QFIC wanted to spark certification in the province and assure the public and customers about the sustainability of Quebec forest practices. The QFIC explained in their media release that mandatory certification on public land would, "assure the transparency, neutrality and credibility of all dimensions of Quebec's forest system…also producing positive impacts not only on export markets for its products but also vis-à-vis citizens concerned about the sustainability of the resource."[401]

A year later, in April 2005, the government was still examining the issue and indicated that they had no intention to legislate certification. "We are in favour of certification but

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[398] MRNFP (2004).
[399] MRNFP (2004).
[400] QFIC (2004).
[401] QFIC (2004).

it is not an obligation. The government's role is to help solve certification problems."[402]
Two years later, however, after consideration of the Coulombe recommendations, the
government signaled their intention to enable the MRNF Minister to mandate
certification. Bill 39 adopted in December 2007 by the National Assembly granted the
Minister "the power to require that agreement holders obtain forest certification from an
independent agency with SFM standards applicable to Quebec's forests."[403]

4.6 Ontario

Ontario is Canada's most populated region and has the largest and most diversified
provincial economy. It is also the country's third largest forested and forest producing
region, relying on the vast northern boreal forest to support its forest sector. Although 90
percent of the population lives in the southern part of the province, there have been
tensions between balancing industrial, ecological and social forest values. As explained
by the Canadian Parks and Wilderness Society (CPAWS), "the fundamental challenge is
that the boreal region is the most important to the forest industry but is also the most
intact forest region in the world and therefore, essential to protect."[404]

The Ontario government has been a certification leader – directly engaging in
certification development, implementation and enforcement.   The government's
enthusiasm was demonstrated early on with their April 2001 announcement to certify the
entire province to the FSC standard. Although this commitment was immediately
retracted, the province continued to directly engage in certification as a means to promote
the alignment between their comprehensive forest legislation and SFM certification
requirements.   In 2004, the government mandated certification on public land across the
province.

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[402] Interview with Jean Legris and Germain Paré, MRNFP on April 6, 2005.
[403] MRNF (2008:62).
[404] Interview with Chris Henschel, CPAWS, March 23, 2005. See www.cpaws.org.

4.6.1 The Provincial Context

Ontario has the greatest forest coverage of any province in Canada. Two-thirds of the province's 70 million hectares of forestland are Boreal forest.[405] The remainder is deciduous hardwood located in the southern part of the province and mixed forest in the Great Lakes-St.Lawrence region. Black spruce is the dominant tree species followed by poplar and jack pine. Because there is such a large amount of boreal forest, Ontario has attracted the attention of environmental organizations wanting to protect this vast remaining intact forest region.[406]

Ontario's forests are 89 percent publicly owned by the provincial government. The Forest Division of the Ministry of Natural Resources (OMNR) is responsible for legislating the management of the public forests through Sustainable Forest Licenses (SFLs) under the *Crown Forest Sustainability Act* (CFSA) established in 1994.[407] The SFLs are 20-year, area-based tenure license agreements that grant cutting rights to forest companies in a specific Crown forest area – a forest management unit.[408] In return, licensees are responsible for conducting forest management planning, inventory, monitoring and reforestation and complying with all provincial forest laws. The OMNR reviews and renews licenses every five years. The industry licensees source 75-80 percent of their fiber from Crown lands.[409]

Eleven percent of Ontario's forests are privately owned through various private tenure arrangements ranging from cottage properties to large industrial holdings in northern Ontario. Private forests account for over half of the hardwood forest harvested in the

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[405] Of the total forest area, 56.8 million hectares are considered productive forest (OMNR, 2006c:16).
[406] See Forest Ethics (2006). For example, as stated by Forest Ethics on their website (accessed May 8, 2008), "Currently, less than 10% of Ontario's Boreal Forest is protected. It is being logged at a rate of an acre a minute, 24 hours a day, much of it to make things like catalogs, junk mail, magazines, newspapers and toilet paper…"
[407] OMNR (2008).
[408] Ontario's Crown forests are divided into 49 forest management units (FMUs). Before any activity can occur on an FMU, licensees must prepare forest management plans that include an available harvest determination and an assessment of SFM criteria and indicators consistent with international and Canadian SFM standards (e.g., the Montreal Protocol and the CCFM C&I).
[409] OFIA website: http://www.ofia.com/about_the_industry/fast_facts.html.

province and are supported by the *Ontario Stewardship Program (OSP).*[410] The OSP provides information and expertise to private landowners to encourage sustainable forest management practices.

Ontario is both a major wood and paper producer and exports the majority of its products to the United States. The province's main forest product exports are softwood lumber, newsprint and wood pulp. In 2006, the value of exported forest products was $6.9 billion and the sector's contribution to Ontario's balance of trade was $1.4 billion.[411] Similar to all other Canadian forest producing provinces, Ontario has been facing major challenges with respect to the economic sustainability of its forest sector.[412]

4.6.2 Ontario Certification Uptake

Ontario has 26.3 million hectares of certified forest and the greatest amount of FSC certified forest compared to any other province.[413] Ontario accounts for 17 percent of Canada's forests, 20 percent of Canada's total certified forest and approximately 50 percent of the country's FSC certified forest. Within the province, the certified forest is divided between the various standards – 42 percent of the forests are FSC certified, 28 percent CSA and 30 percent SFI certified (Table 4.7). Ontario was an early certification adopter. The first FSC certification in Canada was in Ontario (Haliburton Forest) in March 1998. The major licensees certified to the FSC and CSA programs for the most part prior to 2004 and SFI certification occurred later from 2005-2007.

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[410] The Ontario Stewardship Program is delivered through a network of 40 community-based stewardship councils across the province comprised of local volunteers under the oversight of an OMNR stewardship coordinator.

[411] See: http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_167493.html.

[412] Challenges to Canada's provincial forest economies include the high Canadian dollar, increasing energy costs and the emergence of competing offshore low cost forest producers.

[413] CSFCC (2008).

Table 4.7: Ontario Major Forest Certification Holders, January 2008

Standard	Major Licensees	Certified Area (ha)	% of Province's certified area	Date of Initial Certification(s)	Certified (mill ha)
FSC	Algoma Forest	951,004	3.6%	June 05	
	Domtar	3,471,088	13%	Apr 00-Aug07	
	Haliburton Forest & Wildlife Reserve[414]	21,998	<1%	March 1998	
	Nipissing Forest Management	1,147,501	4%	May 03	
	Tembec	3,969,578	15%	Apr 03-Jan 06	
	Vermillion Forest Mgt	648,897	2.5%	May 06	
	Westwind Forest Stewardship	855,446	3%	Feb 02	
				ONT FSC Total	**11.1**
CSA	AbitibiBowater	4,617,384	17%	Dec 02-Feb 05	
	Domtar	1,760,000	6.7%	Dec 03	
	Weyerhaueser	1,016,000	3.8%	Apr 05	
				ONT CSA Total	**7.4**
SFI	AbitibiBowater	3,316,892	12.6%	Jan 05	
	Long Lake Forest Products Inc.	746,484	2.8%	Mar 07	
	McKenzie Forest Products Inc.	721,540	2.7%	June 07	
	Terrace Bay Pulp	1,927,336	7.3%	Jan 05	
				ONT SFI Total	**7.8**
				Ontario Certification Total	**26.3**
			% of productive forest area certified (56.8 million hectares)		**46%**
			% of Canadian Certified Forest Area (137.9 million ha)		**19%**

Source: CSFCC (2008).

4.6.3   Ontario Forest Company Certification Response

Similar to other provinces, the large industrial licensees such as Abitibi, Bowater,
Tembec, Weyerhaeuser and Domtar all certified first to the ISO 14001 standard prior to
SFM certification. However, unlike other provinces, the FSC had a much greater
reception in Ontario.   As mentioned above, Haliburton Forest was Canada's first FSC
adopter, certifying their small 22,000 hectare privately owned forest very early on in
March 1998.[415] The Eastern Ontario Model forest was also a certification leader in the

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[414] Haliburton forest was the first FSC certification in Canada.

[415] Forest owner Peter Schleifenbaum was a member of the FSC Great Lakes St.Lawrence regional standard technical committee and approached SmartWood in 1997 about conducting an FSC audit on his Haliburton forest. See: www.haliburtonforest.com/forestry_print.html.

province.[416] They began their investigation of FSC certification in early 1999 and achieved FSC resource manager certification in 2003.

Tembec and Domtar were the industrial forest company sustainability leaders in Ontario.[417] Sensing increasing conflict in the province's boreal forest, Tembec took the lead in encouraging other industry players including Domtar, to form partnerships and working arrangements with environmental organizations, First Nations and government, leading as a result to the province's *Living Legacy Policy* and to each company achieving FSC certification. Domtar and Tembec together account for close to 35 percent of Ontario's certified forest area.[418]

In 2000, Domtar achieved its first FSC certification in Canada in the Gilmour Forest near the City of Trenton. The Gilmour forest had been used as a pilot site to test the FSC Great Lakes-St.Lawrence regional standard. Shortly following this, Tembec's April 2003 certification of the Gordon Cosens forest in northern Ontario (over 2 million hectares) was the largest FSC certification in North America and the first boreal certification in Canada.[419] Commenting in the press release on Tembec's commitment and accomplishment, President Frank Dottori explained, "….Tembec is going beyond regulatory requirements and is making a significant contribution towards protected spaces and the advancement of forest management practices…" [420]

Other licensees certifying to the FSC standard included Westwind Forest Stewardship co-operative in February 2002 (855,000 hectares), Nipissing Forest Management in May 2003 (1.1 million hectares) and Algoma Forest in June 2005 (951,000 hectares). Other

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[416] The Model forests are a network of community-level research forests across the country that are supported by the federal Department of Natural Resources (NRCan).

[417] In 2001, Tembec issued a joint press release with WWF-Canada promising to work towards having all of its operations FSC-certified by 2005. Tembec manages close to 75 million hectares of forestland in Canada. On November 13, 2003, Domtar and WWF-Canada announced a partnership agreement on forest stewardship with Domtar agreeing to certify all of its forests and mills to FSC standards (http://rainforest-alliance.org/news/2003/domtar-wwf-canada.html).

[418] See CSFCC (2008). This is as of January 2008. In September 2008, AbitibiBowater also announced its intention to FSC certify its forests in Ontario.

[419] The certification included Crown land, as well as 75,000 hectares of Tembec's own private land.

[420] Rainforest Alliance (2003).

large integrated forest companies such as Abitibi-Consolidated, Bowater and Weyerhaeuser were FPAC members and had committed to SFM certifying all of their forestlands across Canada to meet the FPAC membership requirement.[421] By 2005, these companies had achieved CSA certification for their Ontario forestlands. Since 2005, several licenses certified to the U.S. SFI standard including AbitibiBowater on their private land as well as, Terrace Bay Pulp, Long Lake Forest Products and McKenzie Forest Products.

As compared to other provinces, Ontario forest companies had few issues or challenges in achieving forest certification. Ontario forest legislation aligned well with certification requirements and companies were familiar with third party audits as the Crown Forest Sustainability Act included an independent forest audit process.

4.6.4 Ontario Government Certification Response

a) Ontario Government Position on Certification

Prior to 2000, the Ontario government took a largely passive role in certification, observing and learning about industry response; conducting comparisons of the different standards; and assessing how certification related to the province's forest regulatory regime.[422] During this period, forest ministry activity was largely focused on revising the forest legislation, as well as completing the Timber Class environmental assessment for the province.[423] The new *Crown Forest Sustainability Act* (CFSA) was approved in 1994 and the *Environmental Assessment Act* (EAA) amended in 1996.[424] The CFSA introduced significant changes to the provincial forest tenure system to meet increasing public expectations around ecosystem-based forest values. Regulatory reforms continued in 1997 with the *Lands for Life* provincial land use public consultation and the release of the *Living Legacy* land use strategy in 1999.   The *Ontario Forest Accord* was then

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[421] Interview with Guy Tremblay, Abitibi-Consolidated, March 23, 2005.
[422] Interview with Celia Graham, OMNR, February 4, 2005.
[423] In 1988, Ontario initiated the first comprehensive provincial Crown forest management environmental assessment in Canada. Environmental approval for Ontario's public forests was recommended in 1994 (and amended in 2003).
[424] The *Environmental Assessment Act* grants the MNR authorization to undertake forest management in the province.

signed in March 1999.   The Forest Accord was a consensus agreement between environmental organizations, the forest industry and the provincial government to balance forest protection with timber production values. The Accord included 31 commitments which constituted "elements of a mutually acceptable approach to the establishment of parks and protected areas…while also considering the needs of the forest industry."[425] Specifically, recommendation 23 stated that, "the parties will encourage and support international forest certification activities undertaken by companies."

With the signing of the Accord, the government began to take a more active interest and direct role in certification. Regulatory reforms continued,[426] however, confident that the province's leading SFM legislation and regulations and unprecedented consensus achieved on provincial forest management not only met but surpassed certification requirements, on March 23, 2001, the government issued an unexpected press release. Together with FSC-International, the Minister of Natural Resources announced an agreement whereby Ontario's legislative requirements would be formally recognized by the FSC, effectively FSC certifying all Crown land in the province.[427] The joint announcement declared that, "…Ontario companies are already engaged in the practice of sustainable forestry under the province's stringent forestry laws…FSC will tell the world that the Ontario government has worked with all stakeholders to ensure that our standards are met."   While the FSC and government press releases were identical in content, the OMNR release included their own title proclaiming that, "Ontario first in the world to receive environmental forest certification."[428]

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[425] OMNR (1999).

[426] Administrative reforms in forest management were also driven by the government's overall goal of achieving greater regulatory efficiency under the *Red Tape Reduction Act* (2000) and the *Government Efficiency Act* (2001).

[427] The joint OMNR-FSC International announcement followed from a visit by the Ontario Minister of Natural Resources to FSC headquarters in Oaxaca. OMNR Minister Jon Snobelen, FSC International Executive Director, Dr. Maharaj Muthoo and FSC-Canada's Director General met for a full day and together drafted the joint press release. See Forest Certification Watch (2001:2).

[428] OMNR (2001).

Reaction to the OMNR-FSC announcement was swift and overwhelmingly negative. Industry and ENGOs argued that the pronouncement was at a minimum pre-mature as no formal assessment of Ontario's laws and policies had taken place. As well, the announcement was deemed to undermine the FSC regional standard setting process that was underway in the province. The Sierra Club of Canada exclaimed in response that the press release contained "egregiously misleading and unsubstantiated statements regarding the sustainability of Ontario's forest practices."[429] WWF-Canada pointed out that making advance certification claims was not permitted by the FSC; that only accredited certifiers could grant certification and not FSC-International; and that the FSC was not able to blanket certify an entire jurisdiction – that the appropriate mechanism for certification was through the development and approval of regional standards.[430]

The FSC immediately removed the announcement from their website on March 30, 2001 and issued a letter of clarification on April 4, 2001. The letter addressed the various concerns and reassured that the announcement did not mean an advance approval of Ontario's practices but rather a commitment between OMNR and FSC to work toward a more formal agreement "whereby Ontario's forests could become eligible for FSC certification, but we are not there yet…"[431] The exclusive FSC certification of the provincial forest management regime did not proceed but the government continued to take a proactive role in promoting *all* certification systems and by 2004 mandated certification (to CSA, FSC or SFI) on Crown land across the province. The government's position was to encourage companies to seek certification by an accepted independent third party organization and included promoting certification as a tool for forestry organizations to have their forest management practices assessed to maintain access to consumer markets. The government described its certification role as, "providing technical and policy advice both during the development of certification systems and to forest companies seeking certification of forest lands in Ontario."[432]

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[429] Letter from Martin von Mirbach, Director, Sierra Club of Canada to FSC Canada Working Group, March 29, 2001 as cited in Forest Certification Watch (2001:2).
[430] Letter from Arlin Hackman, Vice-president, WWF-Canada to Jim McCarthy, Executive Director, FSC Canada, April 3, 2001, as cited in Forest Certification Watch (2001:3)
[431] FSC (2001).
[432] See: http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_167417.html.

b) Ontario Government Role in Certification Development

The Ontario government participated in the development of the CSA standard and took a particular interest in the FSC process. The government had a representative from the OMNR on the CSA Technical committee. Although not an official voting member, OMNR staff requested and were permitted to attend both the FSC Great Lakes-St. Lawrence and FSC Ontario Boreal regional standard meetings.[433] The government attended every meeting to provide technical information and guidance as requested to ensure the alignment of FSC requirements with the provincial forest policy and regulations. An MNR staff person was also a member of the FSC National Boreal Coordinating Committee.[434] As explained by the OMNR, "We asked to participate on the FSC regional committees and were allowed to attend as non-voting observers. We weren't allowed to speak until the end but the committees started to use the MNR for scientific and technical advice. For example, we had experts on hardwoods and they used our technical documents."[435] The government's key interest in engaging in both the CSA and the FSC standard development processes was to ensure consistency with Ontario's forest legislation, specifically, Ontario's forest management planning criteria and indicators and compliance audit protocols.

c) Ontario Government Role in Certification Implementation

As they were actively engaged in the development of the various standards, the government knew that the province's forest legislation and regulations aligned well with certification requirements.[436] The government was therefore keen to help the Ontario forest industry gain international recognition for their sustainable forestry practices. As explained by the Minister of Natural Resources, "certification tells the world that we are among the leaders in managing our Crown forests responsibly…Ontario's forest

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[433] The Ontario Boreal Standard was a pilot regional standard that served as a guidance document to the development of the National Boreal Standard.

[434] Celia Graham from the OMNR participated on the National Boreal Committee as the Canadian Council of Forest Ministers representative.

[435] Interview with Celia Graham, OMNR, February 4, 2005.

[436] For example, Abitibi compared the overlap between the province's forest management planning manual and the CSA and found that 26 out of 38 CSA requirements were already addressed. See Senes Consultants (2006:32).

legislation and policy framework provide a strong foundation for those seeking forest certification in Ontario."[437]

Having taken a supporting role in the development of the CSA and FSC standards, the OMNR then took a direct and active role in facilitating certification implementation including: initiating ongoing dialogue with the industry to learn of certification challenges; holding certification training sessions; creating guidebooks; offering scientific and technical advice; having staff available during certification audits to answer questions on forest policy and to provide supporting compliance audit evidence; participating in certification pilot projects; and assessing how to streamline certification and compliance audits.

Overall, the forest authorities worked with the various certification programs to simplify controls and avoid duplications to facilitate certification efforts. For example, in November 2002, the OMNR was the first jurisdiction in Canada to establish a formal memorandum of understanding with the Standards Council of Canada (SCC). The MOU recognized the similarities between the CSA requirements and the Ministry's regulatory requirements and committed both parties to working to facilitate CSA certification in the province. As outlined in the OMNR press release, "The MOU between OMNR and SCC allows each to recognize the other's requirements and through a commitment to co-operate, arrive at more efficient processes leading to registration or certification."[438] As a follow-up to the MOU, the OMNR conducted a gap analysis comparing CSA requirements to provincial forest policy and developed guidebooks to help forest companies implement and achieve CSA certification.

The OMNR also developed a collaborative action plan with FSC Canada to address the FSC certification system in Ontario.[439] The key action items in the plan included: identifying common approaches to meeting FSC requirements; reviewing existing FSC certifications to address any provincial barriers to certification; and identifying and

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[437] OMNR (2002b).
[438] OMNR (2002a).
[439] OMNR (2006a).

reducing redundancies in audit requirements.[440] Following-up on the action plan, in 2006, the government and FSC Canada agreed to compare the FSC National Boreal Standard to the province's independent forest audit (IFA) requirements.[441]

d) Ontario Government Role in Certification Enforcement

On April 1, 2004, the Ontario Minister of Natural Resources, David Ramsay announced that all SFL holders would be required to certify to an accepted performance standard (FSC, CSA or SFI) by the end of 2007. The government expected that the requirement would achieve three results: gain market recognition for Ontario's forest products; confirm Ontario's high-quality legislative and regulatory framework by independently verifying SFM practices in the province; and accelerate the certification of Ontario's forests to ensure the Ontario forest industry remained competitive with neighbouring jurisdictions.[442] In delivering the announcement the Minister explained the important role of certification in supplementing provincial forest policy, "…the government is making real, positive change with its plan to build on the existing regulatory requirements that must be met in order to undertake forest operations in Ontario."

At the time of the announcement in 2004, 24 percent of the managed forestland in the province was certified. The OMNR initiated and maintained a dialogue with the industry in order to understand and address the challenges of meeting the 2007 mandatory requirement. By September 2006, the percentage of certified Crown forest had increased to 60 percent. In May 2007, a change was introduced to the regulations permitting the Minister to make certification mandatory through an amendment to an existing Sustainable Forest License.[443]

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[440] See: http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_178335.html.
[441] Senes Consultants (2006:32).
[442] See the Ontario Environmental Registry (www.ebr.gov.on.ca/MNR/EBR/cfsa/oreg167-95s10.pdf).
[443] Section 10 of Ontario Regulation 167/95 pertaining to the Crown Forest Sustainability Act was amended on May 4, 2007 and published in the Ontario Gazette on May 19, 2007. See: Ontario Environmental Registry (www.ebr.gov.on.ca/MNR/EBR/cfsa/oreg167-95s10.pdf). Under the amendment, if licensees do not agree with the requirement of certification, they have the opportunity to make representation to the Minister before a change is made to their license agreement.

As well, as part of the government's overall effort to improve the efficiency and effectiveness of provincial forest management requirements and practices, the OMNR enabled efforts to align certification enforcement audits with the province's independent forest audit (IFA) process.[444] For example, in 2002 the government participated in a pilot on the Crossroute Forest to test the feasibility of aligning the CSA and Independent Forest Audit processes.[445] As well, the OMNR encouraged company efforts to streamline the two audit processes. Two company trials were conducted including the 2005 FSC audit of the Spanish Forest and the 2006 FSC annual audit of the Gordon Cosens Forest.[446] The government's Forest Process Streamlining Task Force highlighted the issue in 2006 with their recommendation that the OMNR develop a "policy and procedure for the integration of third party certification management systems into the forest operations compliance program."[447] In December 2006, Senes Consultants completed the five-year review of the government's IFA program and concluded that while to date the IFA and certification processes had been essentially parallel and completely separate, there was increasing overlap and there remained opportunity to integrate the two programs - particularly for annual certification audits to leverage IFA evidence and results.[448]

Overall, the Ontario government directly engaged in certification as a means to demonstrate the strength of its forest policy, as well as further inspire and advance sustainable forest management.   In particular, the government's objective in co-regulating forest certification was to ensure alignment rather than conflicts and redundancies between certification and provincial forest policy, as well as encourage continual learning and relationship building between stakeholders.

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[444] The 2001 five-year review of the IFA program identified the need to assess the linkage between certification and the IFA in order to streamline public and private efforts, avoid duplication and reduce costs.
[445] The trial found that co-ordination of the two separate processes was difficult and that additional work was required to complete the evidence gathering for the CSA audit. See Senes Consultants (2006:33).
[446] The costs of the Spanish Forest FSC audit were reduced by 15-20% by leveraging the IFA audit results (conducted 3 months prior). They used the same audit team, however, for the IFA and FSC audits which facilitated the alignment of the two processes. The Gordon Cosens audit trial also used the same audit team for the separate audits that resulted in reduced field work and cost savings.
[447] OMNR (2006b:34).
[448] Senes Consultants (2006:34).

4.7 Provincial Government Certification Engagement

As outlined in the previous sections of the chapter, Canadian provincial government engagement in certification has ranged for indirect to direct co-regulatory approaches at the development, implementation and enforcement stages. Figure 4.3 summarizes this variance across a spectrum of intervention from observing, co-operating, enabling and endorsing certification systems, to directly mandating certification.[449] The Figure also reflects the shift in provincial government response towards increasingly direct certification approaches as certification systems gained legitimacy through forest industry uptake, and as government certification knowledge increased.[450]

Figure 4.3: Provincial Government Certification Response

	Observe	Co-operate	Enable/Endorse	Mandate
Standards Development	PQ ⟶	PQ* NB	BC ONT	
Implementation	PQ ⟶	NB PQ* BC ⟶	ONT BC*	
Enforcement		BC ⟶ PQ ONT ⟶ NB ⟶	BC* ⟶ ⟶	 ONT* NB*

Scale of Government Intervention: *Indirect* ⟶ *Direct*

Highlights a shift in provincial government certification positioning over time.

BC= British Columbia   PQ= Quebec   ONT= Ontario   NB= New Brunswick

4.7.1 Provincial Government Engagement in Standards Development

All provinces co-operated in the development of the various certification standards. For example, each of the provincial governments had representatives on the CSA technical committee; attended the respective FSC regional standard-setting processes as non-voting

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[449] See Chapter 2, Section 2.6 and Chapter 3, Section 3.5 for background on the spectrum and mapping of government role in CSR and forest certification.
[450] See Appendix F for a temporal analysis of the evolving provincial government certification response as carried forward at the level of the bureaucracy across electoral cycles.

observers; and participated on provincial SFI implementation committees. However, there was variance in the extent to which the provinces engaged in standards development and also in the timing of participation. Specifically, the Ontario and British Columbia governments played a direct role in enabling standards development and the Quebec government lagged in its certification participation. British Columbia encouraged the development of a national SFM standard and endorsed its promotion to customers and offshore markets and the Ontario government directly endorsed the FSC standard in 2001 by announcing its partnership with FSC International to certify all provincial forestland managed under the Crown Forest Sustainability Act. In contrast to the other provinces, the Quebec government joined the CSA Technical committee later in the process, for the 2002 revisions to the standard rather than for the initial development of the CSA Z809-1996 standard. As well, Quebec co-operated with the FSC only after an FSC office had been established in Montreal. The evolution of the Quebec government's co-regulatory role in certification standards development is shown in Figure 1 by the shift PQ → PQ*.

4.7.2 Provincial Government Engagement in Certification Implementation

The implementation stage shows a similar pattern as standards development with all provinces at a minimum co-operating in helping forest owners achieve certification. However, Ontario stands out from the other provinces as they took an early and direct co-regulatory role in enabling certification implementation and the Quebec government's approach was also distinct as they lagged in their certification engagement. The B.C. and New Brunswick were supportive of industry certification implementation efforts and provided assistance as requested.

The Ontario government directly engaged in certification implementation by establishing co-operative agreements with the CSA and FSC standard-setting bodies. The OMNR also proactively provided certification training and information to licensees and prepared guidebooks explaining the certification-regulatory alignment to enable certification across the province. The Quebec government adopted a "hands off" approach to certification implementation, viewing it as a markets issue between companies and their

customers. However, the government gradually shifted to a more co-operative role as their awareness of certification increased (PQ→PQ*).

While the B.C. government recognized the importance of facilitating certification implementation and created a multi-stakeholder advisory council in 2000 to study and recommend government options, it wasn't until 2004, with the introduction of the new results-based forest legislation that the provincial government's role shifted towards directly enabling certification (BC→BC*). The FRPA enabled certification as it encouraged greater private governance initiative. Under the new Act, industry became responsible for meeting SFM outcomes (rather than prescriptive operational requirements) and certification provided an important vehicle for forest operator innovations and tracking SFM improvements to achieve and demonstrate legislative compliance. As well, in 2004, the B.C. Ministry of Forests commissioned studies to evaluate the alignment of certification and provincial forest policy in order to lessen the province's regulatory burden and improve the efficiency of certification implementation.

4.7.3 Provincial Government Engagement in Certification Enforcement

Initially, all governments largely observed certification enforcement and co-operated on an "as requested" basis in certification audits by providing clarification of provincial forest policy and regulations. As well, the B.C., Ontario and New Brunswick governments all had an interest in streamlining the public and private governance processes and undertook studies to evaluate the possible integration of certification and provincial compliance audits. Both the Ontario and New Brunswick governments mandated certification, making it a requirement for all licensees operating on Crown land (ONT→ ONT*; NB→NB*). The B.C. government had no interest in mandating certification. However, the government did directly endorse certification enforcement by certifying its B.C. Timber Sales program (BC→BC*). Similar to B.C., the Quebec government had no interest in establishing a legislative requirement for certification and took the position that certification should be left entirely to market forces. However, with direct requests from the industry and recommendations from the provincial Coulombe Commission for the government to mandate certification, the province did

begin to take steps in this direction by amending legislation (in December 2007) to permit the Minister to require certification on public forestland.[451] Table 4.8 provides a summary of government role in certification enforcement (as of 2005).

Table 4.8: Provincial Government Role in Certification Enforcement, 2005

Province	Certification Requirements
British Columbia	Considering SFM certifying BC Timber Sales.
Ontario	April 1, 2004 announcement to require all major licensees to certify by 2007.
Quebec	Considering Coulombe Commission and QFIA recommendations to mandate certification by 2007.
New Brunswick	All licensees required to ISO certify by December 2002 and SFM certify by December 2003.

Stepping back from the four case assessments, it is evident that there have been a range of provincial government co-regulatory roles in certification at the development, implementation and enforcement stages including instances of direct engagement whereby governments certified their own forest programs (e.g., British Columbia) legislated certification (e.g., New Brunswick and Ontario). As well, governments played a direct role in enabling certification by dedicating public resources to standards development (e.g., Ontario, British Columbia) and implementation (e.g., Ontario) and through the introduction of legislative amendments to facilitate the policy role of private governance initiative (e.g., all provinces).

4.8 Factors Influencing Certification Co-regulation

Provincial government engagement in certification has not been based on happenstance nor has it been unstable as per shifts in the elected political parties (see Appendix F). Rather, government responses have been intentional and carried forward consistently across electoral cycles so as to ensure the optimal co-governance of the province's forests

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[451] However, as of the time of writing (June 2008), the Quebec government had not yet made any formal announcement to mandate certification.

and forest sector. This section analyzes the conditions and factors that influenced government certification co-regulation and argues two central points. Firstly, Canadian provincial forest regimes shared similar background institutional conditions that provided a rationale for engagement and positioned governments in a co-regulatory certification role. These included: high public forestland ownership; reliance on delegated industrial forest management; forest sector export dependency (and declining global competitiveness); and SFM policy frameworks. Secondly, while there were many interacting factors that contributed to provincial response, there were three key factors that strongly influenced each government's unique co-regulatory approach including: industry expectations of government role; ENGO advocacy pressure; and certification-policy alignment as per the stage of the provincial forest policy cycle. This section evaluates the background conditions and influencing factors, however, it should be noted that the purpose is not to develop a predictive, causal model of government certification response but rather to demonstrate the basis of the provincial government intent to co-regulate.

4.8.1 Background Conditions & Provincial Government Certification Rationale

As outlined in section 4.2, the provinces examined in this chapter have very similar forestry regimes. All have a majority of public forestland under provincial government authority; all provinces delegate public forest management responsibilities largely to industrial forest companies; and all export the vast majority of their forest products to U.S. markets. As well, all of the provinces have faced societal and market pressures to balance forest values and maintain global economic competitiveness. Each of these conditions contributed to all of the provincial government's rationale for engaging in certification.

Public Forestland Ownership & Responsibility
As major forestland owners, a common reason why provincial governments engaged in certification was to enhance public forestland management and facilitate continued market access for public timber. As the principal forest legislators in the province, a fundamental rationale for government response to certification was also to protect the

government's forest agenda and ensure the alignment of public and private forest policies. As well, governments had an interest in leveraging certification (e.g., the audit processes) to streamline regulatory enforcement and reduce the government's regulatory costs.

Delegated Industrial Forest Management

Canadian forest policy regimes are typically described as, "public forest management for private timber."[452] All provincial governments have established tenure arrangements that delegate public forestland management responsibility to industrial forest licensees. Engaging in certification thus presented an opportunity for governments to complement and increase the transparency of delegated forest management tenure arrangements.

Forest Sector Export Dependency & Declining Global Competitiveness

Canadian provinces are dependent on the export of their forest products, particularly to U.S. markets and are all under pressure to maintain competitiveness in global markets. Over the past decade, all provinces faced reduced provincial budgets and declining forest sector profitability and royalties. All provinces were seeking means to reduce costs and stimulate their regional forest economies. A rationale for certification engagement was therefore, to ensure market access for provincial forest products and possibly facilitate a market advantage for provincial forest producers that would ultimately enhance the province's long run global market competitiveness.

SFM Policy Frameworks

Beginning in the 1980s, provincial governments began to develop and implement SFM policy frameworks in response to increasing societal expectations to protect non-timber values, and the availability of better scientific information about the ecological functioning of forests. This meant introducing a policy agenda and formulating policy that among other things, balanced forest values and enhanced public participation in forest management decisions. The SFM policy frameworks were guided by SFM criteria and indicators developed through international processes and the federal CCFM

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[452] Howlett & Rayner (2001:8).

committee and also included in Canada's National Forest Strategy. Thus, a provincial government rationale for engaging in certification was not as a substitute for inadequate SFM policy but rather to leverage an additional policy vehicle that would complement the government's efforts to implement and track SFM C&I and engage local stakeholders in forest planning and decision-making.

4.8.2   Factors Influencing the Variance in Government Certification Role

It is difficult to isolate a particular driver that led each of the provincial governments to respond to certification in the way they did. Rather, there were various factors that interacted with each other and with the background social, political, economic and environmental conditions (outlined above) to influence government response. Of the many influences, three factors stand out as particularly important in explaining not just *why* governments engaged in certification but also *how* provincial governments responded to certification. These included: industry expectations of government role; certification alignment as per the stage of the provincial forest policy cycle; and ENGO advocacy. These factors were common to each region yet played out differently in terms of their interaction and influence on government certification response as evaluated below.

a) Industry expectations of government role
The forest industry in Canada has historically held significant power and policy influence through close and privileged access to government decision-makers. Forestry is a key sector of the Canadian economy and supports resource-based communities across the country. Governments depend on a viable forest sector for economic growth, employment and prosperity. Provincial governments have also established close negotiated alliances with their respective forest companies for the management of a large percentage of the Crown forest. Overall, Canadian provincial forest regimes are typically characterized as "clientelist" in nature with state and business members traditionally dominating provincial forest policy networks.[453] Given the privileged position of the

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[453] See Atkinson & Coleman (1989:62) and Ross (1995:111-118). Some scholars argue that a form of "triadic network" is emerging at the national level in the Canadian forestry sector which includes industry,

forest sector in Canada, forest company expectations of government role can be expected to have an important bearing on how governments respond to certification.

In addition to the historical pattern of forest industry influence, certification has created a new business-government policy dynamic that reinforces the importance of evaluating industry expectations of government. Traditionally, industry behaves as an interested group lobbying or "pushing" to influence government decision-making authority. However, certification has introduced a new "pull" dynamic. As outlined in Chapters 2 and 3, with certification private governance systems, corporate actors have gained private agenda-setting and rule-making authority within an expanded political space that goes beyond traditional government authority. This has created a tension between public and private authority and the result is a *pulling* on governments to respond to industry CSR to prevent the erosion of policy sovereignty. A strong industry position either encouraging or discouraging government engagement in certification could therefore be influential in shaping how a government approaches the co-regulation of certification.

Industry Expectations

The interviews I conducted in 2004-2005 with forest managers and executives of forest companies across the four provinces revealed a range of corporate perspectives and expectations of government role in forest certification. While all of the interviewees were speaking for themselves (in their company role) as opposed to necessarily conveying a formal company position, the companies all stated that a critical role of the provincial government was to provide a clear SFM legal framework that would enable certification and also provide sufficient flexibility for companies to go beyond the law if necessary, to meet certification requirements. As well, all of the companies supported a government role in standards development to ensure policy-certification alignment, and government co-operation in facilitating certification implementation. However, there was divided opinion as to whether government should mandate certification. Company interviewees in New Brunswick and Quebec were unanimously supportive while those

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government as well as, ENGO members. For example, see Elliott (2000:137) and Howlett & Rayner (2001:49).

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interviewed in B.C. were all strongly opposed to the government legislating certification. Ontario companies were divided between neutral to unsupportive (Table 4.9).

Table 4.9: Forest Company Expectations of Government Role, 2005

Should the provincial government mandate certification?[454]	
New Brunswick	YES
Quebec	YES
Ontario	Neutral/NO
British Columbia	NO

New Brunswick companies were supportive as they felt a mandatory requirement positioned the N.B. forest industry well in the market and gave companies a good message to tell to their customers about forest practices in the province. Quebec companies also indicated support for mandated certification as they felt that certification would provide important 3rd party oversight for the public and customers to verify SFM practices in Quebec. Ontario companies had varying perspectives but were generally neutral to unsupportive of the government's announcement to mandate certification, noting that it would take away industry's ability to "walk away" if certification requests became unreasonable. And finally, companies in B.C. were adamantly opposed to government intervention to mandate certification as the province was coming out of a heavily prescriptive period under the FPC and companies were happy with the new deregulatory environment under the FRPA.

Industry-Government Certification Alignment

Overall, industry expectations regarding the role of government in certification enforcement (i.e. mandating or not) were aligned with government certification response in New Brunswick and British Columbia but not in Ontario or Quebec (Table 4.10).

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[454] Results convey the informal consensus views of the interviewees, not necessarily official company positions.

Table 4.10: Industry-Provincial Government Certification Alignment, 2005

Should the provincial government mandate certification?[455]		Government Response	Industry- Government Alignment?
New Brunswick	YES	Mandated certification in April 2002.	✓
Ontario	Neutral/NO	Mandated certification in April 2004.	✗
British Columbia	NO	Not mandated.	✓
Quebec	YES	Not mandated.	✗

As shown in Figure 4.4, the New Brunswick and B.C. forest industries were influential in shaping government response as companies took similar approaches to certification within the respective provinces and held strong, largely consistent positions regarding the role they wanted government to play in forest certification enforcement. Forest companies in Ontario were less influential as companies took different approaches to certification (certifying to FSC, CSA and SFI), and the Ontario forest industry overall, was heterogeneous in its expectations of government and did not take a particularly strong position one way or another towards the mandating of certification. Quebec forest companies also took different approaches to certification but unlike Ontario, were unified and strong in their demand for greater government engagement in certification (including the mandating of certification). However, in 2005 (at the time of the survey), the Quebec government was lagging versus the other provinces in terms of certification awareness and hence, not yet prepared to respond.

Figure 4.4: Influence of Industry Expectations on Certification Enforcement

Company Expectations of Government

		Mandate	**Don't Mandate**
Government Response	**Mandated**	*New Brunswick* (Alignment encouraged by strong and uniform company expectations.)	*Ontario* (Misalignment influenced by heterogeneous company expectations.)
	Not Mandated	*Quebec* (Misalignment influenced by a lag in government certification awareness.)	*British Columbia* (Alignment encouraged by strong and uniform company expectations.)

* Alignment refers to government certification response matching industry expectation.

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[455] Results convey the informal positions of the interviewees, not necessarily official company positions.

In summary, industry expectations of government had a varying influence across the provinces in terms of shaping how governments responded to certification, particularly at the enforcement stage. The extent to which forest companies were consistent in their certification approach and were strong and unified in their position towards government role contributed to the variance in industry influence between the provincial regions.

b) ENGO Advocacy

As introduced in the Chapter 3 and briefly outlined in section 4.8.1d, over the past several decades there have been increasing societal pressures on governments to address environmental forest values. Local, national and transnational environmental non-governmental organizations (ENGOs) launched campaigns to encourage governments to conserve and protect threatened environments (e.g., old growth forest, species at risk, biodiversity and wildlife habitat) and implement sustainable forest management regimes that balanced environmental, social and economic forest values. In addition to traditional lobbying, ENGOs also adopted a new advocacy approach - markets campaigns to target the large buyers of forest products specifically, to reduce the demand for chlorine bleached paper, encourage recycled content and discourage the sourcing of tropical and old growth timber.[456] All provincial governments were faced with both the traditional and new markets-based forms of ENGO lobbying pressure, although to varying degrees. Hence, from the 1980s onwards, Canadian provincial governments faced the challenge of not only responding to ENGO-led forest policy criticism, but also ensuring that their forest sector was not unfairly affected by any adverse trade implications resulting from markets campaigns.

Certification grew out of the markets campaigns and offered governments a unique co-regulatory opportunity. Firstly, certification could address the market pressure and possibly secure long-term global market access for provincial forest products. And secondly, certification would involve the independent, third-party assessments of provincial forest practices that could, if successful, demonstrate the consistency of

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[456] Markets-based environmental advocacy has also been labeled "liberal environmentalism" i.e. green initiatives that endorse markets, economic growth and trade and work within these boundaries. See Bernstein (2001).

provincial forest policy with international SFM principles; justify the province's overall forest management policy approach to skeptical ENGOs; and secure market and public trust.

ENGO forest policy advocacy and markets campaigns not only contributed a rationale for government engagement in certification but also influenced how governments responded to certification. In particular, the specific advocacy issue(s) and whether the lobbying campaign was locally versus globally driven affected government certification role. These factors varied between provinces contributing to the variance in government co-regulatory certification response.

For example, as compared to the other provinces, British Columbia faced a very strong global ENGO lobby by groups such as the Rainforest Action Network out of San Francisco and Greenpeace Germany, leading the government to adopt a "hands-off" approach to certification implementation and enforcement – focusing instead on promoting the adequacy of forest legislation and land use planning processes, and guarding the provincial forest agenda from the influence of these "outside" groups. As well, the specific issues of the ENGO campaigns (e.g., the protection of coastal old growth forests; and the halting of clear cutting forestry practices) shaped the B.C. government's certification response. The ENGO advocacy issues were not easily addressed without significant restrictions on the provincial timber supply and, therefore, significant adverse impacts on the provincial economy. The government feared the B.C. FSC regional standard would adopt similarly challenging requirements and hence the government not only enthusiastically participated in the CSA standard development process but also took an active role in promoting the Canadian standard to offshore markets.

Overall, in response to ENGO advocacy, the B.C. government took an approach to certification that ensured that forest companies in the province had a viable certification option and that the provincial forest policy agenda remained under the government's sovereign authority.

An *expectation* of global ENGO advocacy influenced the Ontario's government's response to certification. The government had experience with ENGO protests in the late 1980s over old growth logging in the northern Temagami region of the province and knew they had reached an unprecedented agreement with local ENGOs (Ontario Forest Accord in 1999). Therefore, when they sensed a mounting global ENGO campaign targeted at Ontario's northern boreal forests, the government sought to "head-off" the campaign by their announcement in 2001 of a partnership agreement with FSC International to recognize Ontario's legislative requirements and essentially FSC certify all public forestland in the province. When FSC provincial certification proved infeasible, the government then adopted their direct co-regulatory approach of mandating forest certification in the province to any of the recognized SFM certification standards.

In Quebec, the absence of a strong local or international ENGO forestry lobby contributed to the government's initial hands-off, "backseat" approach to certification and subsequent lagging certification response. In the early 1990s, the government was not under significant public or ENGO pressure to justify its SFM practices. This changed in 1998, with the release of the film *L'Erreur boréale*.[457] The film conveyed images of destructive forestry practices in Quebec's publicly owned boreal forest and this sparked public awareness and the beginning of ENGO boreal campaigns in the province.[458] Heightened advocacy increased the Quebec government's awareness of certification and influenced their decision to become a late joiner of the CSA standard revision and the regional FSC standard development processes.

In New Brunswick, the long history of the spruce budworm spraying controversy influenced the government's decision to mandate forest certification.[459] Spruce budworm

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[457] The film was made by Richard Desjardins and Robert Monderie with the support of Cinéma Libre and the National Film Board of Canada and released on video in 1999.

[458] (Houde & Sanberg, 2003:424). For example, the *Coalition sur les forêts vierges nordiques* was initiated in 1999 out of concern for greater protection of Quebec's northern boreal forests. The Coalition included labour, ENGOs, religious and First Nations groups (Houde & Sandberg, 2003:424).

[459] Spruce budworm is an insect that defoliates northeastern North American forests, targeting balsam fir and white spruce in particular. To control the budworm outbreaks, New Brunswick sprayed the chemical insecticides DDT (1952-1970), fenitrothion (1970-1995) and Bt (1993-present) (Sanberg & Clancy, 2002:3). As a result of health and environment concerns, DDT usage was phased out in the 1970s and banned from registration in Canada in 1985 and fenitrothion was banned in 1998.

aerial spraying began in the province in 1952 (and continues to this day). Although public protests and ENGO campaigns in combination with scientific evidence of the deleterious health and environmental effects resulted in some success with respect to encouraging the substitution of less harmful insecticides, the battle over spraying in New Brunswick was largely won by powerful economic interests.[460] Forestry is critical to the provincial economy and government, and industry argued that annual spraying was essential to protecting the provincial timber supply and, hence, fundamental to securing the province's economic future.[461] Thus, when J.D. Irving dropped its FSC certification largely due to disapproval of the Maritime FSC regional standard's requirement to significantly reduce biocide spraying, the government supported Irving's concerns and gave the industry advice to seek an alternative, feasible certification standard. The government then took a direct role in mandating certification in order to repair any damage to market confidence in New Brunswick forest practices that may have resulted from the Irving-FSC affair.

c) The Forest Policy Cycle & Certification-Policy Alignment

Whether the government was in the early or late stages of its policy cycle (i.e. agenda-setting and formulating policy versus implementing and evaluating established policy) had an effect on government co-regulatory response to certification largely based on whether the government perceived the certification standards to complement or compete with the established provincial forest policy or policy agenda under formulation.

For example, as shown in Figure 4.5, when certification emerged in the early 1990s, Ontario and B.C. were both in the early stages of their policy cycle and both eagerly engaged in certification standards development. New Brunswick and Quebec were at a later stage and played a less direct initial role.

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[460] May & Rogers (1982). Rachel Carson's book *Silent Spring* (1962:259-61) includes the New Brunswick spruce budworm controversy as a case study illustrating the harmful effects to the environment of pesticides such as DDT.
[461] Sanberg & Clancy (2002:4).

Figure 4.5: Provincial Forest Policy Cycles[462]

	1985-1990	1990-1995	1995-2000	2000-2005	2005-
Legislation	QUE– Forest Act (1986) NB- CLFA (1982)	BC– FPC (1995) ONT– CFSA (1994)	ONT- Forest Accord (1999)	BC– FRPA (2004) QUE– Forest Act Amendments (2001) & RNI (2002)	
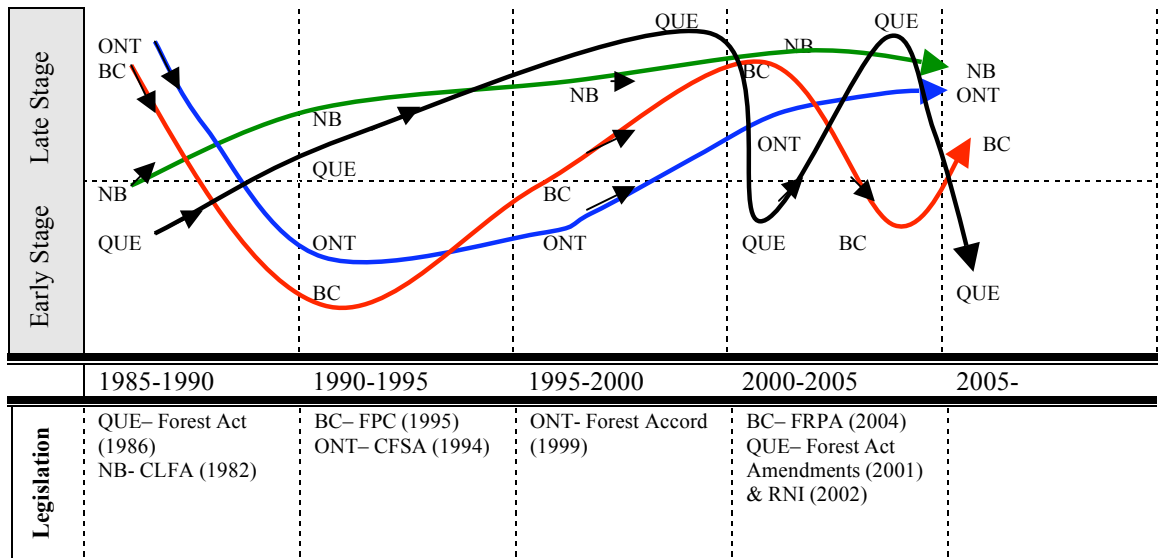
For Ontario and B.C., it was crucial to ensure policy alignment with the newly formulated provincial forest agenda and forest legislation. However, the two provinces diverged in their approaches to certification implementation and enforcement. B.C. took a passive role while Ontario directly enabled implementation and mandated certification. Ontario embraced certification as a complement and means to promote their new Forest Act while the B.C. government perceived certification as potentially competing with the newly established provincial Forest Code. B.C. was therefore protective of maintaining its policy authority. By the start of its next policy cycle and the introduction of the Result-based Forest Code in 2004, the B.C. government was more confident of certification alignment with provincial forest policy and consequently committed to certifying its Timber Sales program.

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[462] Figure 1 is an approximate portrayal of the respective provincial forest policy cycles employing the dates of forest legislation/regulations/agreements and provincial forest policy reviews as the markers of the various stages. It should be noted that while the figure presents a smooth transition curve, the policy cycle, includes continuous feedback and adaptive change. See Jones (1984) and Howlett & Ramesh (2003). For instance, within each province there were ongoing SFM program initiatives (e.g., protected areas strategies, biodiversity policies, land use planning consultations and strategies, timber supply reviews, etc.).

In the early 1990s when certification emerged, New Brunswick and Quebec were both in the later stages of their forest policy cycle, having well-established Forest Acts that were formulated and implemented in the 1980s.   However, both governments responded differently to certification.   New Brunswick took a fairly passive role, co-operating in standards development and implementation but took on a direct role in mandating certification.   In combination with other considerations, the N.B. government directly co-regulated certification enforcement in the province as they were confident their Forest Act (1982) aligned well with certification requirements (CSA and SFI not FSC) given industry's rapid certification uptake in the province; and wanted to promote their forestry policy leadership in Canada.

Quebec also had an established Forest Act (1986) but as opposed to directly co-regulating certification, the Quebec government largely ignored certification, leaving it to market forces. The government deemed that amendments made to the forest legislation during the 1990s were sufficient to achieve provincial forestry objectives. When the government entered the formulation stage of its policy cycle in early 2000, they began to recognize the importance of engaging in the certification standards-setting process to ensure certification-policy alignment (and subsequently joined the CSA technical committee). Industry then began to voice their concerns to government that there were certification challenges in the province largely stemming from insufficient legislative flexibility to meet certification requirements. With the release of the Coulombe Commission report in 2004, the government entered the agenda-setting stage of its forest policy cycle and became more engaged in facilitating certification implementation and also introduced amendments to the legislation to enable the government to enforce certification.

Figure 4.6: The Temporal Dynamics of Certification-Policy Cycle Alignment

Stage of Policy Cycle

Certification-Policy Alignment		Early	Late
	High	Ontario *(Direct engagement in standards development and implementation and mandated certification.)*	New Brunswick *(Indirect approach to standards development and implementation but directly mandated certification.)*
	Lower	British Columbia *(Directly engaged in standards development but initial indirect approach to implementation and enforcement prior to change in legislation.)*	Quebec *(Initial hands-off approach to certification development, implementation and enforcement prior to the 2001 Forest Act and Coulombe Commission.)*

The analysis, as summarized in Figure 4.6, suggests that provincial governments in the early stage of their policy cycle had an incentive to directly engage in certification standards development in order to ensure policy alignment (Ontario and B.C.). As well, if the government perceived certification to align well with their provincial forest policy, they were more likely to directly engage in the co-regulation of certification implementation and enforcement as a means to reinforce and supplement forest policy (New Brunswick and Ontario). Otherwise, if there were concerns that certification requirements did not align particularly well with provincial forest policy, government was more likely to position itself in a more passive indirect role and actively promote the sufficiency of provincial forest laws (Quebec).

4.9 Summary

The provincial governments evaluated in this chapter all contributed to the development, implementation and enforcement of certification in Canada, thus representing a key driver behind the country's global forest certification leadership position. This chapter has demonstrated that Canadian provincial governments responded to certification with varying approaches and timing ranging from observing certification to co-operating,

endorsing, enabling and even mandating certification. Government rationale for engaging in certification was similar between regions as a result of similar forest regime conditions. Provincial governments all participated in certification fundamentally to protect and promote their local forest economies, promote SFM improvements and maintain market and societal trust in provincial government forest management. However, the provinces varied in their certification co-regulatory role in response to three significant influencing factors: industry expectations of government role; ENGO advocacy pressure: and certification-policy alignment as per the stage of the provincial forest policy cycle.

Industry expectation of government had an influence on the government's certification response particularly if the industry presented a strong, unified voice and the government had sufficient awareness of certification. ENGO advocacy pressure influenced government certification role depending on the issue and whether the campaigns were local or global in origin. Global campaigns heightened government role in certification at the standards development stage in order to guard the provincial forest policy agenda. Advocacy campaigns that focused on issues with a long history in the province (e.g., spruce budworm in New Brunswick) triggered historic business-government alliances and prompted government support of industry certification efforts. And finally, regarding the influence of policy stage, governments at an early stage of their policy cycle (i.e. agenda-setting and formulating policy) directly engaged in standards development in order to ensure certification-policy alignment. As well, governments at an early policy stage that perceived a high degree of alignment between provincial forest policy and certification requirements also directly engaged in certification implementation and enforcement.   High certification-policy alignment also influenced governments that were at either an early or late stage of their policy cycle to directly mandate certification. Overall, this chapter has argued that forest certification in Canada has gone beyond categorization as a non-state market driven governance mechanism as provincial governments have played an increasingly direct role in co-regulating certification at the development, implementation and/or enforcements stages so as to leverage private governance capacity alongside traditional regulatory approaches.

Chapter 5

The Certification of U.S. State Forests: Enhanced State Forest Governance Capacity

5.1 Introduction

U.S. State governments are playing an increasing leadership role in forest certification by directly certifying their state-owned public forestland. This has occurred to the extent that although state forests comprise only 8 percent of U.S. forestlands, they now account for over half of the FSC certified forest and a quarter of the SFI certified forest area across the U.S. In a country that has a majority of privately owned forestland, it is puzzling that state governments are leading in the adoption of a private forest governance system on publicly owned and managed forestland. Why has there been such an enthusiastic state government certification response and what implications has it had for the governance of state forests?

In this chapter, I evaluate the co-regulatory response of state governments to certification focusing specifically on those states that have certified their state-owned forestland. I argue two main points. Firstly, state governments certified their forests as a result of a range of social, economic and environmental factors but primarily to secure market access, demonstrate forest management leadership and build public trust. Secondly, I argue that by adopting certification, state governments supplemented their forest governance capacity by achieving greater efficiencies in state forest administration; enhanced transparency and accountability in state forest management; continual improvements to state forest plans, programs and practices; and demonstrated state government forest leadership. The analysis is similar to the previous chapter as it is focused at the sub-national level. However, in contrast, the structure is by theme rather than by political region. This is because the U.S. study evaluates similar government certification response (i.e. state forest certification) across *different* sub-national forest regimes. The Canadian case on the other hand, examined the variance in government

response across *similar* sub-national regimes. The chapter addresses U.S. regional differences but they are included as examples under the various thematic sections of the chapter rather than treated as independent cases.

The chapter begins with a brief overview of the U.S. forest economy and the patchwork of multi-level forest governance and tenure arrangements across the country. I provide a summary of certification development and adoption in the U.S. and then turn to an assessment of state government role in certification. In exploring the varied terrain of state-level forest governance in the U.S., I highlight that across different sub-national state forest regimes (different tenure arrangements and varied regulatory-voluntary approaches), state governments have increasingly adopted a similar direct co-regulatory response to certification – i.e. certifying their state-owned forests. Focusing then, specifically on state forest certification, I evaluate the drivers, implementation debates and rationale behind state government decisions to directly engage in certification. In particular, in this section, I outline the range of factors influencing state certification response and the social, economic and environmental rationale communicated to justify the state certification decision. The chapter concludes with an assessment of the governance implications of state forest certification in terms of the implementation challenges and outcomes and demonstrates that the certification hurdles translated to a range of forest governance benefits. Specifically, in this section I argue the central point of the chapter which is that the co-regulation of state forests through certification resulted in important personnel, program and resource enhancements to the administration and management of state forests.

The chapter draws on a research study that I conducted over a 15-month period from June 2006 to August 2007 examining state government role in forest certification (1995-2007).[463] The research involved an extensive literature and document review as well as, approximately 50 interviews with government, forest industry, non-industrial private

forest owners, forest auditors, academics and non-governmental organizations across the U.S. (See Appendix A).   As of June 2006, the most prevalent example of state government role in certification was the certification of state-owned forests and hence the study focused on the twelve states that had certified their state forests. The research objectives were threefold: determine and compare the drivers of state forest certification; understand the challenges and opportunities of state forestland certification; and explore the implications and evolution of state government role in certification. The findings were summarized in a 116-page report that was circulated to interviewees in the spring-summer 2007 for feedback prior to finalization in August 2007.[464] While the study did not evaluate the role of government in the certification of federally-owned forestland, the U.S. Forest Service subsequently referenced the state-level research findings in the final report of their commissioned pilot study evaluating the feasibility of certifying U.S. national forests.[465]

5.2 The Variance in U.S. Forestry Regimes

The U.S. is the world's largest forest producer and consumer and ranks fourth in the world (just behind Canada) in terms of total forest area. The country holds 6 percent of the world's productive forestland and accounts for approximately one quarter of global industrial wood production and approximately 13 percent of the world's certified forest. It is a key player in the development and evolution of forest certification governance. This section provides a brief overview of forestry in the U.S., the complexity of forest ownership and administration and the central role of state governments in forest regulation.

5.2.1 U.S. Forests & State Forest Tenure

The U.S. has vast forests that cover a third of the land area of the country (747 million acres) and two-thirds (504 million acres) is classified as timberlands (i.e. forest land that

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[464] For the executive summary see:
http://www3.telus.net/Jane_Lister/State%20Certif%20Aug%2007%20Exec%20Summary.pdf
[465]See: http://www.fs.fed.us/projects/forestcertification/index.shtml and Sample, Price, Donnay, & Mater (2007:4).

is capable of producing in excess of 20 cubic feet per acre per year and is not legally withdrawn from timber production).[466] There is a diversity of forest types distributed across the country ranging from mixed temperate and high value second growth hardwood forests in the east; to older coniferous forests on the west coast; to fast growing hardwood and softwood forests and pine plantations in the south. While Eastern forests have the highest percentage of timberland comprising their total forest area, the majority of wood harvested in the U.S. is from western and southern forests.[467] Over the past two decades, as a result of declining federal harvests in the west, timber production has been shifting to eastern and southern forests.[468] In terms of timber production, 92 percent of the timber harvested in the U.S. is from private forestland.[469]

Table 5.1: U.S. Forest Ownership (million acres)

	FORESTLAND	TIMBERLAND
PUBLIC	**319**	**147**
State	63	30
County & Municipal	10	8
Federal	246	110
National Forest	(60%)	(88%)
BLM	(18%)	(6%)
Other	(22%)	(6%)
PRIVATE	**430**	**356**
NIPF[470]	363	290
Industrial[471]	66	66
TOTAL	**749**	**503**

Source: USDA (2002).

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[466] USDA (2002:4).

[467] The South accounts for more than 50% of the total U.S. softwood production and a little less than 50% of total U.S. hardwood production. See Wear (1995).

[468] The federal harvest from the pacific northwest region fell from 26% of U.S. production in 1986 to 15% in 1996. See Haynes (2003).

[469] Non-industrial private forest owners make up 58% of U.S. timberland and account for approximately 63% of the harvest volume. See USDA (2002). Federal forests account for 19% of the productive forest area and provide 2% of the US timber production. Industrial forests comprise 13% of U.S. timberland and have accounted for approximately 29% of the timber harvest volume. However, this percentage has shifted as millions of acres of industrial forestland have moved out of industrial ownership (Block & Sample, 2001). Today the state, county and municipal governments own more timberlands than the forest industry and account for 6% of country's timber harvest. See Irland (2005).

[470] NIPF (non-industrial private forest land owners) is a class of small private lands where the owner does not operate wood-using plants. See USDA (2002). NIPF owners are also referred to as family forest owners.

[471] Industrial refers to the ownership class of private land owned by companies or individuals operating wood-using plants. See USDA (2002). In this report, investment-based landowner organizations such as Real Estate Investment Trusts (REITs), Timber Investment Management Organizations (TIMOs) and large private landowners managing forests for commercial production are also included in this category.

As shown in table 5.1, while the majority of forested area in the U.S. is privately-owned (particularly by small non-industrial private forest owners), there are also sizeable public land holdings. For example, the federal government owns approximately one-third of the U.S. forests and state governments own 8 percent.   State governments across the U.S. generally have at least 100,000 acres of state forest (Figure 5.1). However, some states own and manage large public forest estates of over two million acres.[472] State forest in the west is primarily trust land that was apportioned at statehood and is still relied upon to generate revenues for educational institutions.[473] Much of the state forestland in the central Great-Lakes and eastern regions is tax forfeited land that was acquired (and re-forested) by the state in the late 19th - early 20th century after the lands had either been burned or cut over. There is a very small amount of either federal or state-owned public forest in the South due to a long-time aversion to public ownership and a history of impoverished state governments in this region.[474]

The distribution of forest tenure across the U.S. is characterized by a complex checkerboard pattern of public and private ownerships.   Overall, the majority of the forests in the east and south are privately owned and the forests in the west have higher public tenure.   However, tenure varies not just by whether the land is public or private but also whether the forests are federal, state or county-owned; and whether the private land is held by industrial or small non-industrial family forest owners.   Specifically, the western states have the greatest percentage of federally-owned forest. Most forestland in the South is held by small family forest owners. In the north-central Great Lakes states, public lands are largely state and county-owned and in the northeastern region, there have been traditionally large industrial private timberland holdings. As well, in these northern regions the state governments own roughly twice as much land as the federal government.

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[472] Michigan, Minnesota, Washington, Pennsylvania and Florida all own over 2 million acres of state forest.
[473] State trust land was granted to the states by the federal government to support public education in the state. While states created before 1850 sold all or nearly all of their federally granted lands, many western states have retained their trust lands. The original 13 colonies and the next 3 states contained no federal land and therefore did not receive any federal land grants. See Souder & Fairfax (1995).
[474] Irland (2005).

Figure 5.1: State-owned Forestland Versus Total State Timberland Area
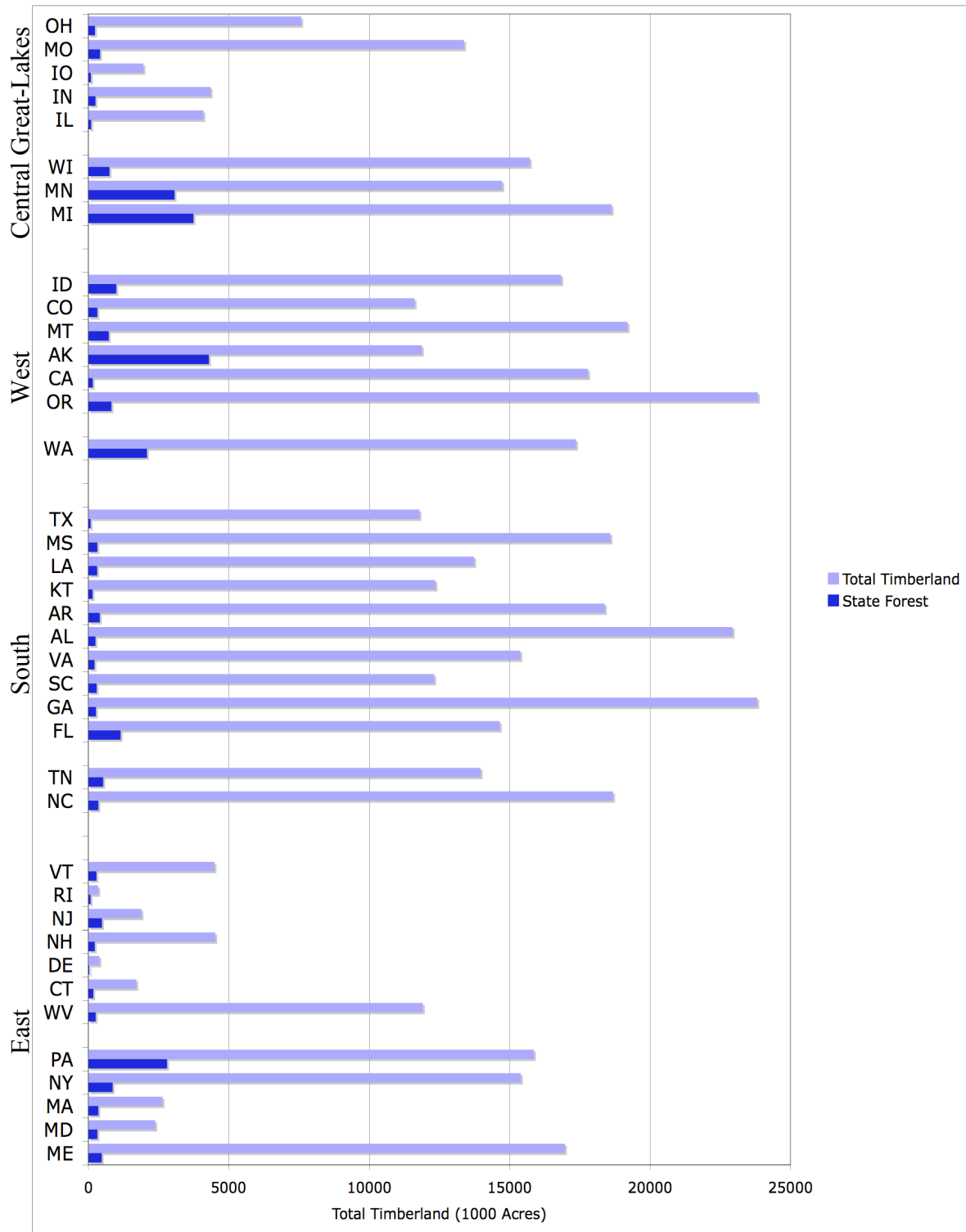
Source: USDA (2002).

As well, forest tenure in the U.S. is further complicated by large recent changes in ownership. For example, over the past five years there has been a rapid transfer of ownership of huge tracts of industrial land from large forest companies to timber investment management organizations (TIMOs) and real estate investment trusts (REITS) who in many cases have been sub-dividing and converting the land from forestry to development purposes.[475] However, some of this land is finding its way back to public ownership, particularly through trusts and conservation easements.[476]

Understanding this overall confusing and evolving array of forest ownership in the U.S. is important to this analysis as tenure is a contributing factor to state forest certification response. The majority of States with significant state forestland holdings have certified their state forests, and changes to industrial land tenure have spurred State governments to certify to set an example for their small family forest owners.

5.2.2 U.S. Multi-level Forest Administration

The administration of U.S. private and public forestlands is also far from straightforward. There are many different agencies within the federal, state, county and municipal levels of government that have forest management responsibilities and there is no single law governing forest regulation.[477]

The forest management system in the U.S. is multi-level but also generally decentralized with most forest regulatory authority residing with the 50 individual state governments.[478] In addition to managing their state-owned forests, state governments play *the* central role in regulating the management of private forests across the country and also are the primary vehicle for the delivery of the many forest programs funded by the federal government to assist private forest landowners.[479] Although the federal government

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[475] Block & Sample (2001).
[476] Greenblatt (2004).
[477] Ellefson, Hibbard, & Kilgore (2006).
[478] Country and municipal forests constitute 1% of U.S. forests and are regulated (particularly in the northeast) through local ordinances. However, western state forest practice Acts limit the power of municipal/county governments to pass local ordinances. See Cubbage & Siegel (1998).
[479] MacCleery (2002).

owns one third of U.S. forests, federal agencies have little authority to regulate private or non-federal forestland.[480]

State public and private forests are managed by a lead state forest agency that is typically the Department of Natural Resources (DNR). All states have a state forester who is an executive level administrator and typically the director of the DNR, although in some states, the state forester reports to a senior deputy or land commissioner (e.g., Washington State). As well, many states have independent boards or commissions that play a role in establishing state forest policy.[481] The lead State forest agency is generally responsible for overseeing state parks, wildlife habitat areas, state timberlands and private forest activities, however, states vary in their administrative organization. For example, while all States have separate units for the administration of private forests versus state-owned forests, the delineation of forestry, parks and wildlife agencies varies.[482]

The role of the state forest agency with respect to private forest activities generally includes administering rules for forest practices covering such areas as: reforestation, logging methods, road construction and other activities that may affect forest management, as well as water quality, wildlife and other community forest values. With regard to public land, the DNR is responsible for ensuring the sustainable management of

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[480] The federal government's regulatory authority on private forest land is limited to essentially two main areas: protecting habitat for threatened and endangered species (Endangered Species Act); and setting minimal national standards for air and water quality (Clean Water Act; Clean Air Act). In terms of federal public land authority, 60% of the federal lands are national forests administered by the U.S. Forest Service (USFS). While the USFS was historically focused on ensuring an annual supply of timber from national forests, since the early 1990s, the agency's primary role has shifted to helping the states and private landowners achieve voluntary forestry conservation practices. See Collins (2005). The Department of Interior oversees the Bureau of Land Management (owns commercial forest largely in the western regions of the country) and the National Park Service. The USFS national forests are regulated under the National Forest Management Act and the BLM lands under the federal Forest Land Policy and Management Act.

[481] Committees are the most common coordinating mechanism across the U.S. Commissions are located in the Southeast; Councils in the East; and Boards in the West. Boards are generally smaller and accountable to the Governor. Councils and Commissions are larger and report to the Department Head. Commissions are slightly larger than Boards and are accountable to the legislature rather than the Governor. See Kilgore Michael & Ellefson (1992).

[482] For example, some states, particularly in the West, place their forestry, parks and wildlife agencies in separate Departments. Great-Lakes and mid-western states house them as divisions in a single natural resources department. Northeastern states typically combine forestry and parks and keep wildlife distinct. Certain states such as New York and Missouri combine wildlife and forestry, with parks in a different department. See Ellefson, Hibbard, & Kilgore (2003).

state-owned forests including: planning state harvest and timber sales; and managing recreation programs including state campgrounds and hiking trails.   In about half of the states, the state forest agency operates under multiple-use mandates for their state forests to optimize recreation, timber and ecological values.[483] However, the emphasis varies. For example, the majority of the state-owned forestland in the western and mid-western states is trust land and therefore, managed to not only meet state forest regulations but are also under an obligation to earn revenue through timber sales to help fund educational institutions.[484]

Beyond the administrative and organizational-level differences, U.S. forest governance is further complicated by the fact that the many state governments all differ in their regulatory approaches. All employ a different mix of educational, technical assistance, voluntary guidelines, financial incentives and regulatory measures to promote the sustainable management of forests among private landowners.[485] For example, some states have enacted strongly interventionist Forest Practices Acts to regulate and oversee private forestland practices (Table 5.2). Others States rely on voluntary best management practices to guide forest practices, while still other States have taken a minimal interventionist policy approach essentially leaving private land forest management decisions to the property owners. Overall, the west and north east are generally prescriptive while the Great-Lakes central region and the south rely on voluntary guidelines.   Typically, all states offer extension programs (many funded in cooperation with the federal government and sometimes in partnership with industry) to help family forest owners with education and planning for the sustainable management of their private woodlots.

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[483] For example, of the 48 states included in his recent survey of state forest administration, Dr. Tom Koontz found that 26 had statutes providing a multi-use mandate, while the other 22 did not legally specify forests to be managed for any particular uses. See Koontz (2007).
[484] Souder & Fairfax (1995).
[485] Ellefson, Cheng, & Moulton (1995).

Table 5.2: Comprehensive State Forest Practice Acts

Oregon Forest Practices Act	*Idaho Forest Practices Act*
Washington Forest Practices Act	*Montana Notification and Streamside Management Acts*
Alaska Forest Resources and Protection Act	*Nevada Forest Practice Act*
California Z'Berg-Nejedly Forest Practices Act	*Utah Forest Practices Act*
Connecticut Forest Practices Act	*New Mexico Forest Conservation Act*
Maine Timber Harvest Reporting Law	*Virginia Forest Practices Notification Act*
Massachusetts Forest Practices Cutting Act	*West Virginia Logging Sediment Control Act*
	Vermont Heavy Cutting and Water Pollution Acts

Source: Ellefson, Kilgore, & Granskog (2007).

5.2.3 U.S. Forestry Regimes

Drawing together the institutional details regarding tenure and regulatory approach presented in the previous sections, it can be seen that there is fundamental variance in the forest policy regimes across the U.S. As shown in Figure 5.2, this is most evident in comparing the Western regions to the U.S. South. While the western regions have higher public tenure (mostly federal land) and strictly enforced Forest Practice Acts, the South is mostly private land (non-industrial) and state forest policies consist of voluntary guidelines. The Northeastern region is distinguished by high private tenure and several states have comprehensive State Forest Practice Acts. The central Great Lakes states also have high private tenure but have less prescriptive regulatory approaches. The forest regimes in the Great Lakes states are also distinct due to their high relative percentages of state and county-owned forestland. See Figure 5.3 for a map of the U.S. forest regions.

Figure 5.2: The Range of U.S. Forest Policy Regimes[486]

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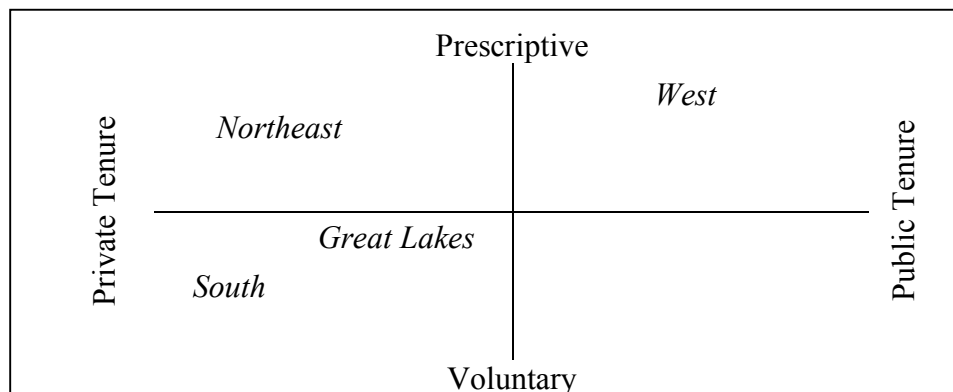
[486] This figures draws on data from USDA (2002) and Ellefson et.al. (1995:9). Comprehensive state forest regulatory programs address water quality, reforestation, timber harvesting, wildfire, insects and disease, rare and endangered species, recreation and aesthetic values.

Figure 5.3: U.S. Forest Regions
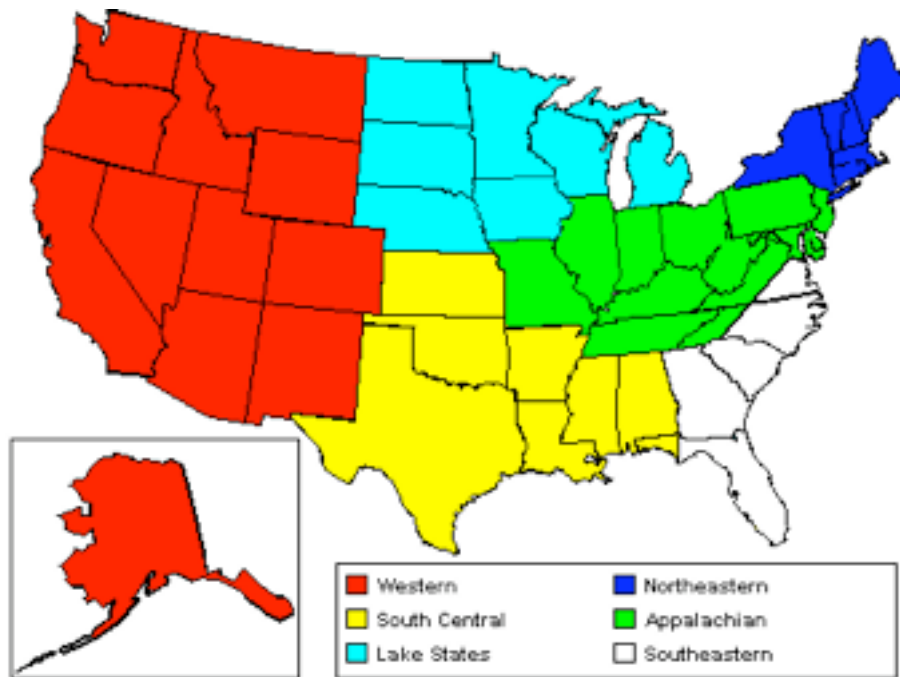
Although forestry in the U.S. is characterized by several distinct forestry regimes, the states face many common forestry challenges including: reduced state budgets; declining forest industry competitiveness and mill closures; the fragmentation of forests and increasing land conversion due to development pressures and the sale of private industrial forestland; and balancing social, economic and environmental forest values. All states have been focused on finding effective means to address these issues and certification has presented an additional governance tool.

5.3 Certification Development & Adoption in the U.S.

5.3.1 U.S. Certification Status

As of June 2007, approximately 106 million acres of U.S. forestland had been certified representing approximately 21 percent of the country's timberland area. While

industrial-commercial private forest owners account for the majority of U.S. certified forest, state governments lead the nation with the largest share of FSC certified forestland. There are three predominant forest certification programs operating in the United States and these include the Forest Stewardship Council (FSC), the Sustainable Forest Initiative (SFI) and the American Tree Farm System (ATFS) (Figure 5.4).[487]   The SFI and FSC programs pertain to all forest owners, whereas the ATFS program is intended for small non-industrial family forest owners. The American Forest and Paper Association (AF&PA) developed the SFI standard and the FSC-U.S. organization has overseen the nine regional FSC standard setting processes across the country.[488] Industrial forest owners account for the majority of SFI certified forest (73%) and state governments are the largest FSC certification holders (52%). Less than 1 percent of non-industrial family forestland has been certified.

Figure 5.4: Certified U.S. Forests (Acreage by Program), 2007[489]
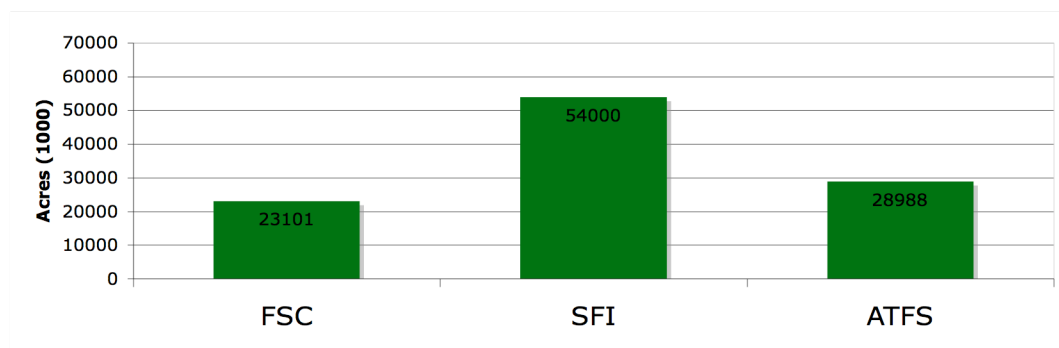
5.3.2 U.S. Certification Adoption & Evolution

The certification of U.S. forests has occurred gradually over the past decade. ATFS certification has consisted for the most part of encouraging the approximate 53,000 family forest owners already enrolled in the longstanding ATFS program (established

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[487] See Appendix B for a description of the certification programs.
[488] The nine FSC regional standards include: Appalachian, Lake States, Mississippi Alluvial Valley, Northeast, Ozark – Ouachita, Pacific Coast, Rocky Mountain, Southeast and Southwest standards. As well, the U.S. FSC is considering the development and adoption of a national FSC standard. See FSC-U.S. (2006).
[489] Sources: www.fscus.org; www.treefarmsystem.org; www.sfiprogram.org.

1941) to seek independent certification under the revised ATFS standard (2000).[490] SFI uptake was predominantly influenced by the AF&PA membership requirement and FSC has traced a slowly increasing pattern of adoption as the regional standards develop and gain legitimacy (Figure 5.5).

Figure 5.5: U.S. FSC and SFI Forest Certification Uptake (1992-2005)
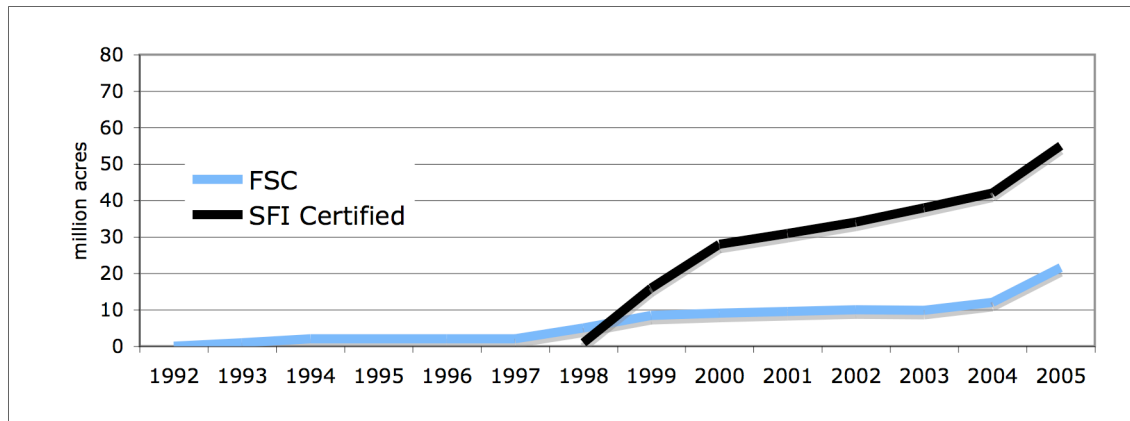
Source: Alvarez (2007).

Enrollment in the SFI program was initiated in 1996 when the AF&PA made its *Sustainable Forestry Initiative Principles and Implementation Guidelines* mandatory for all of its members. In 1998, the Guidelines were expanded into a standard with verification procedures and third-party certification. As well, at this time the AF&PA initiated the SFI licensing program that allowed non-AF&PA members to enroll in the SFI program. Many of the large industrial forest companies (whether AF&PA members or not) therefore, certified their forestlands in the period 1998-2001. St. Louis County, Minnesota was the first public agency to enroll in the SFI (1998) and Massachusetts was the first state to enroll (not 3rd party certify) its state-owned forests (1999). From 2001to 2004 there was a gradual increase in SFI certified forest with a jump 2004-2005 due to several large state and county forest public land certifications (See Figure 5.5).

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[490] The 10 million family forest owners in the U.S. are typically labeled "non-joiners" – most have never harvested their forests and those that do practice active forestry typically consider the costs of certification prohibitive. See Mater (2001). Certification is therefore a huge challenge for this group.

FSC adoption in the U.S. lagged behind the SFI in terms of total acreage but has been slowly increasing since 1993 with a considerable spike occurring in 2004-2005 largely due to the certification of state and county-owned forests. The Rainforest Alliance's *SmartWood Program* (established 1989) and the Scientific Certification Systems (SCS)*Forest Conservation Program* (established 1991) awarded the first FSC certificates in the U.S. in 1993 and 1994 respectively.[491] In 1996, a U.S contact person was established by FSC as the first stage of creating a U.S. FSC national initiative. FSC regional working groups were also established at this time.[492] In this same year, SmartWood issued the first FSC *public land* forest management certification for the Quabbin Reservoir (58,000 acres) in Massachusetts. Between 1998-2004, FSC certifications in the U.S. increased only marginally. However, during 2004-2005, the total acreage of U.S. FSC certified land doubled with the addition of approximately 9.6 million acres of state and county public forestland certifications.

Over the past decade, there has been ongoing evolution of the various certification systems in the U.S. For example, the SFI and FSC programs introduced options to encourage certification among small forest owners.[493] In 2005, the PEFC International certification program recognized the U.S. SFI system. In order to achieve similar international PEFC recognition, the ATFS revised their standards to include mandatory performance measures, written management plans for new and continuing membership and formal audit training for ATFS inspectors. The ATFS received PEFC approval in August 2008. The ATFS and SFI programs have mutually recognized each other since July 2000.[494] There have been no gains in terms of formal FSC- SFI mutual recognition. However, in practice, many U.S. customers have inclusive procurement policies that accept either standard and as well, there is a trend towards dual-certifying forestland using one combined audit team. State governments have been leaders in establishing this dual SFI-FSC certification trend (see Section 5.4.2).

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[491] In 1993, SCS awarded its first FSC forest management certificate to Collins Pine Company's California division and in 1994, SmartWood FSC certified the Keweenaw Land Association Ltd. in Michigan.
[492] FSC International endorsed the FSC-U.S. working group in 1997.
[493] FSC and SFI small landowner options include group certification and master logger certification programs.
[494] Hansen, Fletcher, Cashore, & McDermott (2006).

5.3.3 Government Role in Forest Certification

The federal government has been largely an observer in forest certification. No federal lands have been certified (with the exception of a small area of Department of Defense forestlands at the Forest Lewis base in Washington State). As stated by the U.S. Forest Service at the 2005 UNECE timber committee meeting in Geneva, "The U.S. federal government does not intervene in forest certification. It does not act as a standard setting or accreditation body nor does it favor any one certification scheme."[495] The federal government has however, taken an interest in minimizing the trade implications of forest certification by encouraging the mutual recognition of the various standards and also has been engaged in the development of procurement policies to favour certified, sustainably produced wood products and discourage illegal logging. In terms of the federally-owned national forests, the U.S. Forest Service had considered the prospect of certification for several years and in 2007 completed a series of pilot tests to assess the applicability of third party certification of federal public forestlands.[496] While the results of the pilot audits were favourable, the Forest Service did not make an immediate decision whether to proceed with certification and instead announced its intention to seek further consultation. The government was concerned that the certification of the National Forest System would be perceived as reinforcing a focus on timber harvest and would add new procedures to an already process-heavy administrative system.[497]

In contrast to the federal government's tentative response to certification, many state and some county-level governments have actively engaged in certification.[498] As shown in Figure 1, state government certification responses have ranged from passive observance;

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[495] Koleva (2006).

[496] The study included five national forests: Allegheny National Forest (PA), Chequamegon-Nicolet National Forest (WI), Mt. Hood National Forest (OR), National Forests in Florida (FL) and the Lakeview Federal Stewardship Unit on the Fremont-Winema National Forest (OR). For the report and auditor evaluations see: www.fs.fed.us/projects/.

[497] Collins (2007). The FSC-U.S. is also undecided and the ENGO community is split. For example, the Sierra Club is opposed to national forest certification arguing it will increase harvest. Whereas, the Nature Conservancy is in favour arguing that it will encourage sustainable forest management improvements.

[498] Several counties in Minnesota have also been certification leaders. In particular, in the Fall 1997, Aiken County in Minnesota received one of the first FSC public land certifications in the U.S. As well, St. Louis County, also in Minnesota was the first public agency to enroll in the SFI program in 1998. Both counties have sizeable forest tracts.

to facilitating certification by providing information and assistance as requested; to enabling family forest certification through land tax incentives[499]; to endorsing certification through state forestland certification and even enforcing certification through state legislation. Only one state (Michigan) has legislated certification.[500] However, all states have been closely observing the market dynamics of forest certification and facilitating certification development and implementation by providing information to forest owners, auditors and certification bodies as requested. As well, state government representatives have participated on the state-level SFI implementation committees (SICs) and Marvin Brown, the state forester for Oregon has been a member of the SFI Board.[501] *The* prominent and increasing state government role in certification has been the certification of state forests. Understanding why state governments have chosen to adopt certification on their public land is the focus of the next section.

Figure 5.6: State Government Role in Forest Certification

Scale of State Government Intervention

Indirect ———————————▶ *Direct*				
Observe	**Co-operate**	**Enable**	**Endorse**	**Mandate**
Keep an eye on certification market developments.	Provide information and assistance as requested.	Provide land tax incentives for certified family forestland.	**Certify state-owned forests.**	Enforce certification.
All states.	All states.	Wisconsin the lead state.	**12 states have certified their state forests.**	Michigan legislated certification.

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[499] Wisconsin has been the lead state in providing direct certification tax incentives to private land owners. For example, under the Wisconsin Managed Forest Law (MFL) group certification program, family forest owners receive tax exemptions and ATFS certification recognition by preparing a DNR approved long term forest management plan. As of the spring 2007, the MFL program had 2 million acres of ATFS group certified acres which made the Wisconsin MFL Tree Farm the largest certified group of private owners in North America. See: www.dnr.state.wi.us/land/forestry/certification/mfl.thml. Indiana followed the Wisconsin example with the ATFS group certification of their *classified forest system* program in December 2006.

[500] The Michigan DNR is required under Part 525 of its *Natural Resources and Environmental Protection Act* to maintain certification of its state-owned forests.

[501] See: http://www.sfiprogram.org/sic.cfm.

5.4 The Certification of State-owned Forests

Over the past decade, state governments have certified a total of 14 million acres of public forest. While state-owned forests represent just 8 percent of U.S. forests, as of the Spring 2007, they account for approximately 23 percent of the country's certified forest area. As shown in Figure 5.7, the twelve states that have certified their forests span right across the U.S., encompassing several different forestry regions.

Figure 5.7: Certified State Forests, 2007
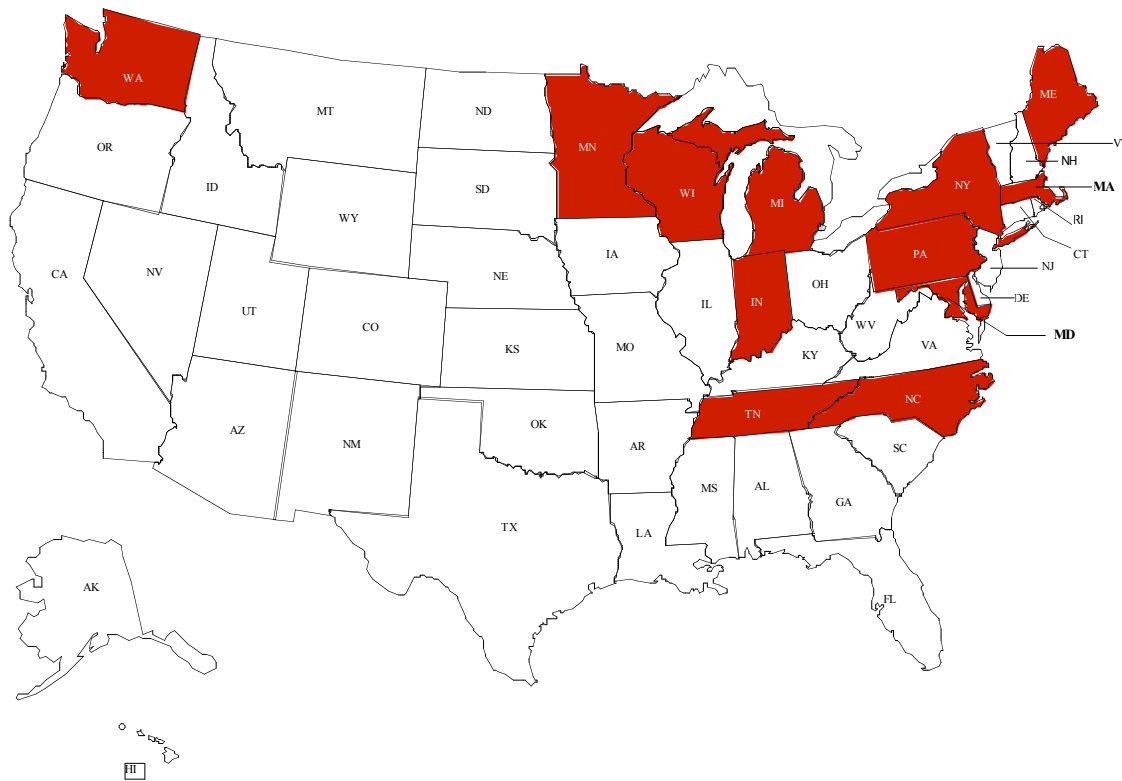
The participating states in the order of certification adoption include: Massachusetts, Minnesota, Pennsylvania, Tennessee, New York, North Carolina, Maine, Maryland, Wisconsin, Washington, Michigan and Indiana (Table 5.3). The majority of states pursued dual-certification to both the SFI and FSC standards with the exception of Tennessee, Massachusetts and Pennsylvania (FSC only) and Washington State (SFI only).[502]

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[502] In March 2007, the Washington State Public Lands Commissioner announced that the state would FSC certify 141,000 acres of state forests in the western part of the state. Certification achieved in May 2008.

Table 5.3: Certified State-owned Forestlands (1996-2007)

State	Date	Certification	What certified?	Certifier	Notes/Status
Massachusetts, Quabbin Reservoir	1996	FSC	59,000 acres	SCS	Municipal Watershed
Minnesota, Aiken County	Fall 1997	FSC	500,000 acres	SmartWood	223k acres State forest and 223k acres county forest land
Pennsylvania	Nov 1997	FSC	2.1 million acres	SCS	In Oct 1998, 0.9 million acres added to the initial 1.2 million acres.
New York	Jan 2000	FSC (+SFI)	715,000 acres	Smartwood	*Currently bidding for dual certification (FSC lapsed June 2005)
North Carolina	Nov 2001 Sept 2002	~~SFI~~ ~~FSC~~	32,000 acres	Smartwood Plum Line	*Withdrew from certification as of April 2007.
Maine	Feb-Mar, 2002	FSC SFI	485,000 acres	SCS Interforest	29,587 acres of Baxter State Park FSC certified by SGS in 2006.
Tennessee	Oct 1, 2002	FSC	158,000 acres	Smartwood	FSC re-certification in 2007.
Maryland, Chesapeake Forest Project	Aug 2003 April 2004	SFI FSC	58,000 acres	NSF-ISR SCS	In June 2005, 28,603 acres DNR forest added to the original 29,995 acres.
Massachusetts	April 2004	FSC	500,000 acres	SCS	Builds on 1998 Quabbin Reservoir FSC certification
Wisconsin State Forests	May 2004	FSC SFI	490,000 acres	SCS NSF-ISR	439k of DNR Country land also certified in March 2005.
Washington	May 2005	SFI	2.1 million acres	BVQI	In May 2005, 1.4 million acres of Western state trust lands certified and in Sept 2006, 700k acres of eastern trust lands certified.
	May 2008	FSC	145,000 acres		
Michigan	Sept 2005 Dec 2005	SFI FSC	3.75 million acres	NSF-ISR, SCS	
Minnesota	Dec 2005	FSC SFI	4.8 million acres	NSF-ISR SCS	
Indiana	Dec 2006 2007	SFI FSC	150,000 acres	NSF-ISR/ SCS	SFI certified in Dec 06 and FSC July 07.

<u>State Certification Timing</u>

 As shown in Figure 5.8, Pennsylvania, Minnesota and Massachusetts were the early state certification leaders. Pennsylvania certified its entire 2.1 million acres of state-owned forest to the FSC standard by October 1998. Prior to this the only other public land certifications had been the 1996 FSC certification of 59,000 acres of municipal watershed around the Quabbin Reservoir in Massachusetts and the FSC certification in the Fall 1997 of 514,500 acres of forest land in Aiken county, Minnesota. New York was the next state to adopt certification on its state lands, certifying 715,000 acres of its state forests to the FSC in 2000. North Carolina, Maine and Tennessee followed with FSC certifications in 2001- 2002. All of the early state forest certifications were to the FSC standard as the SFI standard did not yet have an independent third party certification option. In early 2002, Maine was the first state in the U.S. to achieve dual certification to both the FSC and SFI standards. North Carolina subsequently achieved dual certification later in 2002.

Several states had committed in the late 1990s to pursuing certification of their state forestlands but were delayed in implementation. As a result, between 2003-2006, certified state forest acreage jumped significantly with Maryland, Wisconsin, Washington and Michigan all achieving certification within three years of each other. Also during this period, Massachusetts and Minnesota extended their initial certified acreage to include a greater percentage of their state-owned forestland. All of these states dual-certified with the exception of Massachusetts which certified its state forests to only the FSC and Washington State to only the SFI (see section 5.5). It is of note that although Washington, Michigan and Minnesota governments lagged in achieving certification, all had been working towards certification for over a decade and all were certifying vast acreages of state forest. By 2006, these states alone accounted for close to 11 million acres or 78.5 percent of the certified state forest area.

Since the initial wave of certifications from 2000-2006, the state forest certification trend has continued. Indiana achieved dual-certification of its state forests early in 2007 and in December 2007, the Ohio state governor announced the state's intention to pursue dual-

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certification. As well, there are several other states still considering certifying their state lands including Oregon state, which conducted an FSC pre-assessment review of their state lands and has recently been reviewing the possibility of PEFC certifying all of its public and private forest lands managed in compliance with the Oregon Forest Practices Act.[503] The Southern states are also keeping a watchful eye, "…the majority of southern states are not taking direct action but we want to be in a good position to respond if/when big changes come along in the global market."[504]

Figure 5.8: State Certification Timeline
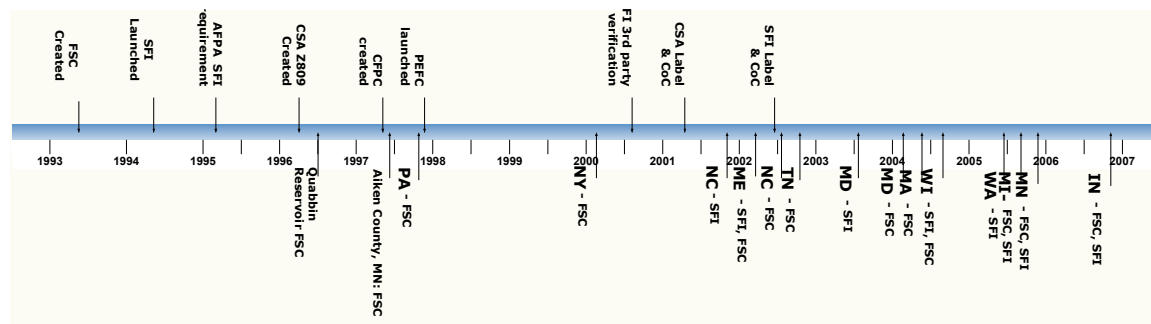
5.4.1 State Certification Drivers

As outlined in the previous section, a number of states, particularly those with sizeable state forest holdings, have directly engaged in certification by certifying their state-owned forests.   Some states were early adopters; a few were delayed in achieving certification; and still others have only recently committed. This section identifies and evaluates the factors that influenced state governments to seek and achieve certification when they did and argues that the key drivers were both issue-based and opportunity-based. Specifically, as summarized in Table 5.4, the *issue-based* drivers included: customer buyer pressures, ENGO advocacy pressure, ailing state economies and inter-state competition and the *opportunity-based* drivers included: private foundation funding, market access and state government leadership.

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[503] Pinchot (2006).
[504] Interview with Paul Deizman, Forest Management Unit Leader, Division of Forestry, Tennessee Department of Agriculture, October 26, 2006.

Table 5.4: State Certification Drivers

Issue-based Drivers	Opportunity-based Drivers
▪ Buyer pressure for certified fiber. ▪ ENGO advocacy and low public trust. ▪ Ailing state economy and forest sector. ▪ Inter-state competition.	▪ Private foundation funding facilitated by the Pinchot Institute for Conservation. ▪ Market access & potential price premium. ▪ State government leadership.

While these were all influencing factors to some degree in all states, some were more prominent triggers than others. Based on the interviews that I conducted with over fifty state government officials, forest certification auditors and industrial and non-industrial forest owners across the U.S., I have summarized in Table 5.5 (by check-mark), the drivers that had the greatest degree of influence in the respective state decisions to proceed with state forest certification. As well, it is of note that there were a few unique cases in which additional drivers such as county and municipal leadership (Minnesota, Massachusetts), university partnership (North Carolina) and land transfer conditions (Maryland) played a key influencing role in encouraging state certification.

Table 5.5: Certification Drivers by State

	Issue-based Drivers				Opportunity-based Drivers			
	Buyer Pressure	**ENGO Advocacy**	**State Economy**	**Inter-state Competition**	**Pinchot Pilot Funding**	**State Government Leadership**	**Market Opportunity**	**Other**
PA					✓	✓	✓	
NY					✓		✓	
MN	✓		✓	✓	✓	✓		✓ [505]
MA						✓		✓ [506]
NC					✓			✓ [507]
ME	✓	✓	✓		✓	✓	✓	
TN		✓			✓		✓	
MD								✓ [508]
WI	✓		✓	✓	✓	✓	✓	
WA		✓		✓				
MI	✓	✓	✓	✓				
IN		✓	✓	✓			✓	

[505] Aiken County FSC certification in 1997 included 223k acres of MN state forest and provided early public land certification leadership. As well, MN state forester (Dave Epperly) was previously the Land Commissioner for St. Louis County (first public land agency SFI licensee in 1998).

[506] The early leadership of the FSC certification of the Quabbin municipal watershed (1996) was a contributing driver to the MA state forest certification.

[507] A key driver was the initiative and encouragement from Duke University and the University of North Carolina for the state to also participate in the Pinchot public land certification pilot project.

[508] Maryland certified the Chesapeake Forestland as a condition of the land transfer to the state government.

5.4.1a) Pinchot Institute Public Land Certification Pilot Audits

The significant early impetus for state forest certification was private foundation funding (from several sources) facilitated by the Pinchot Institute for Conservation (Table 5.6). Pinchot coordinated the provision of Foundation support to state governments in the late 1990s to 2001 as part of their public land certification pilot project.

Table 5.6: State Certification Private Funding

	Certification Activity	Private Funding Sources
Pennsylvania	1997-1998 FSC certification of all state forest land.	Heinz Endowments
Tennessee	Oct 2001 FSC and SFI assessment audits and Oct 2002 FSC certification.	Pinchot Project – Foundation Funding
Maine	June 2001 FSC and SFI audits and Feb 2002 dual certification of BL&P state forestlands.	Pinchot Project – Foundation Funding
North Carolina	2001-2002 SFI and FSC audits and certification of Bladen Lakes State Forest.	Pinchot Project – Doris Duke Foundation
Minnesota	1997 Aiken County FSC certification.	Rockefeller Brothers Foundation
Michigan[509]	1998 Forest mgt plan revisions to meet CSA requirements.	Great Lakes Protection Fund
New York	1998 FSC audit and Jan 2000 certification of state forests.	Great Lakes Protection Fund
Washington[510]	September 2000 and 2003 FSC audit and phase 1 SFI audit of West-side trust lands.	Private foundations and the Lanoga Corporation

In 1996, there were a number of private land certifications in the U.S., however, no public land had been certified. The forest sector was unclear how certification would work for public forest management. The Pinchot Institute for Conservation therefore, stepped in and launched a long-term study to examine the applicability of independent, 3rd party certification to forest management on public lands.[511] Seven states participated and the pilot studies resulted in several states going on to achieve the certification of their

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[509] The foundation funding was to revise Michigan's state forest management plan to meet the Canadian CSA-Z809 certification requirements.
[510] The state participated in Pinchot's dual certification pilot audit in 2000 but did not move forward with certification at this time and eventually funded their state forest certification out of state revenues.
[511] Sample, Price, & Mater (2003).

state-owned forests.[512]   As explained by the North Carolina Division of Forest Resources, "the state had been tracking certification for some time and then Pinchot funding became available to enable the state to proceed."[513] The Pennsylvania DNR similarly emphasized, "without foundation funding and the Pinchot Pilot project, our state certification would have been delayed as it would have been hard to justify the expense at the time given the tight state budgets."[514] By 2001, following the dot.com collapse and the overall post-911 market decline, Pinchot's private funding sources dried up and several states that had intended to participate either put their certification plans on hold (e.g., California) or redirected their efforts to securing other sources of funding (e.g., Washington State).

5.4.1b) Buyer Pressure & Market Opportunity

Pressure from large forest and paper customers and the potential opportunity to achieve market advantages for certified forest products were both key drivers of state certification.   The shifting market dynamics were particularly influential in the central Great-Lakes states where the buyer threats and market opportunities were very real.[515] The most direct pressure was from Time Inc. (the world's largest buyer of coated paper). The state of Maine had already responded to buyer pressures by announcing its state-wide certification initiative.[516]   Wisconsin and Minnesota were also among Time's leading paper suppliers and Time communicated to these states that it was prepared to shift its paper sourcing from the region to other locations in order to secure certified

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[512] The states that proceeded with certification following their participation in the Pinchot pilot study were: Pennsylvania (1997), Minnesota (2005), Tennessee (2002), Maine (2002) and North Carolina (2001).

[513] Interview with Michael Chesnutt, Forest Supervisor and Hans-Christian Rohr, Management Forester, North Carolina Division of Forest Resources, Department of Environment & Natural Resources, October 11, 2006.

[514] Interview with Dan Devlin, Assistant State Forester, Pennsylvania DCNR, October 13, 2006.

[515] As outlined in chapter three, buyer pressures were mounting during this period. The 1999 announcement by Home Depot to give preference to wood from responsibly managed forests (by the end of 2002) was followed by similar announcements by large customers such as Lowes, Centex Homes, Andersen Windows. The Certified Forest Products Council in the U.S. (now called Metafore) was also continuing to work with additional purchasers to develop and adopt forest resource policies that preferentially specified forest products from certified, well-managed forests.   As well, AOL Time Warner Inc. was leading the market trend towards the adoption of forest sustainability procurement policies among the large U.S. paper purchasers such as Hewlett-Packard, Kinko's, Staples and others with collective purchases greater than 1.5 tons of paper per year.

[516] In July 2003, Maine's Governor launched the *Maine Forest Certification Initiative*, committing the state to increasing the amount of certified forestland in the state to at least 10 million acres by the end of 2007.

product.[517] Time Inc. had also demonstrated that it would reward certified suppliers such as the state of Maine for their certification efforts.[518] As explained by a government official from the Minnesota DNR, Division of Forestry, "David Refkin of Time Inc. was telling states to get certified or the company would end up taking their business elsewhere and Minnesota had two mills providing paper to Time. We needed to respond."[519] The situation in Wisconsin was similar, "the paper sector was a major driver of state certification and the Governor jumped on board. He didn't want to lose the 4000 jobs at the local paper mill. Other paper sector jobs at other mills were also at stake."[520]

European customers were also influential in driving state certification, particularly in the significant hardwood producing states of Pennsylvania and Tennessee. As hardwood customers in Europe had established preferences for certified wood (particularly from FSC certified forests), these states were interested in the market opportunity to adopt certification on their public lands in order to reinforce the high quality and high market value of their cherry and maple and capture any potential certification price premium.

5.4.1c) Interstate Competition

Keeping certified fiber within the state and keeping pace with other competing jurisdictions were both drivers of state certification. Great Lakes states, northeastern states and southern states all compete to some extent in terms of type of forest products manufactured, similar industry structures and similar timber species and therefore, states that had either certified or were in the process were particularly influential in driving their neighbours to also certify. This was particularly evident with the Great Lakes states of Michigan, Wisconsin and Minnesota who wanted to keep pace with each other. As well,

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[517] Time Inc's top four paper suppliers include: Wisconsin, Maine, New Brunswick and Minnesota (Interview with David Refkin, Director of Sustainable Development, Time Inc, May 31, 2007).
[518] In November 2003, Time Inc. announced that they would increase their purchases of Maine paper by 33% or 33,000 tons per year (from 90,000 tons to 120,000 tons).   The company stated that Maine was being praised for its "groundbreaking effort to certify that its forest practices are sustainable". The President of TI Paperco Inc, David Refkin further explained that, "Time's strategy is to reward leaders" (Interview with David Refkin, May 31, 2007).
[519] Interview with Tom Baumann, Assistant to the Director of Forest Management, Division of Forestry, Minnesota DNR, November 3, 2006.
[520] Interview with Bob Mather, Director, Bureau of Forest Management, Wisconsin DNR, October 25, 2006.

states certified to ensure that state fiber would continue to be processed within the state and also to meet any growing demand for certified fiber in-state rather than through imports. For example, at the time of their certification decision, the Michigan DNR expressed concerns that the state's central and western Upper Peninsula fiber was going to Minnesota and Wisconsin mills rather than Michigan mills.[521] As well, in Washington State, customer demand for certified product was creating a growing a shortage of certified fiber in the state. To meet market demand, Washington-based manufacturers were starting to look to other states for certified fiber. Washington State forestland certification was therefore, part of an effort to ensure an "in-state" certified fiber supply.

5.4.1d) Ailing State Economy

Ailing state economies and slumping state forest sectors spurred several states to certify their state-owned forests as a means to maintain the competitiveness of their forest sector by ensuring continued market access. Despite program deficits, the states felt that they could not afford *not* to certify given the dire prospect of mill closures and further job losses. As the Michigan DNR commented, "We knew we wouldn't necessarily gain markets by certifying but we'd also lose if we didn't certify."[522]

Beginning in the late 1990s, many U.S. States began to face mounting budget deficits. For example, as reported in the opening paragraph of the 2002 *Fiscal Survey of States*, "…nearly every state is in fiscal crisis. Amid a slowing national economy, state revenues have shrunk at the same time that spending pressures are mounting… creating massive budget shortfalls."[523] Most states were forced to make program cuts, including lay-offs in their forestry agencies. The forest industry sector was also facing an economic downturn during this period. Mill closures and forest sector job losses were common across the U.S.

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[521] See: *Wood Product Industry Trends and Michigan Forests*, A White Paper report prepared by the Michigan DNR, June 23, 2005 (www.midnr.com/publications/pdfs/forestslandwater/FMAC/WhitePaperWood ProductIndustryTrendsAndMIForests.pdf).

[522] Comment by Mindy Koch, chief of the Forest, Mineral and Fire Management Division at the Michigan DNR as reported in Capital News Service, February 27, 2004. See Laasby (2004).

[523] The increasing state budget deficits were most clearly seen in year-end balances that plummeted by 70 percent from $37.8 billion in Fiscal 2001 to $14.5 billion in Fiscal 2003. See NASBO (2002).

Concerns about the depressed national economy and uncertainties about the viability of state forestry sectors were particularly pronounced in Washington, Maine and the Great Lakes States and hence played a key role in their decisions to proceed with state forest certification. For example, Michigan had been hard hit by the slump in the mid-west manufacturing sector in the 1990s and had suffered large economic losses in the forest industry.[524]   As a result, the *Healthy Forest Bills* were introduced in 2004 to revitalize the Michigan forest products industry.   Specifically, the Bills were introduced to access the large volumes of maturing state timber and ensure market access through certification. In particular, *House Bill 5554* (Sustainable Forestry on State Forestlands) amended Part 525 of the *Natural Resources and Environmental Protection Act* requiring that "by January 1, 2006, the DNR shall seek and maintain forestry certification by at least one credible, non-profit, non-governmental certification program." The legislative mandate put the Department on the "fast track" to achieve dual certification by December 2005.[525]

Minnesota was also hit by a major economic and forest sector downturn in the period 2000-2003. Employment dropped to just under 42,000 jobs from 54,000. Harvests decreased, stumpage prices increased and fiber imports increased. In 2003, a Governor's Task Force on the Competitiveness of Minnesota's Forest-based Industries was established and a key recommendation from the Task Force was for DNR to certify all state-owned timberlands by 2005.[526] In Wisconsin (the largest paper producing state in the U.S.), a key driver in the decision to proceed with state forest certification when they did was the Governor's particular concern about the potential loss of any of the 35,000 primary forest products paper sector jobs in the state, and the opportunity for certification to serve as a means to stimulate the state economy. In order to fast track an increase in certified state fiber, Wisconsin picked the "lowest hanging fruit" – the 500,000 acres of state-owned forestland. The Wisconsin DNR had already been implementing forest management criteria and indicators so they knew that the state was

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[524] For example, during the 1990s, Michigan had a loss of 20,000 jobs, $700 million in wages and over 300 individual businesses/manufacturing facilities from the forest products industry. See Berghorn (2005).
[525] Interview with Cara Boucher, Michigan DNR, January 16, 2007.
[526] See Minnesota DNR (2003). As well, the report recommended that county and private land certification be encouraged and certification pilot projects be conducted on MN Chippewa and Superior national forests.

in good shape to meet the certification requirements versus uncertain challenges with county land or private non-industrial land certification.[527] Maine also faced similar economic pressures. Following the loss of approximately 31 percent of its forest products jobs in the 1990s, in July 2003, the Governor of Maine launched a state-wide Forest Certification Initiative to stimulate and 're-grow' Maine's forest sector by distinguishing Maine products in the marketplace while improving forest management on-the-ground .[528]   In Washington State, increased log costs and declining timber prices were putting increasing pressure on state forest management programs. Although not the key driver of state certification, similar to other states, the need to maintain state competitiveness and ensure continued market access for state timber sales through certification had a contributing influence in Washington's active engagement in the FSC and SFI certification processes (since 1997) and the state's eventual SFI certification in May 2005.[529]

5.4.1e) Public and ENGO Advocacy Pressure

Increasing public concerns about non-timber forest values on state forestland and ENGO advocacy were drivers of state certification in all states with particularly pronounced pressures in Maine, Tennessee, Washington, Indiana and Michigan.   Most State forestland is either trust land with a mandate for revenue generation or tax forfeited land that was cut-over and abandoned at the turn of the century and subsequently replanted by the state government for future harvest. ENGO advocacy pressure in the U.S. has therefore been focused for the most part on national forests not state forests. However, as U.S. cities have expanded and as values shift towards preserving and enhancing recreational and ecological forest benefits, increasingly, citizens and environmental groups have been calling on state governments to demonstrate greater sustainable forest management commitment and practices on their publicly-owned state forestland.

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[527] Interview with Bob Mather, Director, Bureau of Forest Management, Wisconsin Department of Natural Resources, October 25, 2006.
[528] The Governor's commitment was to achieve certification of Maine's 10 million acres of public and private state forests by the end of 2007. See Maine (2002).
[529] Interview with Craig Partridge, Director of Policy, Washington DNR, October 17, 2006. In May 2008, the state achieved FSC certification of its South Puget Sound Planning Unit (145,000 acres).

ENGO pressures regarding certification generally fell across a spectrum of interests. Some groups were pursuing market campaigns to encourage FSC-only certification as a means to reward leadership and continual improvement in sustainable forest management practices and build capacity in the FSC program (e.g. ForestEthics, WWF). Other groups such as the Sierra Club and the Dogwood Alliance were actively trying to prevent the certification of State forestland (including FSC certification) as they wanted to discourage a potential 'license to harvest' on public land. This heightened ENGO focus on state forest practices, however, ultimately served as a driver of state certification response. For example, in Tennessee, in response to high environmental advocacy pressure by NRDC and local ENGOs, particularly over the Cumberland Plateau forest, the state government accepted the Pinchot Institute's offer to participate in the public land certification pilot project. NRDC supported FSC so Tennessee went with FSC certification. The state government described their FSC third party assessment of their state land to be "the only way to respond to the focused ENGO pressure."[530]

Citizen concerns and ongoing ENGO campaigns within Washington State were both a deterrent and a driver for the state to certify its state forestlands. Environmental groups actively encouraged Washington State to seek FSC certification and FSC audits of the state trust lands were conducted in 2001 and 2003. Among the audit conditions, the DNR was required to recalculate its AAC and reduce harvest levels by extending rotation ages or increasing green tree retention. However, the State was already in the midst of its sustainable harvest recalculation process and FSC certification was deferred. In September 2004, when the State Board of Natural Resources adopted the *Sustainable Harvest Calculation* and the Commissioner announced the plan to increase harvest on western trust land by 30 percent, environmental groups filed a lawsuit against the State for not adequately considering the environmental consequences of the increased harvest.[531] The court challenge further delayed FSC certification. Washington achieved

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[530] Interview with David Todd, State Forester, Division of Forestry, Tennessee Department of Agriculture, October 23, 2006.
[531] In October 2004 the Washington Environment Council along with the National Audubon Society, Conservation Northwest, and the Olympic Forest Coalition filed a lawsuit against the state DNR to overturn the state plan which included increased harvest levels on state-owned forests (by 30%). The

SFI certification in 2005. Environmental groups have continued to encourage the State to FSC certify all 2 million acres of its state-managed forests and in March 2007, the Land Commissioner announced the state's intent to seek FSC certification on 141,000 acres of its western state trust lands.   Overall, ENGO advocacy has been an ongoing driver of Washington State certification as within such a politically charged climate the State recognized both the need and opportunity to demonstrate their sustainable forestry practices through some form of independent verification.

In Maine, the Governor's July 2003 commitment to certification was spurred by a series of citizen referendums in the 1990s that were critical of state forest practices and called for a ban on clear cutting.   State certification was viewed as a potential means to stem the tide of public distrust by demonstrating the State of Maine's sustainable forest practices through 3rd party verification to an international standard. In Indiana, out of concern with the state plan to increase state forest harvest levels, environmental groups were very vocal with the FSC auditors prior to certification approval of the state forests. This encouraged the State to pass its FSC audits and demonstrate their ongoing commitment to forest stewardship.[532] And finally, in Michigan, environmental groups were a driver in effectively lobbying for certification to be legislatively mandated.   The result was that Michigan became the only state in the U.S. to adopt a legislative requirement for the ongoing certification of its state-owned forestland.[533]

5.4.1 f) State Government Leadership

While external factors such as Pinchot funding, buyer pressure, ENGO advocacy, adverse economic conditions and/or the influence of competing jurisdictions all had an influence on state certification, an additional impetus, especially with respect to certification timing, came from strong individual leadership efforts within government itself. This was particularly the case under the state foresters in Massachusetts (Bob O'Connor), Minnesota (Gerry Rose), Wisconsin (Paul DeLong) and Pennsylvania (Jim Grace). All

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groups reached a settlement agreement with the State in March 2006.   See: (http://www.wecprotects.org/forests/LawsuitES.cfm).
[532] Interview with John Seifert, State Forester, Indiana DNR, June 27, 2007.
[533] See section 2.4.1d.

of these individuals played important leadership roles in state certification by persistently championing certification from within their respective Forestry Departments. As well, Wisconsin's Governor Doyle and Maine's Governor Baldacci both had early, leading visions with respect to encouraging the overall certification of both public and private lands in their respective states. Interviewees from government and industry both stressed that certification happened when it did in these states because of a few key visionaries in the government who really pushed for it.

In several states, the interest in state government leadership was not just about the government's desire to demonstrate forest certification leadership to meet buyer demands and gain market access but also to address private land conversion and fragmentation issues and encourage family forest owners to certify. Interviewees explained that the Forestry Department would have difficulty encouraging family forest owners to certify if they had not adopted certification first, on their state-owned forestlands.

5.4.1 g) Industry Expectations of State Government Certification Role

Industrial forest producers across the U.S. had differing perspectives on whether state governments *should* be engaging directly in certification and therefore, industry expectations had a variable influence on state certification.[534] Some forest companies asserted that state certification didn't matter, others were vehemently opposed and others were strongly supportive (Table 5.7).

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[534] Based on interviews conducted in the Fall 2006 with major industrial forest producers and forest industry associations across the U.S. including: Weyerhaeuser, Plum Creek Timber, Stora Enso, MeadWestvaco, Boise Cascade, Canfor, Seven Islands Land Company, Bowater, International Paper and Domtar as well as, the AF&PA, the Michigan Forest Products Council and the Minnesota Forest Industries Association, (see Appendix A).   The industry interviewees were asked the open question, "should state governments certify their state-owned forests?"

Table 5.7: Industry Perspectives on State Certification

Should state government certify State Forests?	Rationale
State certification is necessary.	State forests are an important supply of certified fiber to meet customer demands.
State certification doesn't matter.	The company does not rely on the purchase of state fiber; mills are facing little market pressure for certified product; and the acreage of state forestland holdings versus private ownership is very small in the region.
State certification benefits state forest policy administration.	State certification improves the delivery, accountability, communication and continual improvement of state forest policy.
State certification should not be adopted.	Governments have their own processes and should not be adopting someone else's.

For example, southern producers did not think that state certification mattered as there is little state-owned forestland in the south and there was little market pressure to certify. Companies relying on sourcing public fiber from state forests (particularly in the Great Lakes region), were supportive advocates of state certification explaining that certification increased the availability of certified supply and also helped to improve the delivery of state forest programs.[535] Companies with significant private land holdings were either unsupportive (as additional certified fiber represented competition) or thought state certification did not really matter one way or another. As well, indifference to state certification was particularly true of companies operating in the west that did not rely on state fiber due to western export restrictions on public timber. Companies with a large dependence on private non-industrial fiber purchase across U.S. forest regions, while generally supportive of state government certification were more keenly focused on the supply-side issue of encouraging greater family forest certification.   And finally, companies with operations in highly regulated states (e.g., Maine, Washington, Oregon)

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[535] For example, the Michigan DNR is the largest forestland owner in the state and accounts for 20-25% of the state fiber supply. Therefore, the industry in Michigan were strong advocates of state forest certification (Interview with George Berghorn, Director Policy, Michigan Forest Products Council and chair of the Michigan SIC, December 5, 2006.)

commented that state governments should be "staying out of certification" – that "governments have their own process and shouldn't be adopting someone else's". In particular, the concern was that government engagement in certification might lead to certification becoming mandatory on private land. Overall, forest company influence on government certification response was uneven across the certified states due to the different tenure and regulatory arrangements and variability in company fiber sourcing and therefore, had less overall influence on state certification than some of the other more consistent and prevalent influencing factors.

5.4.1 g) The Evolution of State Forest Certification Drivers

The drivers of state certification have not been static. Over the past decade the factors influencing state certification have evolved as certification systems have matured and markets have slowly developed (Figure 5.9). For example, for the states who certified their forests prior to 2001, the key drivers included: ENGO advocacy, the availability of Pinchot funding, state government leadership and the potential of distinguishing state forest products in the marketplace. However, as certification gained in acceptance and adoption, direct buyer pressure became an increasingly significant driver. And as state certifications increased, inter-state competition also emerged as an important influence on state certification.

Presently, demand-side buyer pressures are becoming an even more prominent driver as chain of custody (CoC) certifications increase and buyers increasingly adopt sustainable forestry procurement policies favouring certified forest products. Market benefits through price premiums are generally not materializing. However, certification is becoming accepted as it is increasingly viewed as a necessary cost of doing business. As forest certification gains legitimacy through increased uptake, it is becoming an important means for achieving greater accountability, and specifically, for governments to demonstrate responsible forest management and build public trust.

Figure 5.9: Evolution of State Certification Drivers

Pinchot Funding Government Leadership ENGO advocacy Market Opportunity	→	Buyer Pressures ENGO advocacy State Economy Inter-State Competition	→	CoC Market Demand Cost of doing business Public trust
Early Drivers (1996- 2001)		**Mid- Drivers (2002-2005)**		**Increasing Drivers (2006 -)**
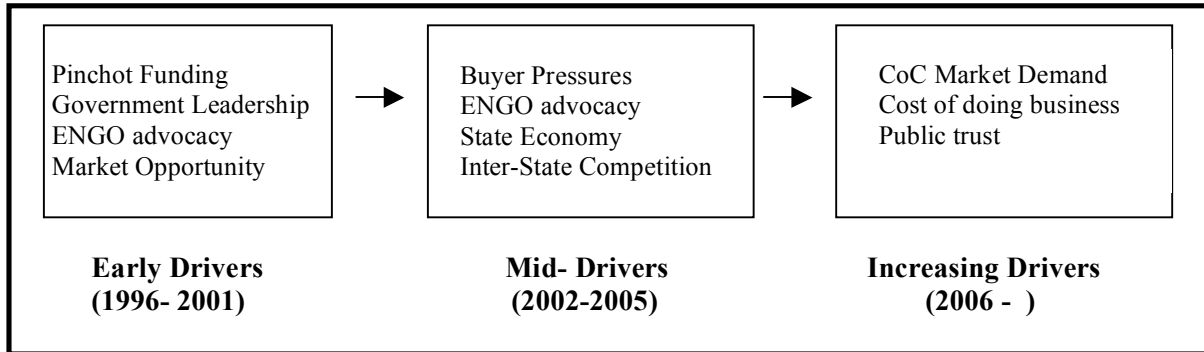
5.4.2 State Certification Implementation Debates

The timing of state certification was not only influenced by the prevalence of the various drivers assessed in the previous section but also by the extent of debate around whether and how to actually proceed with the certification of the state forests. The three most common areas of debate included: certification financing, standard selection and policy sovereignty, i.e. Could the state afford certification? Which certification standard should be pursued? And would certification threaten the policy authority of the state? Each of these areas of uncertainty and concern is assessed below.

5.4.2a) Financing Certification

A fundamental point of consideration for many states in whether to pursue certification was simply whether they could afford it. As discussed in the previous section 5.4.1d, many U.S. states were coping with increasing state budget deficits and declining forest sector economies. Many State departments therefore, questioned the costs of certification and in particular, how to justify the expense given the uncertain and not necessarily measurable benefits. For several states, once the decision was made to go forward, it then became a question of resource allocation - whether the state was even in a position to be able to take on certification costs given the large state budget deficit and the recent, large staff cuts. Specifically, the states were firstly, unsure about the actual costs of implementing certification on state forestland and, secondly, whether to consider certification an economic opportunity, a market necessity or an unjustified (perhaps premature) financial expense.

<u>Determining the Costs</u>

There was a lack of information among the early certification adopters about the challenges and benefits of certification as well as the costs of implementation. In order to gain knowledge, several states took advantage of the availability of private foundation funding (particularly through the Pinchot Institute's public land pilot projects) to participate in certification studies to determine the financial impact and learn more about the economic implications. Certification costs were subsequently calculated and compared for the North Carolina, Minnesota, Pennsylvania and Wisconsin pilots.[536] For example, Dr. Fred Cubbage and his team at North Carolina State calculated the total direct costs of the NC Division of Forest Resources 2001 SFI and FSC audit assessments to be $0.54/acre for SFI and $0.72/acre for FSC.[537] The 1997-1998 Pinchot Pilot project FSC certification assessments for Minnesota and Pennsylvania were calculated at $0.09/acre and $0.10/acre respectively with an additional cost for licensing and ongoing annual auditing at $0.01-0.02 /acre.[538]

States that certified their forests later (2005 -) not only benefited from the cost information generated from the earlier Pinchot studies but also were able to decrease their costs by better coordinating the audits for the various certification standards. For example, as explained by the Indiana state forester, the department achieved economies of scale by seeking bids on all three audits (SFI, FSC and ATFS) together as a package. This in turn gave them an efficient system in place for future audits, including a carbon auditor.[539]

<u>Justifying the Expense</u>

When forest certification emerged in the early 1990s, it was unprecedented and the market implications were uncertain. Did certification present an economic opportunity or was it a necessity to avoid a market penalty? As summarized in Table 5.8, those in

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[536] For studies on state forest certification implementation costs see: Cubbage, et al. (2003); Mater, Price & Sample (2002); Mater, Sample, Grace & Rose (1999); Mather (2004).

[537] The direct costs included both the cost of the certification inspections, as well as audit preparation. See Cubbage, et al. (2003).

[538] Mater, et al. (1999).

[539] Interview with John Seifert, State Forester, Indiana DNR, June 27, 2007.

favour of state forest certification argued that there was economic opportunity for the state to certify to distinguish its forest practices and forest products in the market place ("state branding"); create and capture new markets; and obtain price premiums. However, those opposed to the state taking on any additional costs argued that there was little economic opportunity in certification as: market premiums did not exist; there was an insufficient supply of state certified fiber to create and/or capture new markets; and any window that might have existed to create a unique market position had closed because so many other private industrial landowners had already certified their forests.

While the market opportunities were contested, it was argued that the risks were more certain. Evidence was presented that mills within the state, as well as large forest buyers outside the state were increasingly demanding certified products and that the state forests would lose market access if they were not certified. While in many states this was a convincing argument, in certain regions (particularly the South), there was little evidence of increasing market demand for certified state fiber. As explained by the Tennessee Division of Forestry, "We're all thinking about certification but not worrying too much. We know that we have so much wood in the South from so many small landowners that state certification is not an immediate concern."[540]

Overall, those opposed to state certification argued that it would be a premature expense as certification markets had not yet developed. Specifically, the costs could not be justified as there were no price premiums and so there would be no measurable financial returns. In response, the proponents explained that at a minimum, state forest certification would sustain state forest productivity and revenue flows by maintaining market access.

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[540] Interview with Paul Deizman, Forest Management Unit Leader, Tennessee Division of Forestry, October 26, 2006.

Table 5.8: Market Uncertainties and Justifications of Certification Expense

Does certification represent an…	YES	NO
Economic Opportunity?	▪ Can distinguish ('brand') state forest product; create and capture new markets; and obtain price premiums.	▪ No market premiums. ▪ Insufficient state certified supply to create and capture new markets. ▪ Others already certified – no longer a unique market position.
Market Necessity?	▪ State mills and large buyers increasingly demanding certification so state will lose market access if not certified.	▪ Little demand for certified state fiber.
Justified Financial Expense?	▪ At a minimum, state will sustain forest productivity and revenue flows by maintaining market access.	▪ No price premium so no measurable return (Other benefits hard to quantify). ▪ Expense premature as certification markets not yet developed.

For the states that proceeded with certifying their forests, the costs were justified largely on the basis of risk avoidance and expected value. There was a fear of putting the local industry in worse jeopardy and there was a hope that new markets and/or a price premium would materialize. It is of note that as certification systems mature and significant price premiums have still yet to develop, the justification of the certification expense is presenting an ongoing challenge for some states as they seek their certification renewals. Increasingly, in the absence of clear market price signals, the financial justification for certification is simply that it has become a "necessary cost" of demonstrating sustainable forestry.

5.4.2b) Selecting the Standard – Dual Certify?

In the early years of certification in the U.S., the FSC was the only choice if forest owners wanted a third party independent certification audit. Therefore, the initial certified state forests all achieved FSC certification only (e.g., MA, MN, PA, NY). However, when the AF&PA expanded their SFI program in July 2000 to include an

independent audit component, it then became a point of debate over which standard to pursue and/or maintain.

As outlined in Chapter 3 (section 3.2.6), forest producers and consumers have had considerable confusion over distinguishing the merits of the various standards. The SFI was the U.S. national program developed and promoted by the domestic forest industry sector versus the FSC which was internationally recognized and accepted by ENGOs. State governments debated how to satisfy both environmental and industrial constituencies. Various organizations conducted studies to learn more about the distinctions between the programs offered in the U.S.[541] In 2001, the Home Depot, the U.S. FSC and the AF&PA sponsored the most comprehensive study.[542] The study was conducted by the Washington D.C.-based Meridian Institute and provided a comparative evaluation of the differences and merits of the various programs. Several states relied on the Meridian study comparative information to assist in their certification decision - dual certifying so as to have the counterbalance of system and performance requirements.

In response to the availability of SFI 3rd party verification audits, in 2001, the Pinchot Institute broadened their public land certification project to include additional pilot investigations of state forestland *dual-certification*. Pinchot offered to cover the costs of the dual certification audits in return for the state agency providing a "reverse assessment" – i.e. evaluating the audit standards and process of the SFI and FSC certification programs. Maine, Tennessee, North Carolina and Vermont (federal land), as well as two universities (Duke and North Carolina State) all signed on. Maine and North Carolina went on to dual certify their state forestland in 2002.[543] The Pinchot supported dual certifications established the trend for the majority of states that followed. For example, Maryland, Michigan, Wisconsin and Indiana state forests all dual-certified and

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[541] For example, see FERN (2001).
[542] Meridian Institute (2001).
[543] Tennessee only certified to the FSC as their SFI certification audit identified several "non-conformances" largely related to documentation gaps. As well, the state lacked funds to seek dual certification (Interview with David Todd, State Forest System Forester, Tennessee Division of Forestry, October 23, 2006.)

Minnesota and New York went from FSC-only to obtaining dual SFI and FSC certifications (Table 5.9).

Beyond the Pinchot impetus, state governments dual-certified because firstly, there was the possibility for satisfying a greater constituency and secondly, the extra costs and effort were minimal. As explained by the Minnesota DNR, they went with dual certification to discourage critics of each of the standards. They wanted to build credibility with all stakeholders…. and it was a small incremental cost to pursue both standards.[544]

Debate over whether dual certification would achieve greater market access resulted in different conclusions in different regions of the country. For example, Pennsylvania and Tennessee pursued only the FSC as they had high value hardwoods going to European markets (that preferred FSC certification). However, Washington State viewed the SFI program as the most "positive market orientation" as they exported almost no wood to Europe.[545] The central Great-Lakes states argued that dual-certification would cover all bases - "after much debate we ended up going with dual certification because it would address multiple stakeholder interests and preserve, and hopefully even expand domestic and foreign markets."[546]

Over the subsequent years, with increased convergence of the standards and mutual recognition through inclusive customer procurement policies (see Chapter 3, section 3.2.6), the potential market advantages of one standard over another became less convincing. The SFI had gained international recognition through the PEFC program and the U.S. FSC regional standards had demonstrated adaptability to local forest conditions. As many of the SFI certified industrial forest companies commented, "The market accepts either so why have both."[547] As a result, as shown in Table 5.9, some states

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[544] Interviews with Andrew Arends, Forest Certification Program Coordinator, Minnesota DNR on October 24,2006 and Tom Baumann, Assistant to the Director, Minnesota DNR on November 3, 2006.)
[545] Interview with Craig Partridge, Director Policy, Washington DNR, October 17, 2006.
[546] Interview with Dennis Nezich, Forest Certification Specialist, Michigan DNR, January 16, 2007.
[547] Interview with U.S. forest companies, Spring 2006- Spring 2007 (See Appendix A).

dropped their dual-certification (e.g., North Carolina) while for other states, the increased convergence lowered hurdles and encouraged dual-certification (e.g., Washington State).

Table 5.9: U.S. State Dual-Certification Status (2007)

Dual-Certification	FSC Only	SFI Only
Maine	Pennsylvania	
Maryland	Tennessee	
Wisconsin	Massachusetts	
Michigan		
Minnesota		
Indiana		
North Carolina ····▶	North Carolina[548]	
(2001)	(2006)	
New York[549] ◀····	*New York*	
(2007)	*(2000)*	
Washington[550] ◀··································		*Washington*
(2008)		*(2005)*

5.4.2c) Policy Sovereignty

In several states, perhaps the greatest point of debate regarding whether and how to proceed with the certification of state-owned forests revolved around the question of policy sovereignty. Was the government subverting its authority and "handing over the policy reins" by directly endorsing and adopting a set of private rules for the management of its public forests? The debate was particularly pronounced in states with non-discretionary forest regulatory programs such as in the Northeast and Pacific Northwest forest regions. Specifically, the debate focused on four major areas of concern: policy alignment, control, flexibility and necessity. Were certification requirements consistent with state policies and programs? What influence would the government have over certification requirements? Would certification systems permit the flexibility required for

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[548] North Carolina was dual certified (2001-2006) but dropped SFI in 2006 following their re-certification audit as it found they had not adequately demonstrate continual improvement or adequately calculated their allowable cut and the state faced budget constraints over maintaining both standards. In April 2007, the state dropped their FSC certification as well.

[549] New York was FSC certified (2000-2005) and achieved dual-certification in 2007.

[550] In early March 2007, Washington's Land Commissioner announced a commitment to FSC certify some state lands. Although Washington State had participated in FSC assessments of their state forests through the Pinchot Pilot project, they initially rejected pursuing the FSC largely due to concerns about reconciling FSC requirements with the trust mandate on their public lands.

public forest governance processes and decisions? And was certification even necessary if state forest laws were already comprehensive?

For example, Washington State delayed its FSC certification as the requirements and the timing of the auditor requests were viewed by the DNR to be out of alignment with state forest objectives and processes.[551] The Department was not looking for a new "policy master" and further, the forest agency stressed that it was accountable to the Board and not the certification bodies. As well, because of the legal land trust relationship, the state couldn't "pledge allegiance" to an independent certification body. The DNR argued that before proceeding, certification had to be consistent with existing public responsibility and not a new hurdle or a substitute for political accountability.[552] The Michigan DNR also had sovereignty fears and concerns. Specifically, the Department worried that with its statutory requirement to maintain the certification of state-owned forestlands, the government would lose some policy flexibility in terms of being able to accept or reject rules generated by a private or non profit entity.[553] Within the DNR there were concerns that the legislated state forest certification would raise questions about who was actually leading forest policy in the state and also, that the state might be opening itself to increased court challenges resulting from inconsistent language between the certification standards and state forest policy.[554]

The states also debated the pros and cons of the dynamic nature of the certification standards. On the one hand there were fears that certification was an "elastic ruler" and that if the state committed to certification, the requirements might unexpectantly ratchet upwards putting possibly undesirable expectations on state forests and the state government. On the other hand, the ongoing revisions to the standards could mean that

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[551] For example, among the conditions of the FSC audits conducted in 2001 and 2003, the Washington DNR was required to re-calculate its AAC and reduce harvest levels by extending rotation ages or increasing green retention. However, the state had just received harvesting approvals under its new HCP and was in the midst of its harvest re-calculation process.

[552] Interview with Craig Partridge, Director Policy, Washington DNR, October 17, 2006.

[553] Interview with Cara Boucher, Forest Resource Management Section Manager, Michigan DNR, January 16, 2007.

[554] Interview with Cara Boucher, Forest Resource Management Section Manager, Michigan DNR, January 16, 2007.

the certification rules and processes would remain adaptive and responsive to changing forest conditions and values. As well, some private forest owners (particularly in Maine) expressed concerns that although certification was voluntary, if the government certified state forests it could just be a matter of time before the voluntary rules worked their way into regulations – that it was a potentially slippery slope.

And finally, another significant point of debate, again particularly in States with comprehensive forest regulatory programs, concerned why certification was even necessary given that state forest practices already exceeded certification requirements. For example, in Washington State, many felt that the state forest practice rules and Habitat Conservation Plan (HCP) offered strong enough environmental protections so that certification was unnecessary. Several State governments wondered whether it would not be more prudent to just "brand" the state forest practices under a unique State-wide SFM certification label and conducted gap assessment studies comparing state forest policies and regulations to certification requirements (e.g. California, Idaho and Oregon).[555] The Oregon DNR rejected the SFI and FSC certification largely because they deemed that the FSC certification auditors had tried to overly influence the state forest management direction.[556] Instead, they explored the possibility of certifying their comprehensive state forest regulatory program under the PEFC program.[557]

State governments that proceeded with certification countered the various sovereignty concerns with the fundamental argument that certification was not a substitute or competitive threat to state forest management objectives or authority but rather a complement to the existing forest regime – that certification was a means to verify, demonstrate, reinforce and be rewarded for a high level of state forest practices.

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[555] See: Cook & O'Laughlin (2003); Dicus & Delfino (2003); and Fletcher, Adams & Radosevich (2001).
[556] Following their December 2005 FSC pre-assessment audit of their Klamath County State forestlands, the Oregon DNR decided not to pursue FSC certification. The reasons included: an aversion to a long term commitment to changing FSC requirements; the FSC requirement to produce a rationale statement on why the state was only certifying one parcel of its state's forestland; conflicts with several FSC criteria re: harvest levels, impact analysis, retention and chemical application; and the FSC requirement for a new management plan every 10 years (Interviews with Oregon DNR - Marvin Brown, State Forester, October 18, 2006 and David Morman, Program Director, Forest Resources Planning, November 2, 2006).
[557] Pinchot (2006).

5.4.3 Rationale for Certifying State-owned Forests

State government rationale for certifying state-owned forests included a range of economic, environmental and socio-political justifications (Table 5.10). Based on my interviews with state forest agencies, as well as, a review of state government forest certification press releases, the four most common justifications for state certification included: state certification is a response to global market trends and will improve state forest industry competitiveness; state certification will set a leadership example to the state's many private landowners; third party audit verification will build public trust in state forest practices; and state certification will demonstrate, reinforce and/or improve state forest management practices.

Table 5.10: State Certification Rationale

Economic - Industry Competitiveness	Environmental - Forest Stewardship	Socio-political - Public Trust
• Maintain market access.	• Improve state forest management.	• Increase citizen understanding, engagement and support.
• Improve state forestry competitiveness.	• Demonstrate and achieve recognition of existing state forest management practices.	
• Respond to global trend towards certification.	• Provide forest management leadership and set an example for private landowners.	• Build credibility with ENGOs.
• Keep pace or ahead of other states.		

Economic justifications focused on maintaining market access and the opportunity to improve the competitiveness of the state forest industry by keeping pace with domestic and global market trends towards certification. The environmental rationale included certifying state forests as a means to demonstrate, reinforce and achieve recognition of the state government's forest stewardship commitment to a high level of state forest management and forestry practices. In other cases, the states emphasized that certification would provide an opportunity to achieve better state forest management practices through 3rd party feedback. The states also highlighted that state forestland certification would enable their state to take a leadership role in encouraging private

landowners to certify and/or improve their SFM practices. The socio-political rationale for certifying state forests included enabling better public education and ultimately, building greater public trust and credibility with citizens and environmental organizations. In the next section, I evaluate the challenges and benefits encountered by state governments in working towards the realization of this range of certification expectations.

5.5   The Governance Implications of State Forest Certification

This section evaluates the governance implications of state forest certification, drawing on the information provided by the state forest agencies during my interviews in the fall 2006 to spring 2007. Interviewees were encouraged to speak candidly and in turn, some expressed a preference not to be quoted directly. I have therefore withheld names where requested.

The section begins by evaluating the challenges faced by state governments in implementing certification and argues that while states acknowledged the value and effort of pursuing continual sustainable forest management improvements, the most commonly identified challenges were administrative, concerning program coordination and departmental resources.

Turning to the identification and assessment of the outcomes of state certification, I then argue that although the market benefits of state certification are still developing and ENGO support of state certification efforts has wavered, certification has resulted in significant improvements to the governance of state forests. In particular, the administrative certification implementation challenges served as a springboard for achieving more efficient and effective state forest planning and on-the-ground management practices. As well, state certification enhanced the transparency and accountability in state forest management decisions and objectives through increased public engagement and state reporting; and enabled state governments to better demonstrate their forest management leadership role.

5.5.1 Implementation Challenges

When asked to describe the most significant challenges of implementing certification, state agencies identified six main hurdles including: gaining staff cooperation; managing an increased workload; justifying the increased budget; addressing SFM audit findings; coordination and program alignment; and public sector responsiveness (Figure 5.10). The following section explains and evaluates each of these identified challenges.

Figure 5.10: State Certification Implementation Challenges[558]
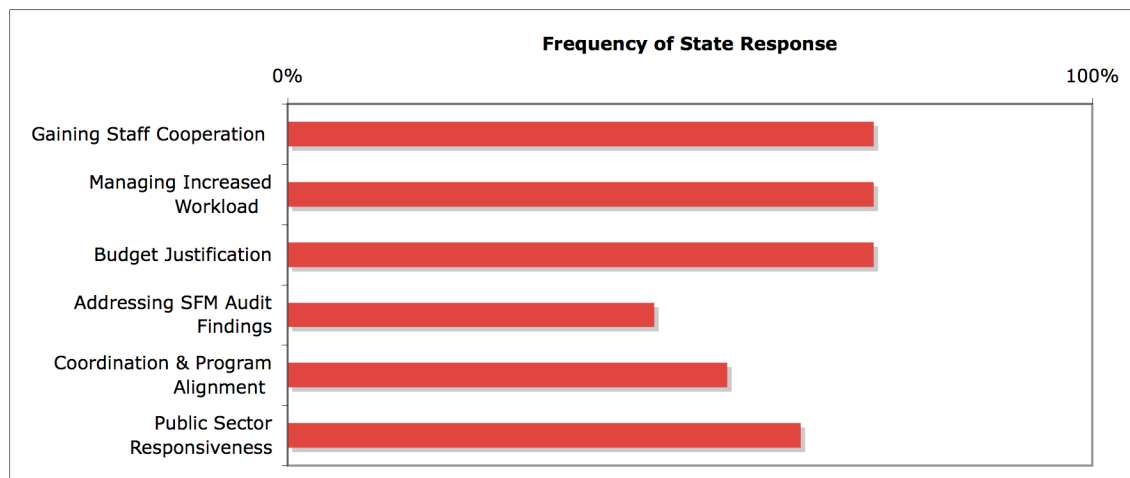
5.5.1a) Gaining Staff Cooperation

Perhaps the greatest upfront implementation challenge for many state forest agencies was gaining full employee cooperation.   Initially, staff were wary of certification and resistant to be told what to do by an outside party. The state agencies commented that their employees didn't like the feeling of "some looking over their shoulder" and didn't want certification dictating their jobs. There was also fear that certification was "the camels nose under the tent" – i.e. that certification was a small indicator of much larger hidden changes that were yet to be revealed.

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[558] The bars indicate the extent to which the certified states identified each of the challenges. Interviewee responses were based on an open question format rather than a structured survey. The breakdown of response by state is provided in the summary table in Appendix C.

Another challenge was that once engaged in the certification process, it took a while for employees to treat certification as a regular departmental activity rather than a different, separate process. Several states commented on the particular challenge of integrating certification into their field forester work programs. In order to facilitate implementation, many state agencies implemented certification education programs for their staff. For example, Minnesota implemented an education program to increase staff awareness and help them realize that certification would help on-the-ground forest practices. As the Minnesota forest certification program coordinator further explained, their wildlife managers became more accepting of certification when they realized, through the staff education program, that certification included indicators to track habitat.[559]

Following the initial certification audits, staff support and morale generally increased. Employees realized that the audit findings not only acknowledged their good work but also highlighted gaps that in most cases, the department already knew needed fixing. For example, the Michigan DNR explained that, "the auditors did a good job…when they found a corrective action request the staff reaction was typically, "yup, that needed fixing or improving."[560] Other states acknowledged that while initially there wasn't uniform acceptance, the staff were now saying that certification was good for them. They knew they weren't doing things as well as they could and that certification was making things better (See section 5.5.2a).

5.5.1b) Managing Increased Administrative Workload

A significant implementation challenge for many states was the increased administrative workload. In particular, certification required the formal documentation of current policies and programs, as well as, up-to-date training and monitoring records and continual improvement reporting. The states commented on the high degree of ongoing documentation involved including upgrading documentation to the level required for audit evidence and developing new policies and procedures to cover areas inadequately addressed. As well, the challenge was not just developing many new forms and

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[559] Interview with Andrew Arends, Forest Certification Program Coordinator, Minnesota DNR, October 24, 2006.
[560] Interview with Dennis Nezich, Forest Certification Specialist, Michigan DNR, January 16, 2007.

procedures but also training employees to use the forms, follow the new procedures and keep up-to-date records. Several states struggled to allocate the additional staff time required given their constrained budgets and already reduced employee numbers. As a result, in several instances, certification auditors included as a corrective action request the need for the state agency to ensure sufficient departmental staffing levels in order to enable the organization to achieve SFM programs and objectives. Certification auditors did not want to see the state fail its re-certification audit and lose their certification status due to inadequate staff resources.[561]

5.5.1c) Budget Justification

Although several states had their initial certification audit costs covered by dedicated state timber revenue, private foundation dollars and/or additional funds provided through the Governor's Office, the ongoing budget justification to secure the additional resources to address certification audit findings was a source of challenge. With already constrained state budgets and uncertain certification market benefits, yet, a need for additional infrastructure to support certification implementation, the states struggled to come up with convincing financial justifications for the additional public funds. State purchasing processes emphasized cost-benefit justification and as explained by the North Carolina Division of Forest Resources, "it was hard to justify an expenditure with no return on investment other than learning."[562]

5.5.1d) Addressing SFM Audit Findings

The challenge of addressing audit findings concerning improvements to state forest sustainable forest management practices varied among the states. Some states had many audit findings whereas others had state forest programs that already met the majority of certification requirements. There were different corrective action requests (CARs) for each state. For example, in comparing the FSC certification audit findings for the

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[561] Interview with Frank Dunstan, former Forest Certification Coordinator (2001-2003), Division of Lands and Forests, New York Department of Environmental Conservation, July 6, 2007.

[562] Interview with Michael Chesnutt, Forest Supervisor and Hans-Christian Rohr, Management Forester, North Carolina Division of Forest Resources, Department of Environment & Natural Resources, October 11, 2006.

Northeastern and Great Lakes states, Dr. Robert Seymour at the University of Maine (Table 5.11) identified a varying number and range of audit findings (CARs), in particular with respect to silviculture practices requiring improvements.

Table 5.11: Summary of State Forestland FSC Corrective Action Requests

State	Area (thousand acres)	Auditor	Total CARs	Silviculture Findings
MA	500	SCS	17	0
ME	485	SCS	13	3
PA	2,100	SCS	12	2
MN	4,840	SCS	14	3
MI	3,750	SCS	13	1
WI	490	SCS	9	0

Source: Seymour (2006).

The degree of certification implementation challenge was largely affected by whether the state had conducted pre-assessment audit(s) early on to assess their certification preparedness. The pre-assessments determined if the state was a good candidate for certification and identified and enabled the State to address any major gaps prior to undertaking their full certification audit.   Based on the pre-assessment findings, some states decided not to proceed with certification (e.g., Tennessee-SFI; California, Oregon, Washington-FSC) and others delayed certification (e.g., Wisconsin, Minnesota).

As well, a few states explained that meeting certification SFM requirements was not a great challenge as they had talked to other states that had already certified, so they knew what to expect. Some states anticipated the audit findings, because they were already action items on the state's forest management priority list, (e.g., having an inventory broader than timber reviewed on a 10-year basis). And still other states emphasized that certification was not a significant hurdle as the Department had always managed the state forests to a broader mandate than simply getting to the mill cost-effectively – that non-timber values were already addressed so there have been no real challenges in meeting certification indicators."[563]

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[563] Interview with Andrew Arends, Minnesota DNR, October 24, 2006.

The states that had a large number of SFM audit findings noted the certification implementation challenges with respect to completing required management plans, shortening inventory cycles and factoring in additional non-timber considerations. For example, committing to a 10-year inventory cycle from a 20-year cycle demanded process improvements and more staff time. As well, updating and expanding the management plan to include all state forest divisions and non-timber considerations within the context of a landscape-level framework required more technical and human resources.

5.5.1 e) Departmental Coordination & Program Alignment

Agency coordination has been a historic administrative hurdle with respect to the delivery of state forest management policies and programs[564] and was identified as a particular source of certification implementation challenge. For example, although responsibility for state forest management typically resides in a lead forest agency such as the Division of Forestry within the Department of Natural Resources, many non-timber issues such as wildlife management, soil and water, biodiversity and state parks are shared across Divisions and even across Departments. In these cases, certification demanded a coordinated Departmental response in order to meet the requirements that fell outside of the Division of Forestry's core responsibility. For example, as explained by the Pennsylvania DCNR, while deer management was a major corrective action, state wildlife management fell under a separate independent agency, not their Department.[565] As summarized by the Michigan DNR, many corrective action requests required the response of their entire Department. For example, improving the stakeholder involvement process cut across all Divisions and in order to address the challenge, the DNR established a Forest Certification Implementation Team to facilitate coordination between the divisions."[566]

In addition, several states faced certification coordination challenges not just at the organizational level but also at the program level in terms of ensuring the alignment of

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[564] Ellefson, et al. (2006).
[565] Interview with Dan Devlin, Assistant State Forester, Pennsylvania DCNR, October 13, 2006.
[566] Interview with Dennis Nezich and Cara Boucher, Michigan DNR, January 16, 2007.

certification requirements with the various state plans and processes, many of which had different timelines and spatial scales.   Again, as explained by the Michigan DNR, their state department did not have a single planning cycle but rather had multiple plans and multiple cycles. Some plans had long timeframes and some short and none took priority. The challenge with certification was trying to figure out how to co-ordinate and layer the various plans as they were revised to meet certification requirements.[567]

5.5.1 f) Public Sector Responsiveness

And finally, a significant state certification implementation challenge was meeting the tight certification timelines. Rather than the typical long deliberation and gradual delivery of public forest management procedures and programs, certification required quick decisions and fast implementation. Several states raised the concern that governments were not as flexible as companies to respond to certification, and that public land management required greater deliberation in order to achieve a balance of forest values.   As described by the Michigan DNR, there was discomfort with the pace of certification implementation, "Our implementation was hugely fast-tracked. With a tight implementation timeline some decisions had to be made very quickly and this was uncomfortable for the Department, as well as some constituents. When looking at natural resource policy a lot has to be deliberated and developed over time, not based on snap decisions."[568]

In some cases, the state delayed certification in order to respect state forest processes that were underway (e.g., Washington state). In other instances, the state worked with the auditors to accommodate the public land requirements. As explained by the Wisconsin DNR, "Our state was one of the first governments to get certified so there was some auditor learning required. Government's aren't able to respond as flexibly or quickly as private industry to some CARs. Our auditors were responsive to these concerns. As long

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[567] Interview with Dennis Nezich and Cara Boucher, Forest Resource Management Section Manager, Michigan DNR, January 16, 2007.
[568] Interview with Cara Boucher, Forest Resource Management Section Manager Michigan, DNR, January 16, 2007.

as we were showing progress, then it was okay."[569] Minnesota also commented that their certification auditors had so far been responsive to public agency concerns and the different expectations of public forestland management.[570]

Another challenge regarding public sector flexibility was the lack of budget allocation control. For example, as explained by the state forester of Maryland, public agencies can not only be tied to programs and procedures that prevent rapid certification response but also can be subject to budget, staffing and management decisions that are made for reasons other than forest sustainability.[571] And as further described by the state of New York Division of Lands and Forests, their Division entered into certification in good faith but they didn't control the budgets. Even though they were committed, they couldn't guarantee that they would have the resources to follow-up. For example, during their certification implementation period they lost several staff positions through attrition. The resource decisions were made centrally by a budget control officer and not by their Department or Division.[572]

5.5.1g) Summary

As outlined through the previous examples, state governments have addressed a range of challenges in implementing certification on their state-owned public forestland, including forest management improvements, as well as many administrative hurdles. These included gaining staff cooperation, managing increased work loads, justifying budgets, coordinating inter and intra-departmental programs and following the required state forest management and financial processes while also meeting the shorter certification timelines. In the next section, I argue that overcoming these implementation challenges translated directly into improved state forest administration, better forest management practices and an overall enhancement of state forest governance capacity.

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[569] Interview with Bob Mather, Director, Bureau of Forest Management, Wisconsin DNR, October 25, 2006.
[570] Interview with Tom Baumann, Assistant to the Director, Division of Forestry, Minnesota DNR, November 3, 2006.
[571] Sampson & Koehn (2002).
[572] Interview with Frank Dunstan, former state Forest Certification Coordinator (2001-2003), Division of Lands and Forests, New York Department of Environmental Conservation, July 6, 2007.

5.5.2 The Benefits of State Forest Certification

In my interviews with the certified states, I asked the state forest agencies not only about the certification challenges but also about the positive and negative outcomes from certifying their state forests. It was an open question and interviewee responses were favourable. None of the states conveyed any negative outcomes from certification. However, there were some uncertainties about the future market benefits, the potential ratcheting of certification requirements, and the divided ENGO support.[573]

Figure 5.11 summarizes state forest interviewee responses. The five most commonly identified areas of certification benefit included: improved forest administration, enhanced state forest management, greater transparency and accountability, demonstrated state leadership and some market access gains.

Figure 5.11: State Forest Certification Benefits[574]

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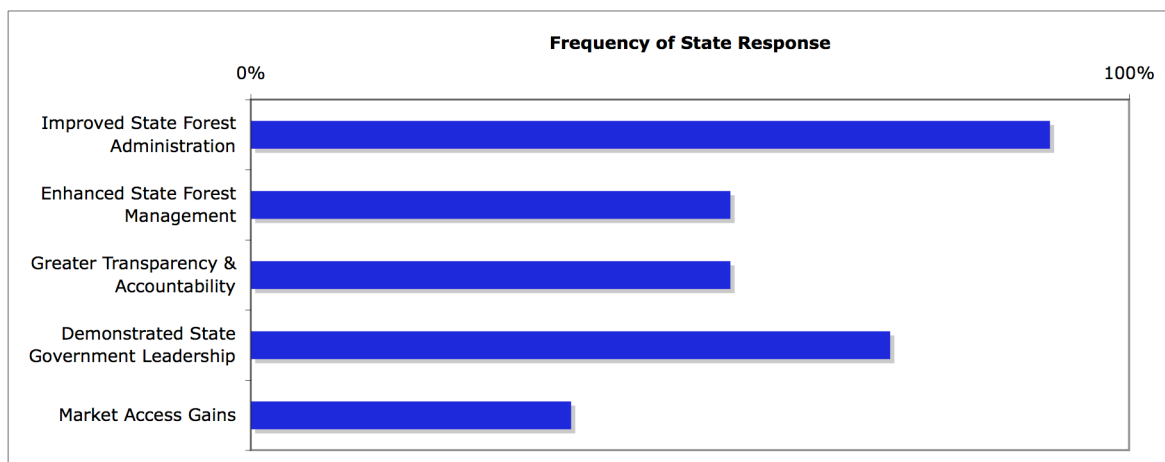
[573] Several states expressed concerns about the proposed strengthening of the FSC pesticide policy. As well, some states were facing ENGO appeals over their state forest certification. For example, ENGOs in Minnesota were appealing the state FSC certification for not managing recreational motorized vehicle usage adequately. As well, in 2005, shortly following Michigan's state forest certification, the Sierra Club raised an informal complaint to the FSC that the Michigan DNR was not compliant with the FSC principles and criteria. In response, in October 2006 the FSC's Accreditation Services International re-evaluated the Michigan certification and upheld the DNR certification arguing that the DNR demonstrated general consistency with the FSC direction. See: www.fsc-watch.org/archives/2008/03/10/FSC_certification_of_US_public_forest_lands and www.michigan.gov/documents/dnr/ASI-AccreditationAuditReport_207645_7.pdf).

[574] The bars indicate the extent to which the certified states identified each of the benefits. Interviewee responses were based on an open question format rather than a structured survey. The breakdown of response by state is provided in the summary table in Appendix C.

5.5.2 a) Improved State Forest Administration

The most prevalent benefit of state forest certification across all of the certified states was improved state forest administration. Administrative issues that were identified as a source of certification implementation challenge such as the difficulty in justifying costs, coping with staff reluctance and trying to coordinate certification across various governmental groups ended up being key areas of certification benefit. Specifically, the certification of state forests helped state agencies to improve staff morale; achieve greater program consistency and cooperative efforts between Departments and within divisions; increase process efficiencies; and leverage additional public resources.

Boosted Staff Morale

Although state forest agency staff were in many instances initially fearful and reluctant to participate in certification (see 5.5.1a), in many cases certification resulted in improvements to employee morale. Rather than criticizing or dictating forest practices, staff found that the certification audits were a means to recognize and commend departmental efforts, provide constructive feedback and identify opportunities for improvement. In fact, some states referred to certification as a "morale booster" and a means to develop "organizational esteem" by achieving and maintaining certification under third party oversight.

Better Departmental Coordination

While the lack of inter and intra-departmental co-ordination was identified by several states as a source of challenge in implementing certification requirements (see section 5.5.1e), a beneficial outcome of certification for many states was a significant improvement in the consistency of operations within their forestry divisions and a much greater degree of coordinated effort among staff and specialists among Departments. Specifically, several states commented that rather than separate, idiosyncratic governmental efforts, certification helped to establish an organization-wide approach to several key SFM issues such as high conservation value forests, rare and endangered species and forest reserves. In other words, certification helped to keep everyone on the same page. As well, certification assisted in bringing together the "wealth of specialists"

within government who contribute to state forest management including ecologists, wildlife biologists, land surveyors, archeologists, etc. One state even noted that by encouraging improvements in landscape-level planning, certification was helping the state to coordinate their activities with other forest owners on adjacent and nearby properties.[575]

Increased Administrative Efficiency

For many states, certification acted as a form of "springboard" to address lingering issues and encouraged the more timely delivery of state forest management responsibilities. Specifically, greater efficiencies were achieved through the implementation of more formal plan-do-check feedback systems that included timelines and reporting to better track and ensure the completion of tasks. States commented that they were more organized as a result of certification and that the Department was now doing what it said it would be doing. In particular, "things had to get done to meet the annual certification surveillance audit requirements." [576] Overall, the states commented that certification helped to focus their departmental efforts and prompted accelerated effort to "speed things along". For example, one state explained that whereas it had historically taken them many years to complete a management plan, certification introduced process improvements that even with more public input resulted in a much shorter process from 12 years to 2 years.[577]

Improved Access to State Funds

A largely unexpected benefit of certification for several states was that it gave their forest agency a new point of leverage for obtaining program funding that in some cases they had been trying for years to secure. For example, as explained by the Wisconsin DNR, whereas historically their requests for money for road maintenance were turned down by the legislature, when the Department received the audit CAR to address roads, the Governor's office and legislature suddenly became supportive and provided additional

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[575] Interview with Jim DiMaio, State Forester, Bureau of Forestry, Massachusetts, December 13, 2006.
[576] Interview with Andrew Arends, Minnesota DNR, October 24, 2006.
[577] Interview with Bob Mather, Director, Bureau of Forest Management, Wisconsin DNR, October 25, 2006.

base funding for financing roads.[578] The result was better management of their roads and mitigated environmental impact. In other words, by having a third party independent auditor identify the need for resources and with the underlying political support for state certification, state forest agencies were able to provide a supported justification for obtaining the necessary funds to update and/or carry out their forest plans and programs and meet their overall state forest management responsibilities and objectives.   With an independent certification audit in hand, the state agencies described this as having more ammunition to get more resources. Legislators could clearly see what was required for their state forest agency to "do a good job" and there were new risks by not responding. Specifically, failing to meet and/or maintain their state certification commitment was not a political option.

5.5.2b) Enhanced State Forest Management

By adopting certification on their state-owned forests, state governments not only realized administrative improvements but also enhancements in their management of state forests including improved technological capacity and continual improvements in state forest planning, procedures and forestry practices.

Updated Technical Resource Capacity

In response to certification requirements, many state agencies established new inventory systems, better forest models and more formal monitoring, tracking and reporting programs. Certification acted as the catalyst for developing and implementing this new technical capacity that in turn supported administrative efficiency gains and improved forest management. For example, the states commented on how having updated models and improved GIS and GPS-based inventory enhanced their ability to identify endangered plants, pin point special management sites, track harvest by individual species and better prioritize their work. As the Michigan DNR explained, "with our new monitoring, tracking and reporting systems, we can now document sites with

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[578] Interview with Bob Mather, Director, Bureau of Forest Management, Wisconsin DNR, October 25, 2006.

environmental damage and needing some attention…and better allocate funds to mitigation and management."[579]

Forest Management Continual Improvements

Forest certification also promoted on-the-ground continual improvements in the management of state forests. Specifically, pursuing certification encouraged state forest agencies to question their forest management assumptions, better identify problems, refine their forest practices and overall, to "take a deeper look at things". The states described certification as "shaking up their internalized feedback loops", requiring them to test their current forest management strategies. The specific benefit of the peer-to-peer review that certification enabled through regular independent forest audits was also mentioned, i.e. district foresters from other regions would tag along on state certification forest audits and ask questions like, "why did you leave that tree…that's not what we would have done." This promoted continual learning. Many of the states emphasized that they couldn't help but benefit from third party assessment – that there was always room for improvement.

Overall, certification instilled and/or reinforced a culture of continual forest management improvement within state forest agencies. The States commented on how having to maintain a state of preparedness for annual certification audits had forced them to continually work on many facets of forest management with more emphasis than would have been the case without independent scrutiny. Fundamentally, for many states, certification requirements and audit findings had become a "blueprint" to further improve their state forest management program. As the North Carolina Division of Forests explained, "certification provides additional structure to the process of properly managing a forest."[580]

5.5.2 c) Greater Accountability & Transparency

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[579] Interview with Dennis Nezich, Forest Certification Specialist, Michigan DNR, January 16, 2007.
[580] Interview with Michael Chesnutt, Forest Supervisor and Hans-Christian Rohr, Management Forester, North Carolina Division of Forest Resources, Department of Environment & Natural Resources, October 11, 2006.

Forest certification also encouraged greater transparency and accountability in state forest management processes through increased public engagement and the provision of more detailed state forest information. State agencies commented that because of the requirement for public consultation and regular tracking and reporting, certification had generally encouraged more positive public and ENGO feedback. Through the certification process, citizens had enhanced opportunity to provide input and gain an understanding of the state forest objectives, challenges and outcomes and this encouraged greater trust in state forest management practices. As well, the availability of more detailed state forest management information was beneficial not just to the public but also to industry and to state forest policy makers.

5.5.2 d) Demonstrated State Government Leadership

Several certified states, particularly those that certified early on, increased their state profile and put the state in a leadership position in terms of setting an example and having the knowledge and expertise to assist their private forestland owners with certification.

For example, New York State described how when they achieved FSC certification, the local environmental and consumer groups took out a full page ad in the *New York Times* praising the Governor for certifying the state forests.[581]   Pennsylvania explained how their state certification gave them unexpected profile at international trade shows, as well as, special recognition within the U.S. National Association of State Foresters. Certification also helped to position the states in a certification leadership role with their private industrial and non-industrial landowners. For example, one state commented that, "whereas before the state had benefited from industry sharing their experience with us, now industry are coming to us for certification advice."[582] As well, faced with the challenge of encouraging the many small family forest owners to take a more active forest management role, state certification enabled the state forest agencies to communicate more knowledgeably and convincingly about the certification process and opportunities. Certification also helped state governments to compare and evaluate their

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[581] Interview with Frank Dunstan, former State Forest Certification Co-ordinator (2001-2003), Division of Lands and Forests, New York Department of Environmental Conservation, July 6, 2007.
[582] Interview with Dan Devlin, Assistant State Forester, Pennsylvania DCNR, October 13, 2006.

leadership position. For example, it provided a useful benchmark for state policy makers to weigh the state's certification performance relative to other competing jurisdictions, as well as against their own goals.

5.5.2 e) Market Access Gains

Several states provided specific examples of the market benefits from certifying their state forests, however, for others, the market gains were uncertain – either too difficult to measure or not yet realized. The three commonly identified certification market benefits of state forest certification included: aiding in the sale of state public timber and therefore, supporting state forest harvest levels and sustained state revenues; helping industry in the state stay competitive and meet growing customer demands; and encouraging the in-state usage of certified state fiber.

While none of the states mentioned that they received a market premium for their certified wood, in some cases the certified public fiber was receiving preference by local manufacturers at the "mill gate". Hence, state certification was helping to meet the needs of local mills and sustain market access and demand for state timber. Further, certified state fiber was not only meeting local mill demand but also encouraging local demand. By contributing to supply, it was noted that state certification was helping to achieve a sufficient economic scale of certified volume within the state to lead other purchasers to chain of custody certify and seek certified fiber. Several states commented that certification market demand was still developing and evolving, as certain sectors (such as solid wood manufacturers) were not yet fully onboard and chain of custody certifications were only just beginning to increase. Some states, such as Maine, explained that the government had begun to shift from a supply-side focus on increasing the acreage of certified forest to a "demand-pull" strategy involving market campaigns and education to increase in-state market demand.[583] Overall, the market benefits of state certification were deemed to be just starting to play out, with the states expecting to see more measurable market gains over the next few years as demand increased.

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[583] Interview with Don Mansius, Director Forest Policy & Management, Maine Forest Service, Department of Conservation, October 20, 2006.

5.5.2f) Overview of Co-regulation Benefits

The previous examples illustrate that the co-regulation of state-owned public forestland through certification facilitated an increase in state forest governance capacity. In many cases, state forest agency resources increased, departmental coordination improved, staff morale was boosted and greater organizational esteem achieved. As well, enhanced public engagement and reporting increased the transparency and accountability of forest management processes and improvements in on-the-ground state forest practices were realized through more formal tracking and monitoring systems, better models, updated inventories and continual learning through independent 3rd party auditor feedback. Appendix D provides a summary of the range of positive forest governance outcomes (by state) as reported in the respective state forest certification audit reports.

5.6   Summary

This chapter began by presenting the puzzle as to why U.S. state governments have responded so directly and enthusiastically to forest certification. As the analysis has shown, state forest certification was influenced by a combination of economic, environmental, social and political pressures and also expectations of market gains and forest management improvements. While market benefits remain uncertain, the trend towards state government certification co-regulation has been reinforced by positive state forest governance outcomes.

The first section of the chapter explained the global scale of the U.S. forest industry and the tremendous complexity in U.S. forest administration, including the variability in state-level forest tenure and regulatory arrangements across the country. Acknowledging the central role that state governments play in the delivery of private forest laws and the management of state forests, the chapter then turned to examining the role of state governments in forest certification. I outlined the status of certification uptake in the U.S. and presented the spectrum of state government certification engagement in order to illustrate that state governments account for a disproportionately large percentage of the U.S. certified forest area and that the certification of state forests represent a notable trend

towards direct state government co-regulatory role in forest certification. I provided a snapshot of the extent of state forest certification in terms of the participating states across the U.S. and the timing of certification adoption and argued that the state certification trend has continued with Indiana achieving certification in early 2007, Ohio committing to certification in late 2007 and several other states keeping a watchful eye on market developments in preparation for certification.

The chapter then identified and analyzed the state certification drivers, implementation debates and state certification rationale and argued three key points. Firstly, I argued that the states were spurred to certify as a result of a combination of issue-based and opportunity-based drivers that played out differently across the various forest regions. Customer pressure, ENGO advocacy, declining state economies and inter-state competition were all *issues* that prompted state certification response. Whereas, private foundation funding, increased market access and state government leadership were potential *opportunities* that influenced state governments to certify. I explain that the expectations of the major industrial forest producers towards whether state governments *should* certify were varied and therefore, had a less prevalent role in influencing state certification as compared to some of the other factors.

Secondly, I argued that the timing of state certification was not only influenced by the combination of various drivers but also the extent of debate around three questions: whether the state could afford it; which standard to pursue; and whether certification would threaten state forest policy authority. I evaluated the pros and cons of each side of the debate around these areas of concern and argued that certification proceeded as states determined that the economic risks of not certifying were greater than the costs; that dual certification would satisfy the greatest constituency for minimal incremental effort and that certification would complement state authority by verifying, reinforcing and rewarding the state's sound forest practices. And finally, I argued that the rationale for state forest certification included a range of economic, environmental and socio-political justifications.

In the final section of the chapter, I evaluated the governance implications of state certification, focusing on the implementation challenges and certification outcomes. I outlined the implementation hurdles and argued that their resolution served as a springboard for achieving positive forest governance outcomes such as greater administrative efficiencies and enhanced state forest management programs and practices. I then identified and assessed the range of specific state certification benefits including improved: staff morale, departmental coordination, access to state funds, forest planning timeframes, technological capacity, on-the-ground forest practices, public engagement, forest tracking and reporting and state government forest management leadership. As well, I pointed out that while there have been some market benefits in terms of increased local mill access for certified state fiber and encouragement of in-state processing of certified fiber, the measurable market gains from state certification have yet to fully play out. In other words, state certification outcomes have, so far, pertained more to forest governance improvements than to forestry market benefits. Overall, rather than a substitute for traditional state government role in managing public forests, state forest certification is proving to be an innovative tool to supplement rather than supplant state government authority and enhance state forest governance capacity across the U.S.

Chapter 6

Certification-Policy Interaction in Sweden:
Private-Public Forest Governance Synergies

6.1 Introduction

Sweden is a global environmental leader. The Swedish government hosted the United Nation's first international conference on international environmental issues in Stockholm in 1972[584] and Sweden consistently ranks among the leading countries in the world with respect to environmental sustainability.[585] Sweden has also been a unique global leader in forest certification. It was the first country in the world to achieve a national FSC standard (in 1998) and was an initiator and founding member of the PEFC program. Furthermore, what is particularly interesting about forest certification in Sweden is that it emerged in the early 1990s around the same time as the government introduced a major shift in the Swedish forest regime from prescriptive regulations emphasizing timber production to frame law legislation, balancing environment and production forest goals.[586] The coincident timing raises questions about the nature of the interaction of the public and private forest governance systems. With an apparent retreat of the Swedish state and enthusiastic certification response, was certification stepping in to fill a regulatory gap, effectively substituting private rules for traditional public authority?

Overall, this chapter argues that state forest authority has not been in retreat in Sweden and private forest rules have not substituted for public policy. Certification has not been adopted and/or endorsed as a stand-alone forest policy mechanism. Rather, certification

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[584] The United Nations Conference on the Human Environment, June 5-16, 1972, Stockholm, Sweden.

[585] For example, Sweden ranked #1 in the 2001 U.N.-sponsored global study comparing the quality of life and the environment among nations See Prescott-Allen (2001). As well, Sweden ranked #2 and #3 in the 2006 and 2008 global Environmental Performance Index (EPI) rankings. The EPI measures and compares the sustainability performance of nations and is conducted by Yale University and Columbia University in collaboration with the World Economic Forum (see: http://epi.yale.edu/Home).

[586] Frame laws are frequently employed in Sweden. Rather than detailed legislation, they define general policy goals and are assumed to be supplemented by additional regulation. See Eckerberg (1990:17).

and public policy have operated in parallel in Sweden with public and private forest rules contested back-and-forth and continually improved upon within a co-regulatory forest governance system. Swedish forest authorities recognized both the opportunities and limitations of certification and thus, enabled and leveraged forest certification as an additional governance tool within the overall policy mix. Specifically, the chapter argues that the certification-policy interplay in Sweden has contributed to a sharpening of the national forest goals and targets; enhancements in the sustainable forestry discourse; and an ongoing testing and strengthening of the country's sustainable forest management vision.

This case study draws on the english secondary literature on forest certification in Sweden,[587] as well as introduces primary empirical data from approximately 20 semi-structured interviews that I carried out in Sweden in the Fall 2007 with governmental, industry, academic and non-governmental forest certification specialists (see Appendix A).[588] The interviews explored the drivers, benefits and challenges of forest certification in Sweden and in particular, the nature and expectations of government role, and the implications of certification-policy interaction to the national forest policy goals (see Appendix E).

The chapter begins with an overview of forestry in Sweden. I provide a snapshot of the development and evolution of Swedish forest certification and the expectations and positioning of government role in certification. In particular, in this section I argue that the key governmental role has been in providing an enabling policy climate for certification development, implementation and ongoing improvement. I then examine the interaction of the public and private forest governance systems and argue three central points. Firstly, as evaluated in section 6.5.1, the timing of the establishment of a new forest policy regime in Sweden created a window of opportunity for co-regulatory

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[587] For english literature on forest certification in Sweden see Boström (2003); Cashore, Auld, & Newsom (2004); Elliott (2000); Elliott & Schlaepfer (2001); Gulbrandsen (2005a, 2005b); Hysing & Olsson (2005); and Klingberg (2003).
[588] This study was conducted through the support of a UBC Faculty of Arts U.S. Studies Weyerhaeuser Foundation research grant under the supervision of Dr. Peter Dauvergne, Canada Research Chair in global environmental politics at the University of British Columbia.

governance. Secondly, as demonstrated in section 6.5.2, there has been a dynamic interplay between certification and policy that has helped to define and continually improve on the national forest objectives and targets. And finally, I argue in section 6.5.3 that certification has supplemented the forest discourse in Sweden by creating a privately-led forum for SFM policy engagement, and by challenging forest owners to define and operationalize the national vision of balancing forest production and environmental goals.

6.2 The Swedish Forest Regime

In terms of comparative area, Sweden is approximately half the size of the province of Ontario but has roughly the same amount of productive forest. It is a heavily forested Nordic country with very high forest productivity.   With less than 1 percent of the world's forestland, Sweden is the world's third largest exporter of sawn timber and pulp and the fourth largest exporter of paper.[589] Sweden is a major player in the global forest economy and has been an international forest certification leader accounting over the past decade (1995-2005) for just under10 percent of the export-value of globally traded forest products and just over10 percent of the global certified forest area.[590] Forestry in Sweden is characterized by five main features: intensively managed secondary growth boreal forest; a majority of family-owned forest concentrated in the south; a highly fragmented fiber supply; EU export dependence; and frame law forest legislation that aims to balance environment and production forest values. These attributes contributed to the country's leading forest certification acceptance and are each addressed below.

6.2.1 Intensively Managed Secondary Growth Boreal Forest

The Swedish landscape is largely boreal and therefore, dominated by coniferous forests with Norwegian Spruce and Scots Pine constituting roughly 85 percent of the timber stock. Deciduous forests (mainly birch and aspen) account for approximately 15% of the country's 28 million hectares of productive forestland. Swedish forests have been

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[589] Swedish Forest Agency (2007b:28).

[590] In 2000, Sweden accounted for 15% of the global certified forest area. By 2007, Sweden's percentage share dropped to 6% due to the increase in the global total. See UNECE Timber Committee annual market statements for a summary of annual certification totals by region (http://www.unece.org/timber/tc-publ.htm).

managed since the 18th century and nearly all forests have been influenced by human activity. Only 4 percent of Swedish forestland is characterized as "old natural forest".[591] These stands are found mostly in the northern interior regions of the country and are largely protected in national parks and nature reserves.

A consequence of production-oriented forest regulations and intensive silviculture practices over the past half-century is that Sweden achieved the highest level of forest productivity as compared to any other northern forest-producing nation.[592] However, ecological forest values suffered losses as a result of the production emphasis.[593] In order to address this loss, nature conservation and increasing forest biodiversity are now also Swedish forest policy priorities (see Section 6.2.5).[594] As evaluated in section 6.5, forest certification has provided a complementary mechanism to assist in achieving the government's sustainability forest objectives.

6.2.2 Family Forest Ownership

As shown in Figure 6.1, 81 percent of Sweden's forests are privately owned (private persons, companies and the Church). Families are the largest single category of forest owner (51%) followed by private forest companies (24%). There are approximately 350,000 individual family forest owners who manage many small forest properties across Sweden, totaling approximately 11.7 million hectares of productive forest. The Church of Sweden is also a large private forest owner, controlling approximately 1.4 million hectares of forest (6%). Public forestland accounts for 19 percent of the Swedish forest

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[591] National Board of Forestry & Swedish Environmental Protection Agency (2003:4).

[592] Sweden has the highest average forest growth rate (net annual increment per forest area) of the Nordic countries. Over the past 85 years, the growing stock increased from 1.76 billion m3sk in the 1920s to 3.2 billion m3sk in 2005. See Swedish Forest Agency (2007a:319). (m3sk = cubic metre standing volume above the tree stump.)

[593] For example, over the past fifty years there has been a decline in broad-leaved forests, a loss of dead-wood and an over-predominance of even-aged uniform forest structure. The government has identified that 200-300 forest-dwelling species are threatened with extinction within 100 years unless appropriate measures are taken. See National Board of Forestry & Swedish Environmental Protection Agency (2003:5).

[594] For details on Swedish legislation to conserve nature and enhance forest biodiversity see National Board of Forestry & Swedish Environmental Protection Agency (2003). For details on Sweden's National Biodiversity Strategy see: http://www.biodiv.se/eng/.

and the majority is managed by the state-owned forest company – Sveaskog.[595]   As well, the National Property Authority manages 882,000 hectares of the state-owned productive forest. Municipalities and County Councils own and manage approximately 324,000 hectares or just under 1 percent of Sweden's productive forests.

Figure 6.1 Sweden Forest Ownership
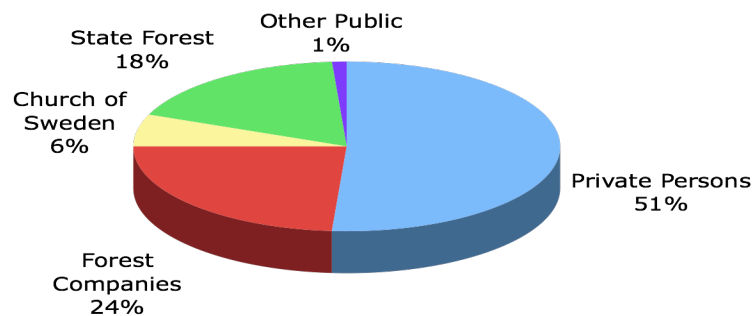
Although a vast majority of Swedish forestland is privately owned, there is a common-law right of free access to all woodland (that is not part of a private dwelling). This "right to roam" has helped to minimize land use conflicts particularly regarding shared recreational usage of the forest.[596]

Sweden is characteristically divided into three regions: the North (Norrland), Central (Svealand) and South (Götaland) (Figure 6.2). The majority of the population and the most productive forests are located in the south. 80 percent of the forestland in the South is family-owned as compared to 35 percent in the North. The north is sparsely populated and includes mountainous alpine and sub-alpine regions on the west coast. Private forest company land is located primarily in North and central-Sweden. Sveaskog state forest

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[595] Sveaskog is Sweden's largest individual forest holder, managing 3.4 million hectares or 15% of Sweden's productive forestland. Sveaskog AB is wholly owned by the Swedish state through Förvaltnings AB Stattum under the Ministry of Industry, Employment and Communications. In April 1994, more than 3 million ha of state owned forest became a part of the company AssiDomän AB. In 1999, 900,000 ha of AssiDomän was acquired by the state and formed Sveaskog. In December 2001, Sveaskog acquired all shares in AssiDomän. See Asserståhl (2006).

[596] The right of common access gives citizens freedom to enjoy the countryside but there are limitations. For example, access does not include the use of vehicles. As well, it is illegal to harm the environment, to cause financial losses to a landowner or to prevent a landowner from using her/his land.

holdings are distributed throughout Sweden with the majority in Norrbotten and Västerbotten counties in the North. The North is also characterized by traditional Sámi territory and forestlands for reindeer grazing.[597] Southern forests have the highest productivity (including boreonemoral and nemoral forests)[598] but have also historically been the most intensively harvested and/or altered. However, over the past few decades the forest area in the South has been increasing largely due to the conversion of low yielding agricultural land back to forest in response to the increased financial value of forests as a raw material input to the forest industry. Overall, forest owner SFM interests and concerns differ between the northern and southern regions of the country and this has been reflected in the country's certification debates and the specific regional adaptations within the Swedish certification systems.

Figure 6.2: Regions of Sweden
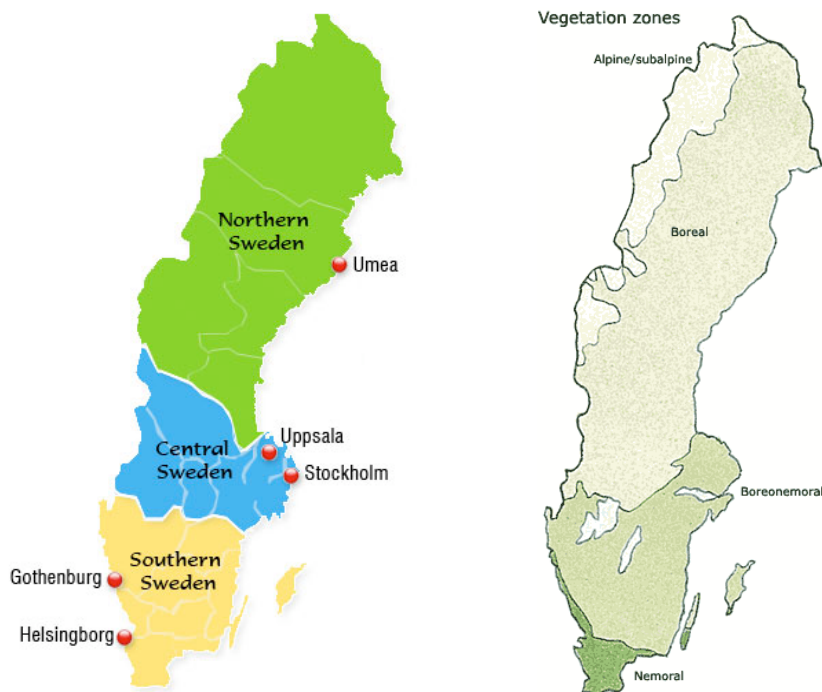
6.2.3 Fragmented Fiber Supply

The fiber supply in Sweden is highly fragmented and the demand is increasingly competitive. While the large Swedish forest companies are integrated – operating mills as well as having access to sizeable land holdings, they are also reliant on timber purchases from the many individual private forests across the country.[599] Currently, family forest owners provide 60 percent of Sweden's timber production. The average size of a family forest in Sweden is only 50 hectares, and therefore, to co-ordinate production and help achieve economic efficiencies, family forest owners are encouraged to join one of Sweden's four main private forest landowner associations under the Swedish Forest Owners Federation (Skogsägarna LRF).[600] However, Sweden's private owners are very independent and less than 50 percent have chosen to be LRF members.[601] Therefore, securing fiber access remains competitive, dynamic and an ongoing challenge.[602] The fragmentation of the fiber supply has been a central issue in designing feasible chain of custody forest certification systems for the country.

Pulp mills and sawmills are distributed throughout Sweden with over half of the sawmills located in the South. Of the approximately 86 million cubic meters of fiber consumed annually within the country, pulp and paper mills utilize 47.6 million cubic meters (55%) and sawmills 37.2 million cubic meters (43%).[603] The majority of Swedish sawmills are independent (i.e. not owned by the private landowner associations or forest companies)

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[599] The three major private Swedish forest companies with large productive forestland holdings include: SCA (2 million ha), Holmen (1.035 million ha) and Bergvik (1.9 million ha). (Bergvik skog AB was formed in March 2004 and acquired 1.5 million hectares of productive forestland from Stora Enso and 321,000 hectares from Korsnäs.) As detailed in footnote #595, Sveaskog is also a major industrial forest operator with 3.4 million hectares of state-owned forest holdings.

[600] Four of Sweden's six private landowner associations are coordinated by the Federation of Swedish Forest Owners (Skogsägarna LRF). Norra Skogsägarna (north), Skogsägarna Norrskog (north), Skogsägarna Mellanskog (central), Södra Skogsägarna (south) are members of LRF. Nätrgaälven Virkesförsäljningsförenin and Västra Värmlands o. Dals Skogsägareförening are independent associations.

[601] The four forest owner associations have approximately 90,000 members with a total forest area of approximately 6 million hectares. See Swedish Forest Agency (2007b:9).

[602] The market for fiber in Sweden has recently become even more competitive as a result of increasing demands from the bioenergy sector that is responding to the Swedish government and the EU's renewable energy targets. The forest industry presently consumes more than half of Sweden's biofuels and the competitive use of wood fuels for district heating and electricity production are increasing. See Swedish Forest Agency (2007a:327).

[603] Swedish Forest Agency (2007a:325).

and account for roughly 65 percent of the country's solid wood production.[604] Recently, the sawmilling industry in Sweden has become increasingly centralized as a result of closures and consolidations caused by the economic downturn in the sector in the late 1990s. The majority of the independent private sawmills are members of the National Federation of Private Independent Sawmills (Sågverkens Riksförbund).[605] Setra is Sweden's largest sawmilling company with 10-12 sawmills across the country and is 50 percent state-owned by Sveaskog and 26 percent by Mellanskog LRF.   The private sawmills are of note as they played a leading role in the establishment of PEFC certification in Sweden – supporting the PEFC standard largely due to operational concerns regarding the feasibility of meeting FSC's initial chain of custody fiber segregation and tracking requirements.

6.2.4 EU Export Dependence

Forestry is a major sector of the Swedish economy accounting for 12 percent of the country's exports and 4 percent of GDP.[606] The forest industry in Sweden is dependent on exports with about 70 percent of sawn wood products and 80 percent of paper production going to Western European markets. For example, over the past decade, Sweden has supplied European customers with approximately 10 percent of their paper needs and 12 percent of their sawn lumber demand. Germany and the U.K. are Sweden's biggest export customers and were very influential in driving Swedish companies to seek FSC certification. In order to meet their fiber demands and production requirements, Swedish forest companies also rely on fiber imports (particularly deciduous pulpwood) from Russia and the Baltic States of Latvia and Estonia and also Norway.[607] This has recently become a source of challenge for the Swedish government in terms of controlling for the import of illegal timber.[608]

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[604] All of the private landowner associations own sawmills. Of the two largest associations, Mellanskog (central) operates bio-energy plants and Södra (south) operates pulp mills and bio-energy plants.
[605] The regional private independent sawmill associations under the National Federation include: Såg i Syd (south), Sågverken I Mellansverge (central) and SÅGAB and Nedre Norrlands Sågverksförening (north).
[606] Swedish Forest Industries Association (2006).
[607] Sweden imports approximately 15% of its industrial wood consumption. Russia is a major supplier and 80% of the imported Russian fiber supply is birch pulpwood (UNECE/FAO, 2007b:2).
[608] Sweden is an active partner in the EU-FLEGT Action Plan that provides the basis for trade measures to eliminate illegally logged timber to European markets. For advocacy reports on the issues with respect to

6.2.5 The New Forest Regime – "Freedom with Responsibility"

The final of the five distinguishing features of the Swedish forest regime is the country's long history of prescriptive forest management enforced through information, outreach and moral suasion rather than punitive penalty.[609] As well, over the past decade Swedish forest policy has undergone a major transformation from policies based on maximizing sustained yield to multiple use forest legislation promoting the balancing of environmental conservation and timber production goals.

Forestry in Sweden is regulated nationally under two main pieces of legislation: the Forest Act (1994) and the Environmental Code (1998). The Forest Act sets the conditions for timber harvesting, forest regeneration, the maintenance of forest health and the protection of cultural and environmental forest values. The Environmental Code provides the requirements relating to the conservation of ecological values including the protection of habitat for endangered species.[610]

Although not formally linked to the Forest Act or the Environment Code, specific environmental targets for sustainable forests are also defined under the national "Sustainable Forests" objective established by the Swedish parliament in 1999 (Table 6.1).[611] The purpose of the Sustainable Forest objective is to maintain the functionality of ecosystems, preserve the natural biodiversity of Swedish forests and safeguard their cultural heritage and other societal values.[612]

Swedish import of illegal fiber see Lloyd (2000); Lopina, Ptichnikov & Voropayev (2003); and Taiga Rescue Network (2005).

[609] Eckerberg (1990).

[610] In addition, there are ministerial decisions that set specific, detailed regulations on forest management as well as, several other legislative Acts that apply to forestry including: Act on Cultural Remains, Hunting and Game Act, Act on Chemical Products, Ordinance of Pesticides, Act on Reindeer Husbandry, Work Environment Act and the Employment Protection Act.

[611] Sustainable Forests is one of Sweden's 16 environmental objectives under parliament's *Swedish Environmental Objectives – Interim Targets and Action Strategies* to be achieved by 2020. The "Living Forests" goals are to: preserve the national productive capacity of the forest land; maintain the natural function and productivity of forest ecosystems; and maintain viable populations of domestic plant and animal species living in natural conditions. In 2000-2001, the government introduced four sustainable forestry targets as shown in Table 6.1.

[612] Swedish Forest Agency & Swedish Environmental Protection Agency (2007:19).

Table 6.1: Sustainable Forestry Objectives & National Targets

Interim Targets	Requirement & timeframe
Target 1: Long term Protection of Forest Land.	From the base point of 1998, a further 900,000 ha of high conservation value forestland will be excluded from forest production by the year 2010.
Target 2: Enhanced Biological Diversity	By 2010, the amount of dead wood, the area of mature forest with a large deciduous element and the area of old forest will be maintained and increased by: - Increasing the quantity of hard dead wood by at least 40% throughout the country and considerably more in areas where biological diversity is particularly at risk. - Increasing the area of mature forest with a large deciduous element by at least 10%. - Increasing the area of old forest by at least 5%. - Increasing the area regenerated with deciduous forest.
Target 3: Protection of Cultural Heritage	By 2010 forestland will be managed in such a way as to avoid damage to ancient monuments and to ensure that damage to other known valuable cultural remains is negligible.
Target 4: Action Programs for Threatened Species	By 2005, action programmes will have been prepared and introduced for threatened species that are in need of targeted measures.

Source: Swedish Forest Agency (2005).

Forest policy development has alternately fallen under the authority of either the Ministry of Agriculture or Industry and as of June 1, 2007 resides under the Ministry of Agriculture.[613] Forest policy implementation is the responsibility of the Swedish Forest Agency (SFA) which prior to January 2006 was referred to as the National Board of Forestry (NBF).[614] The main role of the SFA is to supervise compliance with the *Forest Act* and the *Environmental Code*. The SFA oversees 120 local offices whose primary role is to deliver national forest policy by providing forest management advice and

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[613] As of June 1, 2007, forestry moved from the Ministry of Enterprise, Energy and Communications to the Ministry of Agriculture.

[614] The National Board of Forestry (NBF) was re-named and re-organized in January 2006 in order to improve access and increase the consistency of forest policy delivery across the country. Rather than 24 County Forestry Boards and 250 local district offices, the Swedish Forest Agency (SFA) is now more centralized with one central office and 120 local offices within 45 districts and five regions. Although less independent, the SFA's 45 district offices continue to provide forest owners with practical SFM guidance to meet the national forest policy goals and objectives.

information to private forest owners.[615] As well as providing extension services and advice to private forest owners, the SFA gathers and publishes statistics about the forest sector; carries out annual inventories; monitors forest health; conducts forest management planning; and in cooperation with the Swedish Environmental Protection Agency (under the Minister of Environment) and County Administrative Boards supports nature conservation efforts.

One of the major drivers of forest regulation in Sweden has been a fear of a national fiber shortage. Dating back as far as the mid-nineteenth century, the Swedish government recognized that agricultural conversion and growing industrial demands were depleting the nation's forests.[616] Hence, since the first Forest Act in 1903, forest policy has emphasized forest regeneration and production.   The forest industry and government have historically worked very closely and co-operatively to ensure a sustained timber yield. However, the policy focus changed in the early 1990s, as a result of increased public concern and awareness over nature conservation and the protection of non-timber forest values.

Following a national forestry commission in the late 1980s, in 1994, the Swedish Forest Agency introduced a new Forest Act and brought about two major transformations in the Swedish forest regime. Firstly, Sweden's historic forest policy focus changed from a production emphasis to balancing environmental and economic forest values and secondly, the government's policy approach shifted from prescriptive regulation to results-based legislation. According to the revised Forest Act (1994), "forest should be sustainably managed aiming at ensuring the production of high and valuable yield and at the same time ensuring forest biological diversity and the possibility of multiple uses of forest, now and for future generations."[617] Rather than spell out specific operational-level regulations, the new Forest Act was frame law based on the premise of letting

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[615] For example, the district forest offices delivered the information campaign "Greener Forest" (1999-2001) – reaching every third forest owner with indoor classes as well as field discussions to show different possibilities to implement the goals of the forest policy in practical forestry operations including showing how environmental concerns could be applied in SFM.
[616] Hamilton (2004).
[617] See: www.skogsstyrelsen.se.

landowners decide how best to achieve a balance between the environment and productions goals. The government described their approach as "freedom with responsibility". In order for landowners to maintain their freedom under the new regime, they needed to demonstrate their SFM responsibility. This involved firstly, determining the optimal desired balance of forest values and, secondly, implementing the most appropriate SFM practices. The government would closely monitor and, if they found that either production or environmental values were suffering, then they would take action to introduce appropriate regulations. As explored in the next sections of the chapter, the government's new forest policy approach along with the industry's desire to fend off ENGO-led market protests provided favourable conditions for the development and adoption of forest certification in Sweden.

6.3   Sweden's Forest Certification Leadership

Sweden accounts for 6 percent of the world's certified forest.[618] In particular, Sweden has been a global leader in the development and adoption of FSC certification. Sweden was the first country to establish an FSC national standard and currently ranks third after Canada and Russia for total area of FSC-certified forest. As well, the state-owned company Sveaskog holds the second largest FSC certification in the world (3.4 million hectares).   The following section provides a snapshot of the status of certification in Sweden and an overview of the development and adoption of the Swedish FSC and PEFC certification systems.

6.3.1 Certification Status

As of late 2007, over 60 percent of Sweden's productive forestland has been certified – approximately 7.4 million hectares to the PEFC standard and 10.4 million hectares to the Swedish national FSC standard (Table 6.2).

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[618] UNECE/FAO (2007a:111).

Table 6.2: Sweden Forest Certification Status (2007)

	Certified Forest Area (million ha)
FSC[619]	10.4
PEFC[620]	7.4
TOTAL*	~14 million

(*Some forest is dual-certified)

The majority of family forests have been certified under the PEFC standard and forest companies account for the majority of FSC certified forest (Figure 6.3). The largest private company certifications include: SCA (2 million ha), Bergvik (1.9 million ha) and Holmen (1 million ha). An increasing number of companies (including Bergvik and Holmen) have also dual-certified to the PEFC standards. The Church of Sweden has been divided in its support – eight parishes PEFC-certified and five certified to the FSC. The state forests have certified only to the FSC standard.[621]

Figure 6.3: Certified Forest in Sweden (by ownership category), 2007

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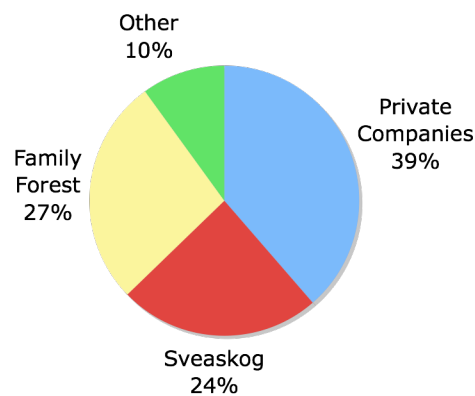
[619] See: www.certifiedwoodsearch.org/.
[620] See: www.pefc.se.
[621] Sveaskog is Sweden's largest public land certification holder (3.4 million ha) and the National Property Board is the country's second largest public land certification holder with 1.1 million hectares FSC certified forest.

6.3.2 Certification Development & Adoption

As noted previously, there are two certification standards operating in Sweden – the FSC and the PEFC, and Sweden has been a leading nation in terms of the development of both. The Swedish FSC national standard was established in 1998 and the Swedish PEFC standard was endorsed in 2000.[622]

a) *Certification Development*

Forest certification emerged in Sweden following a range of international forest controversies within the country in the 1980s including the clear-cutting of old growth forest in the north, chlorine pulp bleaching and the use of non-indigenous species. In 1994, WWF Sweden, in cooperation with the Swedish Society of Nature Conservation (SSNC) established an informal group to begin work on drafting a Swedish FSC standard.[623] By January 1996, the Swedish forest industry became engaged in the process largely because they were getting direct market signals from their large Western European customers who were under intense ENGO advocacy pressure to source FSC certified forest and paper products.[624] As well, Swedish companies were acutely aware of the market influence of international advocacy groups, as experienced with the effective ENGO-driven anti-chlorine bleaching campaigns in the 1980's. And finally, the industry's attempt to develop a competing Nordic Certification standard had failed.[625] Therefore, unlike forest companies in North America that adopted a defensive stance towards the FSC (out of fear of harvest reductions), Swedish forest companies took a proactive position of driving forward the development of a national FSC standard to quell ENGO pressure as well as give their industry a potential competitive advantage in the global market.

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[622] Both systems offer group and individual certification options, as well as chain of custody certification. Sweden is also the only country in the world to have a PEFC-endorsed contractor certification option. Most family forest owners have PEFC group certified under the regional landowner associations, and the major forest companies all hold individual certificates under the FSC program.

[623] For detailed accounts of the development of the Swedish FSC and PEFC certification standards see Cashore, et al. (2004:200-213); Elliott (2000:190-202); and Lindahl (2001).

[624] Cashore, et al. (2004:205).

[625] In 1995 the Swedish Forest Industries Association launched the *Nordic Forest Certification Project* in cooperation with representatives from the Finnish and Norwegian forest industries. The project never gained traction largely because it was actively boycotted by Swedish ENGOs.

The Swedish national FSC working group was formally established in February 1996 and within fourteen months had reached an agreement on a draft national FSC standard.[626] The working group submitted the standard to FSC International in the Fall 1997 and it was ratified in January 26, 1998 and published on May 5, 1998. Although the working group reached a consensus agreement surprisingly quickly, they achieved it without resolving certain fundamental SFM questions[627] and without the support of two major groups – Greenpeace and the Federation of Family Forest Owner's Associations.

Greenpeace withdrew from the FSC working group early on in the process – considering the discussions with industry a "sell out" over the fundamental allowance of intensive industrial forest methods (e.g., clear-cutting, the use of exotic species, fertilizer and pesticide usage, etc.).[628] The family forest associations pulled out in April 1997 as they deemed the standard to be biased towards large industrial operators and not sufficiently reflective of family forest owner interests as per the structure and operations of small privately owned forests.[629] As well, they knew that they were in an excellent position to establish their own standard as several of the landowner associations had already developed their own environmental management standards.[630] The family forest owner associations and the private independent sawmills of Sweden began immediate work on

[626] The FSC working group was chaired by Dr. Lars Eric Liljelund (senior advisor to the Minister of the Environment) and included six environmental representatives, six economic representatives and three social representatives.

[627] Interviewees explained that an accelerated FSC consensus was initially reached largely on the basis of "avoided conflict" rather than necessarily achieving agreement over specific targets. FSC International recognized that the standard lacked resolution and specificity in key areas (e.g. the protection of old growth, logging of key habitats and the use of intensive silviculture methods), however, as interviewees further explained, FSC International needed a flagship and did not want to discourage the Swedish initiative. They therefore ratified the standard on the understanding that the first round of revisions to the standard would address the short-comings and define the necessary SFM targets.

[628] Interview with Karin Lindahl, Uppsala University, September 18, 2007. Karin was a founding member of the Taiga Rescue Network and a member of FSC's International Board of Directors 1997-1999.

[629] Northern family forest owners' main point of contention with the FSC standard was that they did not want certification to provide for increased Sami access rights to reindeer grazing on private forestland. Key issues in the South were largely financial related to reduced harvests resulting from key biotope and deciduous forest set-aside requirements and restrictions on insecticide usage. They did not think it was reasonable to expect small forest owners to preserve large key habitats. As well, a fundamental hurdle was that the FSC chain of custody rules required fiber segregation rather than a percentage-based system therefore, creating a hurdle for the small independent private sawmills to certify their highly fragmented fiber supply chains. (Interviews with Tage Klingberg (past chairman Skogsägarna LRF), September 11, 2007; Folke Stenstrom (past Director PEFC Sweden), September 11, 2007; and Jan-Åke Lunden (Chief forester Skogsägarna LRF), September 19, 2007.) Also see Elliott (2000:196); and Lindahl (2001:15).

[630] Interview with Tage Klingberg (Past chairman of Skogsägarna LRF), September 11, 2007.

formalizing an alternative internationally recognized national certification program to the FSC that provided greater flexibility to suit the range of private forest owners.[631] The Swedish PEFC Interim Council held their first meeting on June 23, 1999 and within six months had completed a draft of the Swedish PEFC standard (which included the group certification standards of the various Swedish landowner associations).[632] The standard achieved endorsement under the international PEFC program in May 2000.

In the autumn 2000, the Swedish FSC and PEFC programs attempted to address some of the logistical industry problems (from having two separate standards) by creating a bridging document to mutually recognize the two standards. The cooperative effort was referred to as the *Stock Dove* process. Although meetings took place among the various stakeholders and the Stock Dove committee developed a set of recommendations by December 2001 to harmonize the two standards, the process never went forward.[633] However, with the exception of the Sámi access requirement, the Swedish PEFC did incorporate the Stock Dove recommendations (2002 and 2004 revisions) in order to close the gaps between the standards.[634] The FSC, on the other hand, wanted to maintain the rigour, independence and distinction of their standard from the PEFC program and did not follow-up on the Stock Dove recommendations.

FSC Sweden commenced their standard revision process in 2003 and after intensive debate over key SFM issues that had been unresolved with the first version of the standard, the groups finally reached agreement on a revised draft standard in May 2005.

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[631] Mellanskog had already established their own regional certification standards for its members (based on ISO 14001) and this along with other member association environmental standards served as templates for the development of the Swedish PEFC standard (Interviews with Folke Stenstrom (Past Director PEFC Sweden), September 11, 2007; and Jan-Åke Lunden (Chief forester Skogsägarna LRF), September 19, 2007).

[632] The PEFC Council included the forest owner associations, the sawmill association and sections of the Church of Sweden who participated as observers. ENGOs were invited but chose not to participate. See Lindahl (2001:14).

[633] The groups involved in the Stock Dove committee included: the Federation of Forest Owners, the Swedish Forest Industries Association, the Swedish Society for Nature Conservation and the World Wildlife Fund.

[634] The three main recommended changes to the PEFC standard based on the Stock Dove process included: increasing the nature conservation set aside requirement from 3% to 5% in northern Sweden (implemented October 1, 2002); a nature value assessment applied to all estates without Green Management Plans or Environmental Consideration Documents; and a key woodlands habitat logging moratorium introduced up to December 31, 2004. See Skogägarna LRF (2002).

However, FSC International subsequently turned back the standard as it was deemed to not have achieved sufficient specificity.[635] Two more years of debate produced another draft that was then also rejected by FSC International in the Fall 2007.   Presently, the majority of stakeholders remain engaged in the continuing revision process but with a high level of frustration. Early in 2008, Sweden's lead ENGO – the SSCN withdrew from the Swedish FSC Board explaining that the standard was weak and "the lack of observance substantial".[636]

Despite the failure of the Stock Dove process to formally mutually recognize the PEFC and FSC standards in Sweden, the standards have nevertheless become closely harmonized. For example, as summarized in the 2005 comparative study of the Swedish PEFC versus FSC standards, "there are not any essential differences between the requirements of the two standards apart from the slightly higher harvesting restrictions in FSC certification and stricter commitment by contractors in PEFC certification."[637]

b) Certification Adoption

Certification uptake in Sweden occurred early and rapidly (Figure 6.4). All of the major forest companies in Sweden were certified to the FSC by 2000. In fact, many companies FSC-certified prior to the FSC Board approval of the Swedish standard.[638] The first PEFC certifications also preceded the formal international approval of the standard in 2000. Several church parishes, private independent sawmills and the landowner associations were all early PEFC adopters. Following the initial certifications, there was an increasing trend among the private independent sawmills and the large forest companies to dual-

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[635] Interview with Mårten Larsson, Manager Technical Development and TQM, SCA, October 31, 2007.
[636] See: FSC-Watch, "FSC crisis grows as major Swedish NGO withdraws", March 18, 2008, www.fsc-watch.org/archives/2008/03/18/FSC_crisis_grows_as). The SSNC's decision followed from the mounting criticism by the Swedish NGO Network (Skydda Skogen) that Swedish FSC certified companies had major violations against the standard (e.g., clear cutting old growth forests and setting aside areas that lacked high conservation values). See: FSC-Watch, "Sweden- Major violations against the FSC standard", March 5, 2007 (www.fsc-watch.org/archives/2007/03/05/Sweden).
[637] Savcor (2005:70). See also Lindahl (2001); and Schlyter, Stjernquist & Bäckstrand (2009).
[638] For example, AssiDomän commenced certification to the FSC Principles and Criteria in 1996 and by June 1998 had certified all of its 3.3 million hectares of productive forestland. (The 8 certified forest divisions of AssiDomän were later consolidated under the certification of Sveaskog.) Stora and Korsnäs began their FSC certification processes in 1997 and achieved certification by January 1998. SCA lagged slightly behind the other companies and certified their1.8 million acres in northern Sweden by the autumn of 1998.

certify in order to facilitate chain of custody certification of their fiber supply and have production flexibility to meet customer demands. For example, Holmen certified 1.275 million hectares to the PEFC in 2003 and Bergvik AB certified 2.3 million hectares of their forest holdings to the PEFC standard in 2004.

Figure 6.4: Forest Certification Uptake in Sweden (1997-2007)
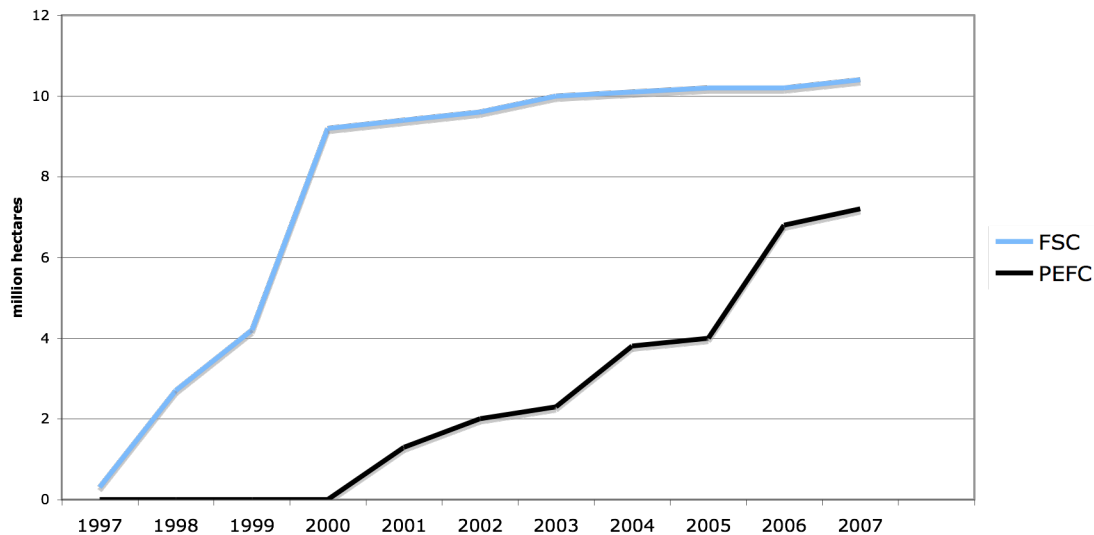
Many family forest owners adopted the PEFC not only because the requirements were more suited (less financially costly) to the small forestland owner than the FSC but also because the landowner associations were offering assistance to participate in PEFC group certifications.[639] And as mentioned previously, a significant factor leading Swedish forest companies to embrace the FSC was their first hand knowledge and fear of the powerful influence of ENGO market campaigns and the resulting direct certification market pressures from their large U.K. and German customers.

Beyond the specific factors that influenced the *type* of certification system adopted, a fundamental underlying certification driver in Sweden was the desire of all forest owners to support the government's newly introduced deregulatory forest policy approach by demonstrating their voluntary sustainable forest management commitment. Forest

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[639] In February 2009, Södra announced its intention to offer a dual certification option to its members. As well, as of July 1, 2009, Södra will pay a double premium for dual FSC-PEFC certification.

certification provided an opportune vehicle. For example, the landowner associations argued convincingly to many of their members that to maintain regulatory freedom, family forest owners had to demonstrate responsibility and that PEFC group certification was the appropriate and feasible means.[640] Thus, certification in Sweden was not just driven by ENGO and market forces, and the competition between the standards but also by the policy climate. As argued in the next section, the state played an important role in enabling forest landowner certification participation by placing direct expectations on voluntary SFM initiative.

6.4 Government Role in Certification

6.4.1 The Government's Position

The Swedish government position on forest certification was to passively observe and not interfere in the certification dynamics. The Forest Agency supported certification as one tool among others to promote sustainable forestry and support the achievement of the national forest policy goals but did not formally engage in certification to drive the private rule-making governance process. Consistent with the EU's position on certification,[641] the Swedish government (including the Swedish Forest Agency and the Swedish Environmental Protection Agency) viewed certification as a market instrument. As explained by the State Forest Agency, "Whether a red or blue government, certification is a market-driven process... and if a market instrument is working than government shouldn't interfere."[642] SEPA further clarified that, "we don't really know about what is going on with certification because we were told that authorities should not be involved – we do not go into the certification working groups. But government is very supportive of the certification process."[643]

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[640] Interview with Jan-Åke Lunden (Chief forester, Skogsägarna LRF), September 19, 2007.
[641] In the early 1990s, the Swedish government attended several EU meetings in Brussels with other government representatives on the topic of forest certification. The discussions resulted in the EU position to view certification as a market instrument and to not interfere in the private efforts.
[642] Interview with Bo Wallin, Former Head of Environment Department, SFA, September 14, 2007.
[643] Interview with Sune Sohlberg, SEPA, November 1, 2007.

6.4.2 Expectations of Government Role

In my semi-structured interviews with Swedish forestry stakeholders (industry, environmental organizations, certification bodies, small private landowners, etc.) in the fall 2007, I asked them to describe the position and role the Swedish government had taken in certification and whether this was appropriate or not (see Appendices A and E). The responses were consistent.   All stated that the government's position was one of non-interference and that this was exactly appropriate – that certification should not be state-driven.   As the past-chairman of the national LRF noted, "government has been where they should be – on the sideline."[644]   The chief forester of the national LRF concurred, "no one wanted government involved and they were reluctant to engage."[645] Government officials also agreed, "no one argues that our position of observer is wrong – everyone thinks this is good."[646]   Specifically, it was explained that one of the main reasons no one wanted government directly involved as a stakeholder in the certification process was that as the legislator of forest policy, they were not an equal party and would warp the balance and overly influence decisions.[647] As well it was pointed out that, "Forestry officials were under strict orders not to 'mess' with certification – that the *Forest Act* includes expectations but not specific rules. How to achieve these expectations shall be left to the forest owners."[648]   In other words, government direct engagement in certification rule-making would have been counter to the supported legislative approach.

6.4.3 The Range of Government Certification Role

Although the Swedish government's certification approach was one of non-interference, the government nevertheless contributed to forest certification at the development, implementation and enforcement stages.   These examples are summarized in Figure 6.5 and outlined below. In particular, Figure 6.5 highlights the most influential governmental role – introducing broad frame law forest legislation that provided by default, an enabling

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[644] Interview with Tage Klingberg (past chairman Skogsägarna LRF), September 11, 2007
[645] Interview with Jan-Åke Lunden (Chief forester, Skogsägarna LRF), September 19, 2007.
[646] Interview with Erik Sollander, SFA, September 13, 2007.
[647] Interview with Peter Roberntz (former Executive Director), Karin Fallman (vice-director), FSC Sweden, September 18, 2007.
[648] Interview with Tage Klingberg, (past chairman, Skogsägarna LRF), September 11, 2007.

policy environment for private certification development and implementation. The forest governance implications of certification within the forest policy context are the focus of the remaining sections of the chapter.

Figure 6.5: Swedish Government Role in Certification

Scale of Government Intervention

Indirect ⟶ *Direct*

	Observe	Co-operate	Enable	Endorse
Standards Development	✔	SFA and SEPA provided policy clarification and feedback on draft standards. FSC working group chair from SEPA.	**Forestry frame law enabled private certification initiative.**	
Implementation	✔	Local-level authorities responded to landowner certification information requests.		Sveaskog leadership.
Enforcement	✔		SWEDAC PEFC auditor accreditation.	

Government Position

Government Role

• *Standards Development*

The PEFC and FSC standard-setting processes fundamentally overlapped with government policy processes as they both required legal compliance. For example, the introduction to the Swedish PEFC states, "the principles, rules and guidelines contained in the Swedish Forestry Act and other relevant legislation constitute the basis of the Standard."[649]   Although government representatives were not invited and did not attend either the PEFC national council or the Swedish FSC working group standard development meetings, the working groups consulted the legislation and the forest authorities to ensure the alignment of the standards with government policy. As well, the SFA and SEPA closely followed the proceedings and provided clarification of the government's forest policy during the development of the standards. For example, the

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[649] See: http://www.pefc.org/internet/html/members_schemes/4_1120_59/5_1246_324/5_1123_1126.htm.

Forest Agency and the regional SEPA agencies co-operated by going on excursions with the Swedish FSC Council to clarify the definition and implementation of requirements relating to key habitats.[650] As well, early on the FSC sent the agencies draft copies of the standard for their review and comment; did a calculation of the effect of the certification standard on the level of harvests in Sweden; and shared this information with the government authorities for their review.[651]

In addition, the government was able to closely follow the development of the FSC national standard as the FSC working group chose as their neutral chairperson, the Swedish Environmental Protection Agency (SEPA) director Lars-Erik Liljelund. Liljelund participated as a citizen rather than in his capacity as a government official and his role was clearly to facilitate rather than influence the process. However, the SEPA did support and provide his time free of charge to assist in the process. One interviewee described SEPA's allocation of some of Liljelund's time to the FSC process as government indirectly saying "ok" to certification – "both the SEPA and NFB were saying positive things about certification at the time – they saw it as a complement to the legislation."[652]

Swedish authorities were also directly consulted during the PEFC standard revision process in 2004. The SFA, the SEPA and the Swedish Central Board of National Antiquities were invited to three meetings with the PEFC working group to discuss the revisions.[653]

• *Implementation*

The SFA's regional Forestry Boards (prior to the 2006 re-organization) and the government's County Boards had knowledge of certification systems and requirements and although these regional-level national administrative bodies were not formally

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[650] Lindahl (2001:10).
[651] Interview with Ragnar Friberg, Senior VP Sustainability, Stora Enso, September 12, 2007. According to the FSC Working Group, nationwide application of the FSC standard would have led to 13.4% lower wood production. See Balsiger (1998). See also Eriksson, Sallnas & Stahl (2007) for a more recent analysis which confirms the 13% reduction.
[652] Interview with Lena Dahl, TetraPak, (formerly with WWF Sweden), September 13, 2007.
[653] FORM International (2006:11).

engaged in certification implementation, the government employees did respond on an ad hoc basis to local forest owner information requests. When asked about the interaction, SEPA commented that if County Board employees were engaging in certification it would have been as individuals rather than as government representatives as the County Boards were under instruction to not interfere in certification.[654]

In addition to informal engagement in certification at the regional level, the government played an indirect role in endorsing certification by supporting the certification of the country's public land under the state-owned company Sveaskog (Assi-Domän at the time). The FSC certification of the state forests demonstrated the government's support for certification and provided a certification implementation leadership example for the many private forest owners.

- *Enforcement*

The Swedish government has played a direct role in the enforcement of certification as the PEFC auditor accreditation process is carried out by the Swedish Board for Accreditation and Conformity Assessment (SWEDAC) – a public authority under the Ministry for Foreign Affairs.[655] Specifically, SWEDAC has assessed the competence of the PEFC certification audit bodies. (The FSC accredits its own auditors independent of the state.) As well, the Swedish Forest Agency has indirectly kept an eye on certification effectiveness through their annual *Polytax* inventory surveys. The SFA explained that if forest conditions were found to be deteriorating (i.e. landowners not matching their freedom in forest management with demonstrated responsibility) that prescriptive legislation was always an option.[656] And finally, the government has been considering the development of a public timber procurement policy to discourage illegal timber imports and encourage the domestic supply and government purchase of certified forest and paper products.[657]

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[654] Interview with Sune Sohlberg, SEPA, November 1, 2007.
[655] See: www.swedac.se/sdd/System.nsf/(GUIview)/index_eng.html. The FSC accredits its own auditors independent of the state.
[656] Interview with Erik Sollander, SFA, September 13, 2007.
[657] Interview with Peter Nohrstedt, Lead Manager EKU, Swedish Environmental Management Council, November 23, 2007.

In summary, although the Swedish authorities made an effort to stay out of the way of certification, they cooperated in the hope that the private governance system would provide a positive contribution to meeting the overall goal of balancing production and environmental values in the forest. Specifically, SEPA and the SFA hoped that the detailed requirements of certification would complement the goals of the national Healthy Forests national environmental objective and the guidelines of the 1994 *Forest Act* and the 1998 *Environmental Code*. By introducing frame law forest legislation, the government established a policy environment that favoured voluntary self-regulation and enabled certification development, adoption and ongoing improvement. The next section addresses the multi-centric system of forest governance established in Sweden as a result of the interacting public forest policies and private certification rules.

6.5 Certification-Policy Interaction

Certification and forest policy in Sweden have held consistent SFM visions in terms of balancing and sustaining economic, social and environmental forest values. They have also had coincident implementation timing. However, the public and private governance systems have also differed with respect to decision-making processes as well as certain key SFM definitions and on-the-ground forestry requirements. The systems have, therefore, not simply been overlapping substitutes. Instead there has been a certain degree of contest and back-and-forth interaction with certification standards incorporating and going beyond state legislation and state forest policy in-turn advancing beyond the private rules. In this section, I present the central argument of the chapter that the dynamic interplay between private forest certification standards and public forest policy established a co-regulatory forest governance system in Sweden that ultimately facilitated both greater SFM discourse and the continual improvement of the country's forest vision and SFM targets.

The section begins with an outline of the nature of the hybridized forest governance system in Sweden and the contribution of policy timing. In particular, I note that although coincident, certification *did not* drive the government's decision to deregulate in the early 1990s. In other words, certification was never promoted in Sweden as a

substitute for state forest policy authority. Instead, the government kept a watchful eye, recognizing the need for consistency and alignment between the forest legislation and the emerging private forest rules.

I then argue that the interactions between certification and forest policy created a creative tension with positive forest governance consequences in two particular areas: improving target-setting and enhancing the SFM discourse. I explore target-setting by evaluating a range of forest policy examples including green management plans, forest reserves and forest structure objectives. I conclude with an assessment of the two areas by which certification has contributed to Sweden's sustainable forestry discourse including enhancing multistakeholder SFM policy engagement, as well as challenging and strengthening the national forest vision.

6.5.1 The Window of Co-regulatory Opportunity

Certification emerged in 1994, at the same time as the government introduced changes to the national forest regime. Through the 1994 Forest Act, the government delegated SFM self-regulatory responsibilities and created a window of opportunity for voluntary certification and the establishment of a co-regulatory forest governance approach in Sweden.[658] As previously explained, forest certification not only offered a unique marketing instrument but also a pragmatic tool for companies and family forest landowners to define their SFM responsibilities under the broadly defined forest legislation. Ultimately, certification was a way for forest owners to operationalize the broad, general goals of the new frame law legislation and demonstrate their SFM commitment.

From the initial stages, certification and forest policy were mutually beneficial. The frame law forest legislation established a favourable context for certification development

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[658] Elliot (2000) argues that new opportunities for private policy-making occurred from the early 1990s in Sweden as a result of the simultaneous contraction of Forest Agency activity alongside increased forest company environmental capacities. As well, Boström (2003) argues that there were two ways that the policy climate and change in regulatory framework provided a window of opportunity for certification. Firstly, under the framework forest legislation the state agencies were to emphasize softer methods such as providing information and supporting voluntary initiatives. And secondly, the historical consensus tradition in Swedish political culture provided a good climate for negotiation within the FSC.

and implementation, and certification provided a means to assist in the delivery of the government's forest goals. However, the Forest Agency also recognized the challenges and limitations of certification and that it was by no means a substitute for legislated forest rules. In particular, certification was not only voluntary but also the definitions and targets did not precisely align with the government's forest objectives. As well, fundamentally, while certification offered a supplementary forest management accountability mechanism, it fell short in terms of providing a means to monitor and enforce requirements with respect to improving actual, on-the-ground forest conditions, particularly at the landscape-level. Thus, with the development and increased uptake of certification among Swedish forest owners, the state did not retreat but rather facilitated, leveraged and improved upon the accepted certification rules and mechanisms alongside state regulation within the overall policy mix.

Returning to the matrix of certification co-regulation (Figure 3.5 in Chapter 3), the coincident public and private systems of forest rule in Sweden have constituted a co-regulatory forest governance system (Figure 6.6). The PEFC and FSC certification standards have not only incorporated legal compliance and been consistent with the delegated self-regulatory national forest policy goals and objectives but there has also been a back-and-forth interplay between the public and private systems in terms of defining and refining SFM requirements.

Figure 6.6: Co-regulatory Forest Governance in Sweden

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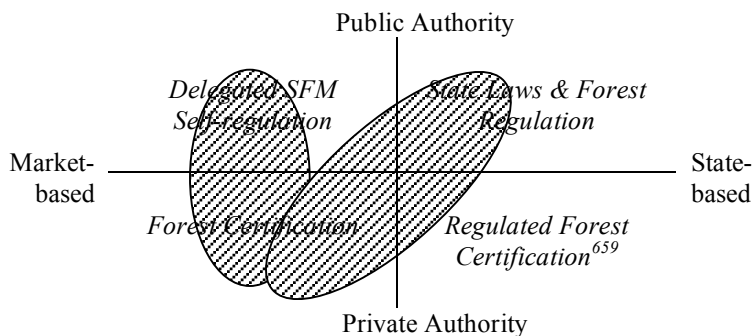
[659] As of the fall 2008, Sweden had not formally regulated forest certification – i.e. the national government had not mandated private forest owner certification. However, the government was considering the establishment of a certification requirement through a timber procurement policy.

The coincident timing of forest certification and the new forest policy regime in the early 1990s facilitated the establishment of the multi-centric forest governance system. However, as previously mentioned, certification was *not* the driver of the government's change in policy approach and direction. The government did not redesign the national forest legislation in order to enable forest certification. Rather, the regulatory shift largely came out of the government's overall strategy to streamline government services, as well as in follow-up to the national forest commission discussions in the late1980's – both prior to the development of certification. As a SEPA official explained, "I was involved in the *Forest Act* development and there was no discussion of certification.[660] The revisions were made before certification – certification came later."[661] However, several interviewees also noted that the government was well aware of certification when it was designing the changes to the *Forest Act*. For example, the government knew when it set the voluntary forest reserve goal that certification would be there to possibly help to achieve the target (see Section 6.5.2b).[662] In other words, the Agencies saw an opportunity for certification to serve as a potentially important regulatory complement to reaching the national environmental objectives.

6.5.2 Enhancing SFM Targets

To a large degree, certification complemented the new forest regime by providing a vehicle to translate the government's broad environment-production goals to specific operational targets and plans. Although Sweden's forest owners welcomed the increased freedom under the 1994 *Forest Act* (i.e. a high level of discretion to balance production and environmental values in their forests), the lack of specific, legislated SFM instructions also created operational and governance challenges. Forest owners described the national forest goals as abstract and vague and were uncertain of the government's expectations regarding how to translate the broad goals to optimal on-the-ground SFM practices. For example, as one interviewee explained, "As a forest owner you don't know what the benchmark is…the government talks about an 'advisory level of

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[660] In addition, the Swedish government's shift in regulatory approach was consistent with the de-regulatory climate in Europe in the 1990s at the time of the collapse of eastern European communist systems.
[661] Interview with Sune Sohlberg, SEPA, November 1, 2007.
[662] Interview with Bo Wallin, Former Head of Environment Department, SFA, September 14, 2007.

operation' but there is no document saying what this is."[663]   As well, while the forest agency conducts annual inventories and consistently reports that 25 percent of the harvest areas do not reach "the requirements", there are no fines or follow-up so forest owners do not know whether or what they had done wrong. Furthermore, there have been ambiguities in the forestry objectives. For example, on the one hand, natural functions and processes of forest ecosystems are to be upheld while on the other hand, the natural processes of flooding and burning are to be controlled.[664]   Fundamentally, as several interviewees pointed out, the national forest policy goals and objectives were vague. They were general statements that lacked specifics; i.e. a way forward.

Forest certification complemented the frame law forest legislation by offering forest owners specific SFM criteria and instruction – an "SFM pathway" to navigate the government's broad forest policy goals. The role of certification in enhancing SFM targets was particularly evident in three areas: operationalizing the balancing of production and environmental objectives through green management plans; achieving the national voluntary forest reserve target; and refining specific forest structure objectives. Each of these examples also illustrates how the government recognized the need for state forest policy to be adaptive and evolve alongside certification's continually improving private rules.

6.5.2a) Operationalizing the Forest Goals: Certification & Green Management Plans

Green management plans have been a clear example of certification playing a significant co-regulatory role in Swedish forest governance. Coincident with government deregulating forest management plans in 1994, forest certification made long term SFM planning a necessity. Specifically, certification added measurable targets and enforcement audits to the forest agency's voluntary forest management planning guidelines and Forest Declaration requirements. Overall, by requiring management plans that incorporated environmental sustainability considerations as per the government's

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[663] Interview with Magnus Norrby, National Executive Secretary, PEFC, September 17, 2007.
[664] See: Hysing and Olsson (2005) for a detailed discussion of this point.

green management plan guidelines, certification systems contributed towards reinforcing the national forest goal of balancing production and environmental forest values.

Prior to 1994, in order to ensure a sustained national timber supply, it was a requirement under the 1979 Forest Act that every private forest owner in Sweden have a forest plan describing the forest conditions and management suggestions.[665] In support of the prescriptive legislation, the County Board foresters provided education and technical services to assist forest owners with plan development. As a consequence, up until 1994, most of the family forest owner management plans in Sweden were developed by public agencies.[666] The 1994 Forest Act removed the mandatory forest plan requirement and cut back on Forest Agency technical services. Although management plans became voluntary, the Forest Agency realized that sustainable forest management plans were a critical means to achieving the national sustainable forestry goal of balancing environmental and production forest values. In order to ensure that environmental values were incorporated into management plans and acknowledging that certification systems were defining their own management plan criteria, the SFA began work on defining guidelines for "green management plans". Rather than focusing on maximizing timber production, the goal of Green Plans was to manage for sustained production and nature conservation.[667]

As mentioned, the greening of management plans was also a key requirement of forest certification. For example, for forests over 20ha, both the FSC and PEFC standards required the forest owner to have a long-term SFM forest plan that included the management objectives for the forest, a description of the current state (inventory) and the determination of forest management measures. These certification management plan requirements paralleled the SFA's Green Plan guidelines and forest goal categories. As a

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[665] For a concise history of private owner forest management planning in Sweden see Wilhelmsson (2006).
[666] Ingemarson (2004:20).
[667] Specifically, Green Management Plans consist of a detailed inventory of the forest area and categorization and balancing of the forest into four classes of forest goals: PG – Production goal, with general environmental considerations; PF – Production goal, with reinforced environmental considerations; NS – Nature conservation goal, with management; and NO – Nature conservation goal, based on no management. 5% of the forest is to be in NS/NO; another 5% in PF; and 90% in PG. Holdings of less than 20 ha have no requirements regarding balance (see: www.skogsstyrelsen.se).

result, many forest owners adapted their Green Plans to follow the certification criteria. In my interviews with Swedish forest stakeholders, several commented on how after 1994, management plans took on a new "certification" label. Specifically, certification provided structure by augmenting the government's green plan guidelines with more detailed instruction regarding long-term ecological landscape-level planning and by encouraging the appropriate documentation of planned forestry measures and the monitoring of results.[668]

The state further enabled the co-regulation of green management plans when in 2003, the government introduced a new regulation under the Forest Act making it necessary for every forest owner to have at least a simple forest plan (i.e. a *Forest and Environment Declaration*).[669]   This encouraged additional private forest owners to certify their forests as the Forest Declarations could be easily developed so as to not only meet the regulatory requirement but also the certification management plan criteria.   As well, because the Forest Agency had no plans to follow-up and track the implementation of the Forest and Environment Declaration regulation,[670] certification provided a supplemental monitoring and audit enforcement mechanism to reinforce the government's essentially voluntary forest management planning policy.

In summary, assessing the development and implementation of green management plans in Sweden over the past decade shows how certification operated as a parallel regulatory mechanism alongside the policy efforts of the Swedish forest authorities – helping to operationalize the forest legislation.

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[668] World Wildlife Fund (2005:23).

[669] A *Forest and Environment Declaration* provides information about the age and area of the forest stand, as well as, details about the forest regeneration activities and environmental data regarding broadleaved forest, nature reserves, protected biotopes, wetlands, archaeological sites, and other high conservation value areas within the site. See Wilhelmsson (2006:53).

[670] The intent of the *Forest and Environment Declaration* regulation was simply to encourage the forest owner to have better information about their forest. Hence, the government had no plan to monitor compliance. See Wilhelmsson (2006:53).

6.5.2b) Achieving SFM Targets – Certification & Voluntary Forest Reserves

Certification not only reinforced the government's broad forest goals through green management plans but has also played a role in refining and encouraging forest management practices to meet the national forest policy targets. This dynamic has been particularly evident with respect to the Swedish national target for forest reserves.

As shown in table 6.2, of the total additional 900,000 hectares of high conservation value forestland to be excluded from forest production by the year 2010, the government directed that 400,000 hectares be reserved through legal programs and 500,000 hectares be set aside voluntarily by forest owners.[671] Certification has helped to support the government's voluntary forest reserve target as both the FSC and PEFC standards have required that a minimum of 5 percent of the certified forests be permanently set aside to protect high conservation values. However, as evaluated below, there have been some challenges in terms of the alignment of certification and forest policy forest reserve requirements. Ultimately, certification has been a supplementary but partial mechanism to meet the government's protected area targets.

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[671] In order to meet the 400,000 ha to be provided with legal protection, in 2005, the government established a comprehensive *National strategy for the legal protection of forestland.* See SFA & SEPA (2007). The strategy clarifies the roles of relevant authorities in relation to the various legal instruments and with respect to voluntary conservation area procedures, and outlines the goals and priorities for the various forest types.

Table 6.3: "Living Forest" Protection Programs & Status

Site Protection Programs	Protected Area Target	Program Description	2007 Status
Legislated	**400,000 ha**		
Nature Reserves	*320,000 ha*	Protect large areas of remaining natural forest.	114,767 ha (36% of target)
Habitat Protection Areas	*30,000 ha*	Protect smaller, ecologically uniform "islands" of certain biotypes (2-5ha).	13,500 ha (45% of target)
Nature Conservation Agreements	*50,000 ha*	Reserve or create sites with HCVs.	17,600 ha (35% of target)
Voluntary Set-aside	**500,000 ha**	Landowner voluntarily sets aside section of forest for benefit of biodiversity or other natural values.	750,000-800,000 ha outside of montane zone safeguarded on voluntary basis but large uncertainty as to whether HCV forest.

Source: Swedish Environmental Protection Agency (2007).

As shown in Table 6.3, the government has had difficulties in reaching the legal targets, with only 35-45 percent of the reserve areas set aside as of 2007. A major barrier to achieving the prescribed targets has been a lack of sufficient funding to compensate private owners for lost production.[672] As well, while the voluntary target appears to have been exceeded, the authorities have been uncertain as to whether the forests that have been voluntarily set aside by private owners necessarily qualify in terms of representing appropriate ecologically important forests, and also whether the conservation areas have been permanently reserved.[673]

A fundamental problem has been the lack of an accurate accounting and reporting system for the voluntary set-asides. Certification third party audits have been insufficient to meet government requirements as certification reserves do not necessarily meet the government's voluntary forest reserve objectives. Although the certification forest reserve requirements have overlapped with the government's target, there have been

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[672] Swedish Environmental Protection Agency (2007).
[673] Interviews with Erik Sollander, SFA, September 13, 2007 and Bo Wallin, Former Head of Environment Department, SFA, September 14, 2007. Also see Swedish Environmental Protection Agency (2007:63-65).

areas of operational difference between the public and private systems. In particular, the major areas of difference have concerned the definition of high conservation value (HCV) forest; the forest reserve accounting criteria; and the permissible forestry activities on the set-aside areas.[674]

The distinctions between the public and private approaches to forest reserves have created some operational-level confusion; however, having the parallel systems also encouraged the ongoing improvement of forest management requirements. For example, following recommendations from the FSC and PEFC, the SFA placed a minimum level of 5 percent reserve per forest estate for both the managed and unmanaged nature conservation goal classes.[675] Driven by certification and then adopted by government, this level became a kind of "political consensus".[676] As noted by the SFA, "The systems are building on each other over the long run so we can live with minor operational problems in the short run."[677] The synergistic dynamic of certification and forest policy has also been evident in several other instances, particularly concerning the forest structure targets regarding standing trees.

6.5.2c) Refining SFM Targets: Certification & Forest Structure Objectives

Certification has not only helped to refine forest policy in Sweden but has also facilitated continual improvements. For example, in the absence of specific targets, Swedish forest authorities used certification criteria to help support and specify legislated SFM policy requirements.[678] Rather than acting independently, the public and private forest

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[674] The definition of high conservation value forest, while largely consistent between the FSC and PEFC standards, has not completely aligned with the government's definition. As explained by Bo Wallin at the SFA, "different interests have put different values on what to set aside." In terms of accounting, government criteria for voluntary reserves are that they have to be a minimum of 5 ha and no subsidy compensation can be provided for the set aside. However, certification reserves can count land that has received compensation and the biodiversity limitations are different. And finally, certification restricts harvest activities within reserve areas whereas, the government policy is less clear.

[675] Terstad (1999:193).

[676] Ingemarson (2004:13).

[677] Interview with Erik Sollander, SFA, September 13, 2007.

[678] For example, the certification standards include criteria for increased deadwood, conversion of spruce stands and the retention of deciduous trees that support the SFA's interim forest policy targets. See Swedish Forest Agency (2005). As well, the government has used the certification biotope definition in their financial grant process for legal forest reserves. In addition, certification criteria have assisted the

governance systems have been building on each other. As Hysing and Olsson conclude in their recent study on biodiversity policy in Sweden, "successful certification is necessary in Sweden for the successful implementation of forest policy…both are striving to the same targets and implement the same objectives in collaboration…"[679]

Although there has been ongoing certification-policy interaction in many areas related to forest structure (e.g., deadwood, deciduous trees, spruce forests and key biotopes), the dynamic was particularly evident with respect to the issue around standing reserve trees. In the late 1980s-early 1990s, the forest legislation had minimum legal requirements but no clear policy targets for final fellings. In particular, there was no standard on reserve trees – i.e. the number of trees that should be left standing per hectare after harvest. The government had tried to consult and determine the level but was told by industrial and family forest owners that the number couldn't and shouldn't be defined – that every forest was different so that the policy should be left as a general statement rather than a specific target.[680] However, ten years later, certification came up with the rule. In 1997, the FSC revisited the same issue and were able to reach consensus at 10 trees/ha to be left. As explained by the SFA, companies were against defining numbers when in dialogue with government but then it was okay when the discussion shifted to the certification arena.[681] Subsequently, in 2003, rather than relying completely on the private rule, the government adopted the certification criteria within their target for high conservation value forest areas.

Thus, over time, the government has achieved greater policy specificity through certification interaction. It has been a step-wise adaptive process with policy building on the areas where certification had reached agreement. As the SFA reflected, "The policy process has been that certification defines, then government takes this and develops an even clearer definition. In the future, certification will probably take this and improve it

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government's chemical inspectors in interpreting the legislation regarding what chemicals should be allowed or not (Interview with Peter Roberntz, former FSC Executive Director, September 18, 2007).
[679] Hysing and Olsson (2005:522).
[680] Interview with Erik Sollander, SFA, September 13, 2007.
[681] Interview with Bo Wallin, Former Head of Environment Department, SFA, September 14, 2007.

even more."[682]   In other words, the public and private systems have been mutually
beneficial.

In summary, certification has supplemented rather than supplanted forest policy in
Sweden by aligning with the legislative goals but also by going beyond government
requirements to specify forest owner obligations and subsequently, drive policy change in
certain areas. Ultimately, the government's interpretation of what should be considered a
"reasonable requirement" of the private landowner has been heavily influenced by the
certification standards and the debates around establishing certification criteria. The next
section examines the contribution of certification's deliberative rule-making process to
enhancing forest governance in Sweden.

6.5.3 Supplementing the SFM Discourse[683]

Forest politics in Sweden is typically characterized in terms of the "Nordic Model" of
consensus-based decision-making involving close interaction between the regulator and
the regulated.[684] Specifically, the Swedish Forest Agency relies on consultation and has
traditionally held close ties with the forest industry in terms of protecting the national
interest for a sustained timber supply and with the small forest landowners through the
local-level delivery of county forestry board informational, technical and forest
management planning services. Given the historic alliances and inclusive policy
approach between the government and the country's forest landowners, how then could
forest certification influence the forest policy discourse? Some interviewees emphasized
that certification has had negative implications as it disrupted a well-working system of
division of powers between the government, forest owners and the public. Others
stressed that certification reinforced traditional alliances rather than giving a voice to new
groups. Still others emphasized the increased policy role for social and environmental
groups.

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[682] Interview with Erik Sollander, SFA, September 13, 2007.
[683] The term *SFM discourse* refers in this chapter to the political decision-making process and accepted
(institutionalized) beliefs and understandings exchanged by standard forest actors regarding the sustainable
management of Sweden's forests.
[684] Eckerberg (1990).

In this section, I argue that while certification has had critical opponents, overall, it has enhanced the SFM discourse in Sweden because it *has* shifted the power balance and provided an alternate political arena for SFM policy engagement. Specifically, the PEFC and FSC created deliberative forums that enabled a wide spectrum of stakeholders with varying timber and non-timber forest interests to directly participate and also take-on greater sustainable forestry decision-making responsibility. As well, certification has contributed to testing SFM assumptions and challenging the broadly conceived national forest vision by forcing debate around the inherently difficult questions concerning forest value trade-offs.[685] Each of these forest governance contributions is evaluated below.

a) Multistakeholder Forest Policy Engagement

Certification has provided a parallel, privately-led political arena for reaching forest management agreements in Sweden. Specifically, the forest certification standard setting bodies have presented an alternate forum for a wide range of forest stakeholders to engage in SFM deliberation beyond traditional government-led commissions and regulatory processes. Whereas, industry and family land owner associations held traditional privileged access to government, FSC and PEFC membership was open, offering some groups an unprecedented opportunity to contribute to forest policy-making. As well, certification facilitated a balanced representation of interests. Ecological, social and economic groups were afforded the opportunity to participate on a level playing field in the certification decision-making processes.[686] As forest governance scholar Lars Gulbrandsen notes, certification systems in Sweden have been "a loosely structured system" as compared to the traditional hierarchic system of government which gives privileged access for certain stakeholders. Certification has "less formal or practical barriers for actors seeking to provide input."[687]

[685] For reviews of the nature and challenges of SFM value trade-offs see FAO (1995); Lister (2007:248-249); and Rosser (2005).
[686] Within the FSC governance structure economic, social and environmental stakeholders have equally weighted representation. The PEFC in Sweden also has multistakeholder participation, however, forest owners and industry have a two-thirds weighted majority vote.
[687] Gulbrandsen (2008b:114).

For example, through the written constitutions of the certification bodies, certification facilitated increased input to the forest dialogue from labour groups and, in particular, the Sámi peoples. Although the government initiated a consultation process with the Sámi in the late 1970's under the 1979 Forest Act, the FSC broadened the geographic coverage to include consultations regarding winter grazing land. This brought more Sámi to the process.[688] Also, the FSC offered the Sámi an equal vote and place at the table within the social chamber – enhancing Sámi cooperative decision-making authority and helping to bring attention and profile to reindeer herding land access issues.

However, it is also important to note that "local engagement" has been a point of contention. While certification has had the intent of facilitating open participation, some interviewees expressed concerns that certification had been discouraging certain local interests that were historically taken into account through the close relationship between communities and the regional Forestry Board and County Board authorities.[689]

Overall, the limitations and challenges of certification highlight its role as a mechanism to enhance rather than substitute for traditional state processes. Certification has supplemented state forest consultation processes not only by encouraging additional groups such as labour organizations and the Sámi in the forest dialogue, and strengthening their decision-making responsibility and authority but also by educating and building trust among the country's various forest stakeholders. Ultimately, by providing a forum for ongoing interaction and by placing pressure on the various parties to come to consensus decisions regarding some of Sweden's most difficult forest issues such as natural old forest, Sámi access, biodiversity and high conservation value forest reserves, certification has augmented SFM deliberation and stakeholder learning. This, in turn, has assisted the forest authorities in establishing legislated forest policy targets that,

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[688] See Sandström & Widmark (2007) for a discussion of the role of FSC in enhancing Sami consultations.
[689] For example, it was suggested that certification had perhaps shut-out local groups as they lacked the necessary level of resources and vertical networks to access the national-level forest policy consultation processes (Interview with Karin Lindahl,, September 18, 2007). See also Lindahl (2008) for further explanation of this point. As well, some interviewees noted that the efforts of the certification bodies to align their criteria with international conventions and agreements had also possibly undermined the degree of local influence.

in many cases, had already been debated in the private forum.[690]   As explained by the

SFA, "government consultation on targets has improved because stakeholders have

already met through certification – certification is helping with the policy process."[691]

Certification has also aided state processes by providing for a more adaptive policy forum

in terms of greater flexibility to reach SFM agreements.   Interviewees commented that

while the government tries to engage with stakeholders on forest issues, they do not have

the mechanisms to "find the edge" where consensus can be reached.[692] For example, this

was demonstrated in the case of the reserve trees target (outlined in the previous section

6.5.3c). Interviewees pointed out that rather than reaching consensus, the government

has to be pragmatic; i.e. concerned with finding workable solutions that could be

implemented.   As well, unlike certification programs that are directed to reach consensus

within the group, government agencies in Sweden tend to consult and then go away and

make the decisions themselves. By requiring consensus within an open, balanced forum

with equal voting rights, certification has given unprecedented authority and

responsibility to Sweden's non-state forest actors to co-operatively engage in a

deliberative political process to determine SFM rules. As past LRF chairman and

professor, Tage Klingberg describes, certification contributes to a shift of decision-power

over forestry decisions. Rather than government-led decisions through consultation with

forest owners and industry, certification includes other actors in forest policy

development and delivery such as NGOs (developing and promoting certification),

scientists (developing certification criteria) and consultants (verifying forest practices).[693]

By requiring the various parties to work collaboratively towards solutions on contentious

issues, certification has also provided a mechanism to build social capital and encourage

increased trust between the different groups. As Gulbrandsen concludes in his evaluation

of certification in Sweden, "through the certification process, a greater understanding and

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[690] The SFA consulted with forest stakeholders over a two-year period (2003- 2005), in order to establish in March 2005, a set of forest sector objectives which included 13 quantified and time-specific "interim targets" See Swedish Forest Agency (2005).
[691] Interview with Erik Sollander, SFA, September 13, 2007.
[692] Interview with Peter Roberntz, former Executive Director, FSC Sweden, September 18, 2007.
[693] Klingberg (2003).

appreciation of forestry is achieved among all participants…and brings the parties closer together."[694]

In summary, although certification is contested by some forest owners for destabilizing the traditional power balance and close alliances between government, industry and family forestland owners, in this section I have argued that, overall, certification has had a positive forest governance influence -- enhancing the SFM discourse in Sweden by providing an open, parallel forum for forest policy deliberation, and by increasing the authority and responsibility of a wide range of non-state forest actors to reach consensus-based SFM decisions.

b) Strengthening & Challenging the Forest Vision

The PEFC and FSC standards and Sweden's forest legislation have shared similar overall broad forest visions in terms of sustaining environmental, social and economic forest values for present and future generations. The government's goal of balancing environment and production was broadly accepted and articulated in the amendments to the 1994 Forest Act and the 1999 Sustainable Forestry Objectives.[695] Certification standards incorporated this high-level national consensus but also took the next step (prior to the government's efforts in 2005) of specifying particular indicators and targets. In this section I argue that certification has challenged and strengthened the forest vision by facilitating the field-level testing of forest value trade-offs through adaptive on-the-ground SFM requirements and practices.

While there was a macro-level consensus among Sweden's forest stakeholders of the need to balance forest values in the long run, forest stakeholders disagreed on how to translate the forest ideal into action in the short term – i.e. what forest practices should be carried out now to ensure sustainable forestry in the future? Forest actors diverged in

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[694] Gulbrandsen (2005a).

[695] The government's long term vision includes four elements regarding utilizing forest resources to sustain: a diversity of values; a high level of fellings and the maintenance of natural ecological processes; a biologically rich forest environment; and social and cultural values. See Swedish Forest Agency (2005:8-9).

their priority weighting of forest values and, hence, how they perceived the optimal trade-offs and on-the-ground delivery of the forest vision. Perspectives differed between certification systems as well as within government. As the SFA explained, "The government's vision for the forest is a balance of the forest values but, depending on who you ask, the balancing of the values will change."[696] Although the government projected a common vision, fundamentally, given their respective policy mandates, the SFA supported sustained timber production while SEPA was concerned with nature conservation. As well, among the certification programs, the PEFC stressed forest owner rights while the FSC emphasized the protection of biodiversity and social values. Having the differing perspectives and interests both between and within the public and private governance systems fostered political contests that tested the feasibility and commitment to balancing forest values to achieve the long-term forest vision.

In addition, the differences in how to actually deliver Sweden's forest vision have not just been political but also rooted in technical uncertainties. For example, while there has been scientific agreement with regard to certain SFM practices such as leaving dead wood, setting aside biodiversity hotspots and restricting forest road construction, etc., the science is still uncertain with regard to other SFM concerns such as the proportion of forestland to be protected to conserve biodiversity; the use of indicator species; how to identify particularly valuable forest areas for conservation; and how to quantify necessary protection measures.[697] Rather than skirting the technical uncertainties and political difficulties of reconciling divergent sustainable forestry perspectives (as the government had done with its 1994 frame law legislation), certification tackled these challenges head on. By reaching for consensus on a set of specific SFM targets that addressed economic, environmental and social forest values, certification has promoted the difficult debate around the forest vision in terms of how to actually balance forest values and determine the trade-offs necessary to achieve the forest sustainability goals.[698] As debate continues over the revision and specification of the private rules, certification processes continue to

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[696] Interview with Bo Wallin, Former Head of the Environment Department, SFA, September 14, 2007.
[697] Gulbrandsen (2008b:111).
[698] Building on the certification debates, between 2003-2005, the government conducted a two-year national consultation on the long term forest vision and in March 2005 announced specific quantitative forestry targets to achieve the national forest goals. See Swedish Forest Agency (2005).

strengthen Sweden's forest vision by encouraging and leading in the deliberation and the practical testing of the sustainable forest management ideal.

6.6 Summary

Forest certification mechanisms in Sweden have been functioning in parallel, rather than as a substitute for state forest policy authority. Through an ongoing interplay between the public and private systems, certification programs have been contributing to the ongoing refinement of the national forest goals and objectives. Acknowledging the limitations of certification as a stand-alone forest policy instrument, government authorities in Sweden have closely monitored certification developments and responded to the limitations of certification rule-making by continually improving upon forest policies and regulations to ensure the delivery of the national forest policy agenda. Overall, the resulting certification-policy dynamic has constituted a co-regulatory forest governance system with coincident public and private rule-making authorities.

This chapter began by outlining the five distinguishing features of the Swedish forest regime, all of which contributed to Sweden's leadership role in global forest certification. It then provided a snapshot of the status of forest certification in Sweden, including an overview of the development and adoption of the PEFC and FSC certification systems among the family forest owner associations and the forest industry respectively. I then assessed the role and expectations of the Swedish forest authorities in forest certification and argued firstly, that while the government took an accepted position of non-interference, the state played a key enabling role with the introduction of the frame law forest legislation that encouraged private self-regulatory initiative; and secondly, that forest authorities kept a watchful eye on certification rule-making, constantly revising state forest policy as appropriate to guard their sovereignty and to ensure continued public-private forest policy alignment.

The chapter then turned to address the governance implications of the certification-policy dynamic. In this section I presented the chapter's main argument that certification has operated in parallel to public forest policy rules and processes and that the co-regulatory

system of forest governance resulted in an expanded SFM discourse and greater specificity in the country's SFM targets. I outlined three specific examples of improved target-setting resulting from the public-private interaction, and evaluated the supplementary regulatory role of certification in providing stakeholders with a deliberative forum where they have had increased policy responsibility to reach consensus on difficult sustainable forestry questions. And finally, I argued that certification has strengthened and challenged the country's collective forest vision by encouraging the ongoing identification and testing of sustainable forest management value trade-offs.

Overall, while this chapter has highlighted limitations of certification as a stand-alone policy mechanism, it has also demonstrated the significant opportunities for certification to supplement state forest governance capacity within a co-regulatory forest governance system. By adopting a regulatory approach that enabled and leveraged certification alongside traditional state authority, the Swedish government facilitated a co-regulatory dynamic of contestation and co-operation that has encouraged ongoing continual improvements to both the public and private forest governance systems and the nation's forest management goals.

Chapter 7

Conclusion

Over recent years, running in parallel to government-led efforts to promote collaborative environmental governance arrangements such as co-operative public-private partnerships and negotiated environmental agreements and covenants, corporations and NGOs have been co-operating (separate from the state) in the development of a vast array of "non-delegated" multi-stakeholder corporate social responsibility codes and standards. As reviewed in Chapter 2, governance research has focused on why these various state-led and non-state new governance approaches have emerged; how they have been developed; why companies participate; and the comparative effectiveness of voluntary versus prescribed rules and standards. However, the literature has paid little attention to the role of government in private environmental governance, and how the public and private rule-making systems are interacting. For the most part, policy scholars have assumed a clear distinction between public and private governance approaches. While this lends theoretical clarity, it has dismissed the empirical reality that the boundaries between public and private governance mechanisms are increasingly blurred, particularly through co-regulatory governance approaches.

Forest certification is an example of a governance mechanism with overlapping public-private boundaries. For example, the standards incorporate forest law and international forest criteria, and governments are also engaging in certification. However, there has been very little investigation of the public-private dynamic. In order to address this gap and evaluate how public and private authority interact in the case of forest certification, this dissertation has involved a comparative case study evaluation of how and why governments within the world's leading certified nations (Canada, the United States and Sweden) have responded to certification, and the governance implications of certification co-regulation. With regard to these questions, I have argued that governments in industrialized countries have engaged in certification alongside prescriptive forest law

resulting in supplemental forest governance capacity and the achievement of more responsive and adaptive forest regulation.

The dissertation introduced the new governance concept of CSR co-regulation so as to clarify and define how public and private authority co-exist within multi-centric co-regulatory governance systems that encompass both state and non-state deliberative arenas. I also developed and applied three analytical tools to assess the concept of CSR co-regulation and to provide a framework for the case study evaluations. These included a governance typology, a spectrum for mapping government CSR response and a matrix for illustrating a co-regulatory governance system.

In answer to the three main questions posed in the dissertation, the empirical evidence shows firstly, that governments within Canada, the United States and Sweden have adopted increasingly direct approaches towards certification including endorsing certification standards, establishing legislation to enable certification implementation, adopting certification on public land, and mandating certification. Secondly, the reasons *why* governments have engaged in certification are similar, however, the factors explaining *how* governments chose to respond are different. Governments have participated in certification for a range of reasons but primarily to ensure policy alignment, minimize potential market distortions, capture potential market reward and/or sustain public trust. Factors influencing how governments have co-regulated certification are contextual and include market and non-market drivers such as: ENGO advocacy pressure and government leadership, as well as customer demands, industry expectations, the availability of private funding, and state budgetary pressures.

And thirdly, the case studies demonstrate that while certification on its own has clear limitations, certification co-regulation has resulted in a range of governance benefits. The benefits involve greater efficiencies in state forest administration. As well, through rule-making competition, co-regulation has encouraged the continual improvement of state forest practices and policy-making processes, including an enhanced forest discourse and more adaptive forest policy. The cases also suggest that it is these

governance improvements rather than measurable economic gains that have provided governments with a justification for continuing engagement in certification. Overall, the case study evidence shows that forest certification is neither a purely non-state nor purely market-driven governance mechanism. Rather, certification is functioning as a co-regulatory forest governance system, engaging both public and private forest authorities.

Returning to the opening chapter, the dissertation has helped to shed light on both of the initial puzzling concerns – why has certification been classified as a non-state market driven mechanism (NSMD) given the overlap with forest laws and government engagement, and what role is it serving in highly regulated northern countries given that it was intended to fill a governance gap in tropical regions. The findings suggest that certification adoption is occurring in developed rather than developing regions not only because more stringent forest laws lower the marginal costs of certification implementation but also because public sector capacity plays an important role in certification development, implementation and enforcement. Governments in industrialized countries are supporting certification as a supplement rather than a substitute to forest law. Fundamentally, certification is a co-regulatory governance mechanism, and developing regions are lacking the necessary baseline institutions and/or essential contributing state capacity.

Regarding the second puzzle, as evaluated in Chapter 3, NSMD governance *does* accurately explain the "non-delegated" and global supply chain features of certification. However, the theory assumes zero sum authority (i.e. if governments exert authority then NSMD no longer exists) and therefore fails to capture the dynamic of coincident public and private authority within certification co-regulatory systems. Thus, by looking beyond the theoretical categorizations of certification as a "non-state market-driven mechanism" or "private hard law" to the empirical reality of government certification engagement and certification-policy interaction, this dissertation has demonstrated that governments in the leading certified nations are not in retreat but rather engaging in certification so as to achieve and advance sustainable forest management (SFM) through co-regulation.

This final chapter is organized into four sections. In order to provide a comprehensive picture of the certification co-regulatory dynamic, the first section brings together the empirical evidence and results from the individual case study evaluations and presents an overall synthesis of the findings. The second section draws on these findings to evaluate the opportunities and challenges of certification co-regulation. In this section I argue that while certification has weaknesses as a stand-alone policy tool, it also has strengths that are complementary to regulation. Ultimately, the certification co-regulatory challenge is about achieving an effective balance between public and private governance systems within the policy mix that encourages creative rule-making competition but also ensures policy alignment. The third section of the chapter provides several operational insights to guide policy-makers in achieving optimal certification co-regulatory systems. The dissertation concludes with a discussion of suggestions for future research.

7.1 Co-regulating Forest Certification

As outlined in Chapter 1, this dissertation has employed a comparative case study research design to investigate certification co-regulation at the sub-national level in Canada and the U.S. and the national level in Sweden. It was appropriate to select these countries as they are top global forest producers; all have well established forest laws; and all have been global leaders with respect to certification development and adoption. Although each case study evaluated how and why governments engaged in certification and the governance implications, the focus was slightly different for each case, reflecting the unique co-regulatory approach within each jurisdiction. For example, the Canadian case study in Chapter 4 assessed how and why there was variance in provincial government co-regulation including why two provinces mandated certification. The U.S. case study explored how and why so many state governments adopted certification on state-owned forestland and showed how certification co-regulation has enhanced state forest administration. And the Sweden case study in Chapter 6 concentrated on the co-regulatory dynamic between public and private forest rules and how this resulted in adaptive improvements to state forest policy-making.

This section synthesizes the results from the respective case study evaluations. It begins by outlining the range of indirect to direct co-regulatory approaches the governments have employed. I then summarize the rationale and context-specific government considerations and drivers of certification co-regulation within each jurisdiction. The section concludes with an overview of the governance benefits of certification co-regulation in terms of administrative efficiency improvements, as well as enhancements to each of the three key aspects of forest governance – the polity (deliberative arena), politics (decision-making process) and policy (forest decisions).

7.1.1 The Spectrum of Government Engagement

Although the Canadian, U.S. and Swedish governments communicated their position on certification as one of non-interference, probing further into national and sub-national certification responses revealed many examples of government certification engagement. Government certification response was similar in terms of indirect baseline co-operation but varied in terms of direct co-regulatory approaches. Table 7.1 provides a summary of the range of government forest certification co-regulation strategies employed from indirect to direct approaches at the development, implementation and enforcement stages.

Table 7.1: Government Forest Certification Co-regulation Strategies

	Indirect Co-regulation ←——————→ Direct Co-regulation	
Development (Rule-making)	- Attend standards development/revision meetings. - Provide guidance as requested. - Promote forest policy alignment.	- Provide a legal framework. - Provide resources. - Participate as voting member in standards development/revision.
Implementation (Delivery)	Provide information and training.	- Remove legislative barriers. - Establish co-operative agreements. - Provide certification incentives. - Certify public forestland. - Incorporate private rules into policy.
Enforcement	- Assist companies in preparation of certification audit evidence. - Clarify forest policy during certification audits. - Threaten to mandate certification.	- Provide accreditation services. - Mandate certification. - Incorporate certification audit in legislative compliance audit. - Develop public procurement policy for certified forest products.

a) Development

At the development stage, governments all positioned themselves initially, at a minimum, in an indirect facilitating role by providing guidance to ensure certification credibility and policy alignment. As well, by default, all played a direct role in standards development through the provision of a supporting legal framework to enable contracts and establish a baseline of sustainable forestry legal compliance. Beyond this, some governments provided financial, technical and/or human resources to support the development of the standards and also participated directly on the standards development committees. For example, the Swedish Environmental Protection Agency volunteered their director's time to chair the national FSC working group. As well, a U.S. State government representative (from Oregon) was a member of the SFI Board, Canadian provincial government forest ministry representatives participated on the CSA technical committee and attended FSC meetings as observers, and representatives from the Swedish Forest Agency participated on subcommittees of the national FSC working group. The Canadian federal government also endorsed certification in their National Forest Strategy and provided support for the development of the national CSA standard through the public agency – the Standards Council of Canada (SCC). All cases showed that governments were contributors and, in some instances, drivers of certification standards development.

b) Implementation

At the implementation stage, governments indirectly facilitated certification adoption by providing information, training and/or technical assistance to forest owners and operators. More direct approaches included: establishing partnership agreements with the certification bodies (e.g., Ontario); providing financial incentives (e.g., Wisconsin managed forest law for small private forest operators); removing legislative barriers (e.g., Sweden 1994 Forest Act and B.C. 2005 Forest and Range Act); as well as adopting certification on state-owned forestland (e.g., the certification of Canadian provincial Crown land, U.S. state-owned forestland and public land managed by Sveaskog forest company in Sweden).

c) Enforcement

And finally, at the enforcement stage, governments indirectly supported certification by assisting in the preparation of audit evidence; offering technical support during certification audits; and ensuring the alignment of forest certification audits with state regulatory compliance audits.   In certain cases, governments used the indirect approach of a regulatory threat as a means to encourage certification adoption (e.g., Sweden, Maine).   In terms of direct engagement in certification enforcement, several governments mandated certification (e.g., Ontario, New Brunswick and Michigan); provided auditor accreditation services (e.g., SWEDAC and the SCC); piloted the incorporation of certification as a component of the legislative compliance audit (e.g., Ontario, B.C. and New Brunswick); and established public procurement policies to promote demand for certified forest products (e.g., Vermont, Michigan, and Washington).

As reviewed above, at a minimum, state authorities closely observed the development and implementation of certification standards. As well, the lead regulatory forest agencies within each country (i.e. Canadian provincial Forest Ministries; U.S. State-level Departments of Natural Resources; and the Swedish Forest Agency) co-operated with certification organizations by providing information and technical advice.   Beyond a baseline level of co-operation, government engagement over the period 1995-2007 included various increasingly direct co-regulatory roles in terms of enabling, endorsing and even mandating certification. In particular, as shown in Figure 7.1, the most prominent examples of direct co-regulation in each jurisdiction included: enabling certification through results-based forest legislation (e.g., Sweden); endorsing certification by certifying state-owned forests (e.g., twelve U.S. States); and mandating certification on public forestland (e.g., Ontario, New Brunswick and Michigan).   As summarized in the next section, while the underlying rationale for cooperating in certification was similar among governments, the drivers explaining why governments adopted more direct co-regulatory approaches included a range of political, economic, environmental and social factors that played out differently within each jurisdiction.

Figure 7.1: Summary of Government Response to Forest Certification

Indirect ——————————————————➤ *Direct*

	Observe	Co-operate	Enable	Endorse	Mandate
Government Role	Monitoring certification to ensure policy alignment and prevent market discrimination.	Providing information and assistance as requested.	Supporting certification in the forest policy mix.	Certifying state-owned forests.	Legislating certification on public land.
United States	✓	✓		State governments certifying state-owned forests.	
Canada	✓	✓	A range of provincial government response to certification including Ontario and New Brunswick mandating certification on Crown forestland.		
Sweden	✓	✓	Forestry frame law encouraging private forest governance initiative.		

7.1.2 The Rationale and Drivers of Certification Co-regulation

a) Rationale

As global forest producers with well-established forest laws, facing similar global economic pressures and increasing societal expectations regarding the protection of environmental forest values, the underlying government rationale for at least observing and co-operating in certification was similar between Canadian, American and Swedish governments (see Table 7.2). All wanted to ensure policy alignment, protect forest owners from potential market discrimination, and prevent domestic forest producers from suffering from any trade distortions. In other words, it was important to manage for any political and/or economic risk. As well, governments supported certification in order to facilitate any potential economic gains. Specifically, as a markets-based instrument, certification was a means to possibly facilitate a market advantage for domestic forest

producers that would enhance their long run global market competitiveness. Therefore, at a minimum, governments wanted to acknowledge and stand out of the way of forest owner certification efforts. Beyond economic considerations, the common rationale for engaging more directly in certification included additional environmental and socio-political justifications such as demonstrating and improving state forest management policies and practices; increasing citizen understanding and engagement in sustainable forest management decisions; and building credibility and trust with the public and environmental advocacy groups.

Table 7.2: Government Rationale for Certification Engagement

Manage Potential Risks	Improve Industry Competitiveness	Demonstrate Sustainable Forestry	Increase Public Trust
▪ Ensure policy alignment. ▪ Prevent market discrimination or trade distortions.	▪ Sustain market access. ▪ Facilitate potential market advantages and gains.	▪ Demonstrate and improve state forest policies and practices. ▪ Establish state forest management leadership.	▪ Increase citizen understanding and engagement in forest decisions. ▪ Build credibility with ENGOs.

b) Certification Co-regulation Considerations & Drivers

While the governments in the three countries shared similar rationales for cooperating with certification, they directly co-regulated certification in different ways based on specific local forest regime considerations. For example, as summarized in Table 7.3, in Canada, as provincial governments are both the principal landowners and regulators, a fundamental consideration in certification co-regulation was to guard the policy agenda and protect policy sovereignty and, thus, ensure certification standards were developed and delivered so as to align with forest regulation. In Sweden, where the state has traditionally taken a "softer" approach of informing and steering rather than coercing private forest owners, the government responded to certification so as to maintain its enabling policy role. And in the U.S., where state governments are the principal forest regulators of private forestland, an important consideration in adopting certification was

to demonstrate state leadership to encourage private family forest owners – a sizeable landowner group across the country that has historically been difficult to regulate and actively engage in forest management.

Beyond the rationale and fundamental considerations for certification engagement, the case studies also showed that there were various factors that interacted with each other and with the background social, political, economic and environmental conditions within each jurisdiction that influenced government direct co-regulatory response. For example, as Table 7.3 also shows, in the U.S., there was a range of issue-based and opportunity-based drivers that influenced state governments to certify their state forests including: customer pressures, interstate competition and ailing state economies, as well as the availability of private foundation funding, concerns over maintaining market access and hopes of gaining price premiums. Among the Canadian provinces, there were three significant influencing factors that prompted varying co-regulatory government responses including: industry expectations of government cooperation; strong international environmental advocacy pressures; and sovereignty concerns over protecting the domestic policy agenda. And finally, in Sweden, the government's co-regulatory role in enabling certification was shaped to a large extent by the overall shift in the forest regime with the introduction of the frame-law Forest Act. As well, the government felt confident enabling certification as they had established trust with domestic environmental groups during the forest campaigns in the late 1980s, and also felt confident in the domestic industry as companies were demonstrating strong leadership and commitment to support FSC certification (including the state-owned forest company Sveaskog).

Table 7.3: Certification Co-regulation: Regional Considerations & Drivers

	Co-regulatory Approach	Key Consideration	Drivers
Canada	A range of provincial government approaches including mandating certification.	Guard policy sovereignty and ensure regulatory alignment.	▪ Industry expectations. ▪ International ENGO pressure. ▪ Policy alignment as per stage of the policy cycle.
U.S.	Adopt certification on state-owned forestland.	Spur state forest economy and set leadership example for family forest owners.	▪ Issue-based: - Customer pressure - Interstate competition - Ailing state economies ▪ Opportunity-based: - Private foundation funding - Market access - Price premiums
Sweden	Enable certification through frame-law forest legislation.	Support self-regulatory achievement of national forest objectives.	▪ Alignment with Forest Act. ▪ Industry support. ▪ ENGO trust. ▪ Sveaskog certification leadership.

In summary, similar macro-level conditions in the U.S., Canadian and Swedish forest political economies prompted governments in these regions to take notice and at a minimum co-operate with certification efforts in order to manage for any potential political and/or economic risks. Institutional differences in the local forest regimes such as the balance of public-private forest ownership, the level of forest administrative authority and the historic policy style helped to explain *why* the governments adopted their particular co-regulatory approach but also there were additional context-specific political, economic, social and environmental drivers that played a role in determining *how* governments directly engaged in certification.

7.1.3   Governance Implications of Certification Co-regulation

As shown in Chapters 4 to 6, while governments in the leading certified forest nations characterized certification as a market-based instrument and communicated their role as one of non-interference, all co-regulated certification, i.e. they directly engaged in the

development, implementation and/or enforcement of the private rule-making mechanism. By evaluating the co-regulatory dynamic between the private and public systems, the cases revealed a competitive, yet synergistic interplay between the public and private rules and processes. In other words, the two systems have operated in parallel and behaved as complements with mutual dependencies and mutual benefits. Certification systems have relied on a legal framework and have drawn on government acceptance and support for legitimacy. As well, governments have benefited from certification in terms of improvements to state forest administration, continual improvements in state forest practices, enhancements to the forest policy discourse and, overall, greater governance capacity through the incorporation of more adaptive and responsive forest policy rules within the policy mix.

a) Forest Administration Benefits

Adoption of certification on state managed public forestland has improved state forest administration. In particular, meeting certification requirements and undergoing third party audits encouraged continual improvements to state forest management planning and on-the-ground state forest practices. For example, as shown across the twelve U.S. states that certified their state-owned forestland (during the period 1996-2007), certification served as a springboard for achieving positive governance outcomes such as improvements in staff morale, better departmental co-ordination, greater access to state funds, shorter forest planning timeframes, more up-to-date technical resources, greater public engagement, more regulator forest tracking and reporting, improved on-the-ground forest practices and demonstrated state government leadership. In particular, meeting the certification public engagement and reporting requirements increased the transparency and accountability of the state's forest management processes. As well, implementing the required improvements to the tracking and monitoring systems, forest models, inventories and forest plans, and responding to the regular independent third party certification auditor feedback all contributed to bettering the state forest agencies' on-the-ground forest practices. Overall, by adopting certification on state-managed public land, state governments realized benefits largely associated with having an effective environmental management system (i.e. better tracking, co-ordination, delivery and

communication of programs, as well as continual forest management performance improvements).

b) Enhanced Polity, Politics and Policy

In terms of the three key aspects of governance – polity, politics and policy – the cases also showed that the incorporation of certification as an additional instrument in the state forest policy-mix enabled greater private decision-making authority; encouraged increased forest stakeholder participation and deliberation; and facilitated continual improvement in forest policy rules and process (Table 7.4).

Table 7.4: Certification Co-regulation Governance Outcomes

Polity (Decision-making forum)	Expanded political arena beyond traditional state-led decision-making to include private rule-making authority.
Politics (Decision-making process)	Expanded multi-stakeholder policy deliberation and responsibility, increasing stakeholder knowledge and building social capital.
Policy (Forest decisions)	Synergistic dynamic between public forest policy and beyond-compliance private rule-making, supplementing governance capacity and encouraging adaptive forest regulation.

Polity

Certification has provided an additional political forum for the deliberation of sustainable forest management issues and the establishment of forest management rules. Led by private actors such as forest companies, private landowner associations and/or environmental organizations, the private certification arena has extended forest policy-making beyond the traditional sphere of state-led agenda setting and rule-creation to encompass private forest governance authority. However, although "non-delegated" and distinct from state policy-making, certification rule-making has not been detached from the state. Certification systems have been operating in parallel and synergistically with state processes and have gained legitimacy not only through market supply chains and the acceptance of corporate actors and non-governmental organizations but *also* through

direct government engagement. By co-regulating certification, governments in Canada, Sweden and the United States have all played a role in legitimizing private forest governance authority.

Politics

Certification authority has also been legitimized through a virtuous cycle of enhanced stakeholder engagement, learning, trust and collective SFM decision-making (see Figure 7.2).

Figure 7.2: The Politics of Certification Authority: A Virtuous Cycle[699]
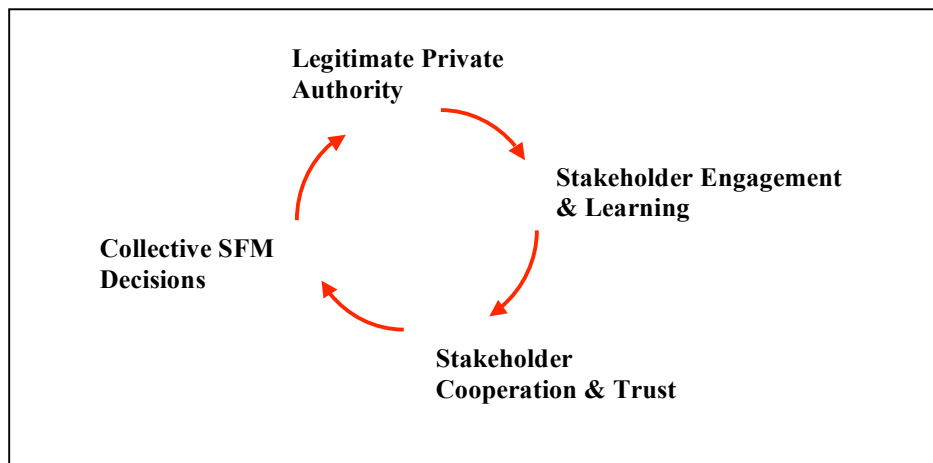
Certification bodies have mimicked democratic institutions as they operate under constitutions that encourage multi-stakeholder input, and establish fair and equitable decision-making procedures and transparency requirements. However, as the cases illustrated, unlike traditional state policy-making, the certification standard-setting process has not been driven from the top-down by a single state authority but rather through market and NGO-led private authority. Governments have contributed to, but have not formally delegated authority nor dominated certification decision-making. As a consequence, certification processes have had to gain their legitimacy and rule-making authority through ongoing market and societal acceptance.   Ensuring open access for multi-stakeholder engagement has therefore been a priority.

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[699] A *virtuous cycle* is a term originating in the economic and business management fields to describe a system of positive feedback (and as contrasted to a *vicious cycle* as characterized by negative feedback).

Groups have been drawn to actively participate in the certification process not just because it has been accessible but also because of the opportunity to establish rather than just influence forest rules. As described in the cases, for some stakeholders, particularly social groups often excluded from the formal state forest dialogue, the regional certification arena offered unprecedented forest decision-making access and responsibility. For example, across all countries, the three chambers of the FSC consensus-based national and regional standard setting bodies have provided economic, environmental and social stakeholders an opportunity to participate on an equal footing in forest debates and decisions that have in many cases been the traditional domain of closely held industry-government alliances. As well, in Canada, the CSA local multi-stakeholder SFM advisory groups have supplemented the provincially legislated forest licensee stakeholder consultation requirements, enhancing local stakeholder engagement and influence. And in the U.S., the regional SFI Implementation Committees (SICs) have brought local forest stakeholders together to develop SFM programs, facilitate SFI adoption, and encourage continual SFM improvements beyond state requirements.

The increased engagement and responsibility of stakeholders in the certification process has, in turn, enhanced the forest dialogue and encouraged stakeholder learning. Certification has provided a deliberative forum for stakeholders to voice, debate and better understand the range of perspectives on SFM issues. In developing and revising the certification standards, groups have been meeting regularly to deliberate and reach collective decisions that they know they will have the responsibility for implementing. The ongoing interaction and shared accountability has encouraged stakeholder cooperation and trust. Spurred by a collective desire to reach agreements themselves rather than having governments impose requirements through top-down regulatory intervention, the cases showed that SFM decisions were reached within privately-led certification bodies that governments had previously been unable to attain.

Fundamentally, the increased private forest governance responsibility and authority has facilitated a different style of interaction among stakeholders than within the traditional state-led processes. Returning to Figure 7.2, deliberation within the certification arena has

ultimately established a virtuous cycle whereby private rule-making authority has enhanced the social capital among forest stakeholders, which has enabled difficult collective SFM decisions to be reached, which has ultimately reinforced the continued acceptance and legitimacy of certification rule-making authority.

Policy

Certification has also aided governments in formulating, implementing and enforcing forest policy. As summarized in Table 7.5, certification deliberation, certification rules and certification audits have supplemented the policy process. Certification deliberation has increased stakeholder knowledge, cooperation and trust as well as enhanced government understanding of the issues and stakeholder perspectives. This has reduced educational demands on government, facilitated meaningful stakeholder policy input, and improved government receptivity, which have all ultimately enhanced policy formulation and implementation processes.

Certification rules have assisted in the formulation and implementation of policy by facilitating a competitive step-wise public-private interplay that has encouraged more adaptive forest governance, i.e. rule-making that is constantly testing, receiving feedback and making adjustments and hence, continually improving. For example, as shown in the Swedish case, certification standards have incorporated and gone beyond state legislation and state forest policy has, in turn, advanced private rules. There has been a dynamic synergy with each system challenging and advancing the other.

And finally, certification audits have augmented policy implementation and enforcement capacity by reinforcing regulatory compliance, encouraging beyond-compliance forest practices and by enhancing the transparency and accountability of forest operations. In particular, certification audits have provided governments with additional information about forestry performance and specific areas requiring "corrective actions" which has assisted forest authorities in identifying problem areas and thus, formulating and delivering effective forest policies and programs.

Table 7.5: Certification Contribution to Forest Policy Process

		Policy Formulation	Policy Implementation	Policy Enforcement
Certification Deliberation	Increased stakeholder knowledge.	✓	✓	
	Increased stakeholder cooperation and trust.	✓	✓	
	Enhanced understanding of issues and stakeholder perspectives.	✓	✓	
Certification Rules	Interplay with state forest policies.	✓	✓	
Certification Audits	Reinforced compliance.		✓	✓
	Beyond-compliance continual improvements.	✓	✓	✓
	Enhanced transparency.	✓	✓	✓
	Supplemental accountability.		✓	✓

In summary, forest certification has *not* been functioning as a purely private non-state market-driven governance mechanism. Instead, the certification standards are inherently hybridized (the private rules incorporate public law) and governments have been directly engaged in certification development, implementation and/or enforcement. The co-regulatory dynamic has facilitated positive governance outcomes such as enhancements in state forest administration, enhanced forest discourse and continual improvements in state forest policies and processes. However, while certification co-regulation has offered forest governance opportunities, governments have also recognized the limitations and challenges.

7.2 The Co-regulatory Opportunities & Challenges

As outlined in Chapter 2, the essence of the co-regulatory governance challenge is to achieve a balance between dynamic, innovative private rule-making and stabilizing, accountable public regulation so as to maximize the benefits while minimizing the drawbacks inherent in each system. As shown in the cases, governments have recognized the strengths of certification, and yet also acknowledged the limitations of certification as a stand-alone policy mechanism. They have, therefore, responded to certification rules and decision-making processes as a potential complement rather than a substitute for state forest laws and policy-making. Governments have not retreated but instead have directly endorsed, adopted and/or enabled certification, leveraging private governance capacity alongside traditional state forest policy authority. The key challenges and opportunities of certification co-regulation with respect to policy design, policy target-setting and institutional durability are summarized in Table 7.6 and outlined in the following three sub-sections.

Table 7.6: Certification Co-regulation Opportunities & Challenges

	Opportunities	Challenges
Policy Design	▪ Certification and regulation have complementary policy features.	▪ Certification is not a comprehensive, stand-alone forest policy instrument.
Policy Target	▪ Certification is targeting leading and compliant forest operators, freeing public resources to focus on non-compliant forest actors.	▪ Certification not targeting laggards. ▪ Unresolved debate over certification standards so policy target unstable.
Institutional Durability	▪ Certification adaptive to shifting stakeholder expectations.	▪ Certification losing flexibility as standards converge and partnerships deepen.

7.2.1 Policy Design

Certification and regulation have distinct yet, synergistic governance features. Areas of regulatory weakness are certification strengths, and vice versa. As presented in Table

7.7, assigning approximate, un-weighted values relative to policy criteria (High:3; Medium:2; Low:1) shows the respective areas of contribution, and highlights the corresponding capacity of certification and regulation as potentially complementary policy instruments within a co-regulatory forest governance system.

Table 7.7: Certification & Regulation: Complementary Governance Attributes

Selection Criteria	Certification		Regulation	
Policy Instrument				
Legitimate	L	*(1)*	H	*(3)*
Accountable	L	*(1)*	H	*(3)*
Efficient (timing)	H	*(3)*	L	*(1)*
Cost Effective (expense)	H	*(3)*	L	*(1)*
Output Effectiveness (uptake)	L	*(1)*	H	*(3)*
Outcome effectiveness (results)	M	*(2)*	H	*(3)*
		11		*14*
SFM Policy Tool				
Adaptive rule-making	H	*(3)*	L	*(1)*
Local decision-making	H	*(3)*	L	*(1)*
Integrated forest management	H	*(3)*	M	*(2)*
Comprehensive SFM	L	*(1)*	H	*(3)*
		10		**7**
		21		**21**

As reviewed in Chapter 2, regulation is an attractive policy instrument for governments because it is legitimate, accountable and enforceable. However, it is also tends to be slow and costly. Certification has been fundamentally appealing because it is faster to implement and less expensive than regulation. Yet, certification is voluntary and so implementation is uncertain. As well, certification legitimacy is unstable and accountability is limited (i.e. certification bodies are unelected, and market, government and/or societal acceptance are not guaranteed). In terms of outcome effectiveness, both certification and regulation contribute to forestry practices improvements with regulation perhaps stronger as it *is* enforceable and thus, ultimately more predictable. Assessing the

outcome effectiveness of certification versus traditional regulatory approaches is an important area for future research.

Combining the fundamental policy attributes (from the top half of the Table 7.7), regulation appears to be a slightly stronger policy tool than certification.   However, forest sustainability is a unique governance challenge that has required the consideration of additional policy attributes (bottom half of Table 7.7).   And certification has aligned more closely with these criteria, thus offering governments a governance opportunity.

Forests are a complex resource to govern not just because they are both a public and private good because but also because the management of sustainable forests is subject to natural disturbance; political, scientific and technical uncertainties; shifting societal and community-based forest values; and dynamic local forest conditions. Sustainable forest management (SFM) is both a process and a moving target. Depending on the forest community, the sustainability equation will vary. Therefore, some policy criteria that are normally desirable may not necessarily be optimal in the case of addressing SFM issues. For example, while the U.S. case study showed that certification can facilitate the efficient delivery of state policies and programs, the state governments also explained that it may not always be appropriate to speed up the public process. Forest planning (particularly on public forestland) often requires lengthy deliberation and coordinated processes. So, certification efficiency could be a policy drawback as it may encourage *overly* hasty forest decisions.

Thus, the additional criteria governments have been considering when designing their forest policy mix have included: adaptive rule-making, local decision-making, integrated forest management, and a comprehensive scope. In other words, optimal forest policy approaches have strived to be flexible to local conditions; promote local community engagement; integrate and balance economic, environmental and social forest values; and ultimately make a positive contribution to sustaining forest health and productivity.

Returning to Table 7.7, one can see that forest regulation scores slightly lower than certification with respect to these specific (un-weighted) forest policy criteria. Regulation achieves a lower tally because legislated rules are typically stable rather than flexible; centrally rather than locally-driven; and are traditionally developed and enforced as a series of discrete economic and environmental forest laws rather than integrated SFM requirements. In contrast, certification systems have established adaptive forest rules and processes; encouraged local forest stakeholder engagement and responsive decision-making authority; and promoted the integration of economic, social and environmental forestry requirements.

Comparing the rough total scores in Table 7.7 (in the bottom half), it would appear that certification constitutes a slightly more appropriate SFM policy instrument than regulation. However, governments have recognized that certification has a fundamental limitation – its scope. Fundamentally, certification is not a measure or standard of forest sustainability. It does not provide a general indicator of the state of the forest or a guarantee of future forest health. Unlike state monitoring and regulatory compliance audits, certification does not measure or assess on-the-ground forest changes resulting from forest practices. As explained by state authorities, certification is a test for independently verifying comprehensive forestry planning and responsible harvesting practices within a defined forest stand but there are sustainability considerations that fall beyond certification at the forest landscape level (e.g., biodiversity). Thus, while certification can supplement traditional regulatory approaches, governments have recognized that certification is not a substitute for forest regulation.

Forest certification has inherent limitations as a stand-alone forest policy instrument, not just because certification is voluntary, leans on a legal framework, has limited accountability to the wider electorate and potentially unstable political legitimacy, but also because certification has a partial SFM mandate that falls short of a government's overall stewardship responsibility to protect the forest public goods. However, as outlined and argued throughout the thesis, certification has significant strengths that can be complementary rather than a substitute to traditional regulatory approaches within the

forest policy mix. As explained in the next section, a further area of co-regulatory challenge as well as complementary governance strength concerns the forest policy target.

7.2.2 Policy Targets

An optimal forest policy mix not only considers the range of criteria outlined above but also the policy target. Is the intention to reward the leaders who are going beyond legal compliance? Penalize the laggards who are out of compliance? Or perhaps target the compliant majority to sustain and/or improve their performance? Targeting the laggards will typically generate the greatest marginal benefit as there is the potential for the greatest outcome gains.[700] So, what has been the certification target? Has certification served as a "gold standard" to encourage forest leadership; a market penalty for laggards; or a baseline benchmark to reinforce legal compliance? As shown in Figure 7.3, in the highly regulated regions where uptake has been largely occurring, the cases showed that certification has been serving as a progressive baseline standard, reinforcing legal compliance, as well as encouraging beyond compliance forest management leadership.[701]

Figure 7.3: Optimizing the Policy Target

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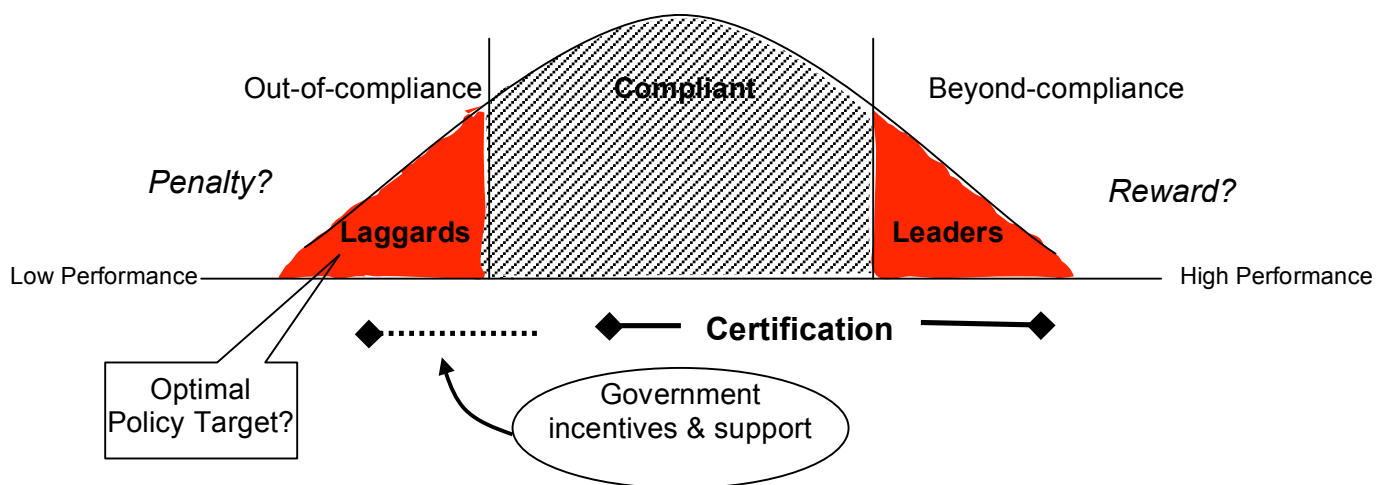
[700] Although in some cases the marginal cost of going after the poorer performing actors may exceed the benefits depending on the size, degree of non-compliance and access to the group. As well, there will be political factors such as the distribution of costs and benefits that influence the determination of the optimal policy target.

[701] Although it is also important to note that not all leading or compliant forest owners/operators in these regions have *chosen* to certify.

By targeting the larger segment of compliant and beyond-compliant forest actors, certification has been serving to reinforce forest laws. This reduces some of the regulatory pressure on government, thus offering the state greater opportunity to direct its resources towards problem areas (e.g., non-compliance) rather than simply overseeing the compliant majority.

So far, certification has *not* been a major inducement to the lagging performers. The certification requirements have been sufficiently high enough to constitute a cost barrier and certification markets have not materialized to the point where there is a sufficient penalty or incentive to ensure participation. In many instances, the "trailing" forest actors have been small private forest owners that typically lack the capacity and technical resources to carry out formal forest management planning. Although they contribute a large percentage of the U.S. and Swedish fiber supply, family forest owners in both countries have been a difficult group to regulate because of well-established private property rights. Thus, governments have begun to introduce certification financial incentives (e.g., land tax reductions); initiate targeted certification education and training programs, as well as support efforts to lower certification costs (e.g., group certification options) in an effort to bring onboard the lagging small private owners through "softer" means than coercive regulation. As illustrated in Figure 7.3, these government initiatives constitute an effort to stretch the certification policy target. Tracing and assessing this growing trend of direct government certification role in increasing certification access to the poorer performing forest owners and operators is an emerging area for future investigation.

A final point of consideration is that while certification has been operating as a progressive baseline standard, certification's future policy target is a point of ongoing debate. Certification organizations are undecided on the normative question of how certification rules *should* evolve. Some members want to see the bar raised while others would like to see a minimum standard maintained. A gold standard would improve performance but could limit participation. A baseline standard would encourage wider-scale adoption among the lagging performers but might dilute certification value and

market advantage. The discussion raises pragmatic questions about the role of certification as a global forest governance standard. As well, the deliberations highlight fundamentally divergent perspectives about the intended purpose of certification. Is certification a forest protection or a forest production standard? Is the goal to conserve high conservation value forests or to create a market advantage for certified forest products from sustainably managed forests? Is it realistic to presume that certification can achieve both?

Certification rules are flexible which is a positive attribute in terms of enabling local-level responsiveness, but, as the rules evolve to set either a higher or lower performance bar, the certification policy target will also shift, thus altering the forest policy mix. The unresolved normative debate about certification's long run purpose and how certification rules should evolve ultimately introduces instability in the certification policy target and this introduces uncertainties into the future design and durability of certification co-regulatory systems.

7.2.3 Institutional Durability

Can governments rely on certification over the long run as a durable forest governance mechanism or is certification perhaps just a temporary regulatory trend? On the one hand, forest certification systems appear durable as they have achieved institutional capacity, (i.e. legitimate private rule-making authority), by continually adapting to shifting stakeholders expectations and competitive pressures. On the other hand, as certification membership, rule-making processes, and private forest rules become increasingly entrenched, certification systems are losing some of the adaptive flexibility that contributes to their ongoing acceptance and rule-making authority.

As explained in Chapter 3, because certification is a non-delegated voluntary policy mechanism, certification programs have had to gain rule-making authority through acceptance rather than formal state delegation. Certification rules and processes have therefore needed to be responsive so as to achieve and maintain political legitimacy. Certification organizations have struggled to develop, implement and revise the standards

in an optimal way to encourage SFM results, as well as satisfy the broadest constituency – too rigorous or too lenient a standard and stakeholders might become disenfranchised, breaking the virtuous cycle that reinforces private rule-making authority (see Figure 7.2). As well, certification organizations have had to compete with other certification programs for acceptance. As argued in Chapter 3, as a consequence of the internal battles for legitimacy, the various FSC and PEFC standards have been converging in their design and content. PEFC supporters generally believe that the increasing harmonization of the standards has been a source of continual improvement, while FSC advocates complain that the competition has resulted in compromise. Environmental non-governmental organizations (ENGOs) are voicing concerns that the certification requirements are becoming too lax. As well, environmental organizations are recognizing that as the systems mature and partnerships deepen, certification is losing some of its leverage as an effective advocacy tool to hold corporations accountable and encourage continual forestry improvements. The viability of certification programs is increasingly dependent on sustaining rather than critically scrutinizing the acceptability of corporate membership, thus reducing the role of activism and ultimately, restricting rule-making flexibility. As a consequence, there have been warning signs of waning ENGO certification acceptance and, hence, mounting concerns about certification durability. For example, in March 2008, the leading environmental group in Sweden (SSNC) withdrew from the Swedish FSC Board stating that the standard was now too weak and not being properly enforced. In September 2008, one of the leading global environmental organizations that founded the FSC – Friends of the Earth (FoE), withdrew from FSC International over concerns that the standard was supporting unsustainable forest practices, i.e. certifying plantations and permitting the harvesting of primary old growth forests.

So far, despite increasing concerns, certification adoption continues to increase in new forest regions around the globe.[702] Certification programs have demonstrated remarkable resiliency by responding to the negative feedback and adapting to shifting stakeholder

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[702] The rate of certification adoption is decreasing in the historically leading certified regions while increasing in emerging forest producing regions such as Russia, Brazil and China. See UNECE/FAO (2008).

expectations.[703] As explained in Chapter 3, certification appears to be moving beyond a pragmatic calculation of costs and benefits to gaining moral and cognitive acceptance as simply "the right thing to do". However, the erosion of rule-making flexibility ultimately threatens certification durability and hence co-regulation stability.

In summary, certification's shifting rules, unstable policy target and uncertain institutional durability present ongoing co-regulatory challenges. Fundamentally, certification co-regulation is not a stable policy arrangement. Rather, it is a dynamic governance system subject to constant adjustment and realignment as private and public standards evolve. Evaluating how certification co-regulation matures in developed regions and emerges in developing regions is an important topic for future investigation. However, before turning to these topics, the next section addresses the research contribution, particularly to policy decision-makers seeking to achieve more effective forest governance solutions.

7.3 Certification Co-regulation in Practice

Tracing the evolution of government response to forest certification over the past 15 years within the world's leading certified countries has revealed a shifting trend from indirect facilitation to direct co-regulatory engagement. Governments are increasingly enabling, endorsing and even mandating forest certification as influenced by a range of interacting political, economic and social drivers. The state is not in retreat. Certification has not been a substitute for forest law. Rather, governments in the case study regions have been co-regulating CSR, i.e. strategically leveraging non-delegated private rule-making mechanisms alongside traditional state authority so as to continually improve upon governance policies, processes and outcomes. This constitutes the emergence of a new political arrangement – one whereby public and private rule-making authority is coincident within an expanded multi-centric political arena.

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[703] For example, see the recent Greenpeace International report responding to stakeholder feedback regarding 'controversial' FSC certifications. See Rosoman, Rodrigues & Jenkins (2008).

Achieving an optimal public-private balance within this expanded political forum is a dynamic and tricky process. The challenge for governments is to enable and endorse rather than capture private rule-making authority, yet, at the same time also maintain state policy sovereignty. The cases in this dissertation have demonstrated how various governments are strategically engaging with certification, ultimately striving for a synergy of penalty and reward, and a balance between regulatory freedom and constraint so as to encourage CSR initiative.

Stepping back, from a broader perspective, enabling CSR mechanisms such as forest certification is beneficial not only because it leverages private resources but also because the standards are innovative; go beyond the constraints of governments; and directly engage those who are contributing to environmental problems with those that are directly impacted (e.g., corporations and civil society). However, CSR implementation is unpredictable; legitimacy is unstable; and durability is uncertain. Therefore, the public sector role in CSR fundamentally involves facilitating the strengths while mitigating the weaknesses of the voluntary mechanisms. As Ayres and Braithwaite explain, the challenge is to design our regulatory institutions so as to "protect us from knaves while leaving space for the nurturing of civic virtue."[704] Ultimately, CSR co-regulation is about facilitating corporate responsibility while establishing a solid regulatory backstop to ensure corporate accountability.

The case studies reveal a range of certification co-regulation options and considerations. The following insights are gleaned from the case examples and are intended to offer guidance to policy-makers in their certification co-regulation decisions:

- Certification is a supplement not a substitute for forest regulation. Certification does not ensure the protection of collective forest benefits such as soil stability, water purification, climate control, wildlife habitat, and species biodiversity. Certification can encourage compliance and environmental forest stewardship improvements within

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[704] Ayres & Braithwaite (1992:53).

designated forest areas but falls short as a stand-alone policy tool to protect public goods that occur across the larger forested landscape.

- The business case for certification co-regulation is risk mitigation and forest governance improvement rather than measurable economic gain. So far, certification is not generating a significant price premium or increase in market share for the majority of certified forest producers but rather is serving as a means to sustain market access and maintain public trust. In industrialized regions, most forest operators now view certification as an "accepted way of doing business" rather than providing a leading market advantage. Incorporating certification alongside forest regulation in the policy mix offers potential governance benefits such as: greater stakeholder engagement, enhanced forest discourse, continual improvements to forest administration, and more adaptive forest policy-making.

- Adopting an inclusive approach that recognizes both PEFC and FSC systems (as opposed to endorsing one system over another) considers the interests of the broadest constituency and prevents market discrimination. While the FSC and PEFC programs are converging in their design and content, and are both accepted in the global market, the standards still have respective strengths and weaknesses, and continue to be endorsed by different "camps" (e.g., the FSC is promoted by environmental advocacy organizations, and large industrial companies and small private forest owners generally support the PEFC standards). Recognizing both programs provides certification options for the range of forest owners and operators to meet their various domestic and global forest customer demands.

- Certification has been adopted by the compliant and "beyond-compliant" leading forest actors. It has not provided a major SFM inducement to lagging forest operators. State measures are required to address this group.

- Small private forestland owners are at a certification cost disadvantage relative to large industrial operators. Unless these forest owners are cooperating in a group certification

effort (to achieve economies of scale); are assisted by larger forest companies; or until a significant price premium develops for certified forest products, family forest owner participation in certification will be minimal. Governments can help to offset the inequity by establishing direct financial incentives and/or providing technical support in terms of assisting with forest plans and inventories, as well as helping to facilitate the development of certification program options targeted at this group.

▪ Independent third party certification audits can complement but do not substitute for a forest compliance audit or a regular state forest monitoring program. Unlike a compliance audit that documents the effectiveness of forest activities and extent of forest change, a certification audit checks on whether a forest operator is following through on various forest management planning and operating commitments as per the various criteria identified in the certification standard. The certification audit does not measure or evaluate the on-the-ground impact of forest practices or policies, or assess the ongoing state of the forest. As well, certification audits lack the same level of public transparency and documentation as government forest audits. However, certification audits *do* include additional criteria that go beyond legislative compliance. Thus, integrating certification audits into a compliance program can expand state forest monitoring and enforcement programs and help to further demonstrate sustainable forest management beyond legal compliance.

It is important to emphasize that these operational insights regarding certification co-regulation reflect the experience of governments within developed countries with high public capacity, i.e. well-established legal systems and well-developed and enforced forest laws. The governance potential of certification in developing countries that have limited public capacity, as well as very different forest management issues, presents another set of co-regulatory challenges. However, a critical lesson that *is* transferable to developing countries is that the role of public sector capacity cannot be ignored in understanding why certification adoption has been failing in these regions.

7.5 Future Research

Forest certification began as a private effort to develop a global governance mechanism to curtail deforestation in regions lacking sufficient public sector regulatory capacity. However, certification has instead been adopted as an additional policy instrument within the domestic policy mix of highly regulated forest producing countries. This dissertation investigated the nature and implications of the private-public dynamic in the world's three leading certified forest producing nations. The cases demonstrated the range of direct government engagement in certification and analyzed the co-regulation drivers, rationale and governance implications. Based on the findings, I argued the central point that while the weaknesses in certification design limit its application as a stand-alone forest policy tool, its strengths have offered opportunities in developed countries to co-regulate private rule-making as a complementary policy mechanism to traditional regulation to supplement state forest governance capacity.

As a small contributing piece to the much larger emerging area of CSR co-regulation research, this dissertation identifies several key research gaps and questions for future investigation. Beyond a major knowledge gap regarding the optimal role of government in forest certification in developing regions, there is a range of research opportunity extending from this dissertation both within these same case study jurisdictions, as well as involving other cases. Firstly, there is a need for future research to assess co-regulation effectiveness, in particular the direct on-the-ground outcome effectiveness of certification co-regulation versus traditional regulation as well as to identify and evaluate the indirect outcomes. For example, although certification may not subvert existing forest laws, it is unclear whether certification co-regulation might also discourage the introduction of new prescriptive legislation that might otherwise have improved forest practices. While this may be difficult to determine, it will be an essential consideration in the design of future co-regulatory forest governance systems.

Secondly, research that traces the evolution of certification co-regulation will serve to further develop the concept of CSR co-regulation. For example, studies could evaluate how a government's co-regulatory role continues to shift and how the public-private

balance between forest certification and forest laws changes as the private standards are revised and as new state policy targets are introduced (e.g., with respect to bio-fuels and carbon capture). Also, as certification programs mature, there will be increasing questions about certification durability. Will certification legitimacy continue to develop towards a more deeply held logic of appropriateness or will certification systems perhaps become less stable as the programs gain institutional capacity and potentially, lose rule-making flexibility through industry and/or government capture? Will certification programs seek to establish a gold standard or maintain a more inclusive baseline performance bar? Organizational life cycle studies will be critical to the future design of adaptive co-regulatory systems.

And lastly, as CSR standards gain capacity in other global industry sectors beyond forestry, there will be increasing opportunity to conduct similar investigations of the public sector role in private environmental governance. Overall, it is the desired intent that the results and analytical framework of this dissertation will serve to guide and encourage future investigations into CSR co-regulation – an important new governance approach to achieving sustainability solutions.

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APPENDIX A

RESEARCH INTERVIEWS

a) Canada Interviews

Sector	Organization	Interviewee	Date
Industry	Abitibi-Consolidated	Guy Tremblay	03-02-05
			03-23-05
Consulting	Abusow Consulting	Kathy Abusow	06-04-04
			04-11-05
Provincial Government	B.C. Forest Practices Board	Chris Mosher	02-10-05*
			03-29-05
Provincial Government	B.C. Ministry of Forests	Jon O'Riordan*	01-14-05
		Don Wright*	02-01-05
		Johanna Den Hertog*	02-08-05
		David Morel	02-14-05
Industry	Bowater	Pierre Côté	03-02-05
ENGO	Canadian Parks & Wilderness Society (CPAWS)	Chris Henschel	03-23-05
Industry	Canfor	Peter Bentley	11-22-04
		Ken Higginbotham	01-11-05
		Lee Coonfer	
		Paul Wooding	01-21-05
Industry	Domtar	Keith Ley	03-02-05
			03-10-05
		Bernard Senécal	03-18-05
Federal Government	Environment Canada	Sandy Scott	06-09-04
		Desmond Fitz-Gibbon	08-20-04
		Adam Auer	
		Andrea Moffat	
Industry	Forest Products Association of Canada	Andrew DeVries	06-04-04
Certification body	FSC-Canada	Jim McCarthy	03-08-05
Federal Government	Industry Canada	Louise Bergin	04-27-04
		John Dauvergne	06-04-04
			06-09-04
Industry	Interfor	Rick Slaco	03-03-05
Industry	J.D. Irving	Scott MacDougall	02-17-05
Academic	Laval University	Luc Bouthèlier	03-11-05
Industry	MacMillan Bloedel*	Bill Cafferata*	02-10-05
Consulting	Moresby Consulting	Patrick Armstrong	02-14-05
Federal Government	Natural Resources Canada	Randall Nelson	04-27-04
			04-02-04
			03-02-05
Industry	New Brunswick Forest Industry Association	Yvon Poitras	02-14-05

Sector	Organization	Interviewee	Date
Provincial Government	New Brunswick MNR	Doug Mason	02-09-05
Industry	Office Depot	Tyler Elm	03-25-05
Provincial Government	Ontario Ministry of Natural Resources	Celia Graham Betty Vankerkhof	02-04-05 03-02-05
Consulting/Auditor	PricewaterhouseCoopers	Bruce Eaket	01-19-05
Provincial Government	Quebec Department of Natural Resources	Germain Paré Jean Legris	04-16-05
Industry	Quebec Wood Export	Carl-Éric Guertin	03-14-05
Academic	Simon Fraser University	Mike Howlett	01-12-05 01-31-05
Industry	Tembec	Mike Martel	03-02-05
Industry	UPM-Kymmene	Jen Landry-Côté	02-18-05
Industry	Weldwood*	Don Laishley* Don Wright*	11-26-04 02-01-05
Industry	West Fraser	Al Bennett	03-02-05
NGO/Industry	WWF/Weyerhaeuser	Linda Coady*	11-29-04

* Interviews with individuals previously employed by these organizations.

b) U.S. Interviews

Sector	Organization	Interviewee	Jurisdiction	Date
Industry	Boise Cascade	Brad Holt	Idaho	10/12/06
Industry	Bowater	Barry Graden	South	10/30/06
Industry	Canfor Corporation	Paul Wooding	North America	10/23/06
Industry	Domtar	Jim Rodd	Wisconsin	11/02/06
State	Florida Division of Forestry	Mike Long	Florida	05/23/07
State	Indiana DNR	John Seifert	Indiana	06/27/07
Industry	International Paper	Sharon Haines	US	10/03/06
State	MA DCR	Jim Dimaio	Massachusetts	12/13/06
State	Maine Bureau Lands and Forests	Don Mansius Tom Charles	Maine	10/20/06 10/13/06
Industry	Maine SIC	Pat Sirois	Maine	10/25/06
Certifier	Maine Master Logger Program	Sandy Brawders	Maine	10/31/06
Industry	MeadWestvayco	Joe Lawson	US	11/13/06
State	Michigan DNR	Dennis Nezich Cara Boucher	Michigan	01/16/07
Industry	Michigan Forest Products Council	George Berghorn	Michigan	12/05/06
State	Minnesota DNR	Andrew Arendts Tom Baumann	Minnesota	10/24/06 11/03/06
Industry	Minnesota Forest Industries Association	Tim O'Hara	Minnesota	10/23/06
State	NC Division Forest Resources	Michael Chesnutt Hans Rohr	North Carolina	10/11/06

Sector	Organization	Interviewee	Jurisdiction	Date
State	New York DEC	Frank Dunstan	New York	07/06/07
		David Forness		10/24/06
Academic	North Carolina State University	Fred Cubbage	US	10/19/06
State	Oregon Department of Forestry	Marvin Brown	Oregon	10/19/06
		David Morman		11/03/06
NIPF	Oregon Small Woodlands Assoc	Mike Gaudern	Oregon	05/16/06
State	Pennsylvania DNR	Dan Devlin	Pennsylvania	10/13/06
NGO	Pinchot Institute	Will Price	US	06/11/07
		Al Sample		
Industry	Plum Creek Timber Company	Jim Kranz	Rocky Mtn.	10/20/06
		Rob Olszewski	US	10/26/06
Auditor	PricewaterhouseCoopers	Bruce Eaket	North America	04/04/06
		Don Taylor	US	05/03/06
Auditor	SCS	Robert Hrubes	North America	10/31/06
Industry	Seven Islands	Mike Dan	Maine	11/20/06
Certifier	SFI	Bill Banzhaf	North America	10/16/06
				06/12/07
Auditor	SmartWood	Richard Donovan	US	11/09/06
County	St. Louis County	Mark Reed	Minnesota	10/18/06
Industry	Stora Enso	Gordy Mouw	Wisconsin	10/19/06
NIPF	SWOAM	Tom Doak	Maine	10/31/06
State	Tennessee Division of Forestry	David Todd	Tennessee	10/23/06
		Paul Deizman		10/26/06
NGO	The Nature Conservancy	Fran Price	US	06/12/06
Auditor	The PlumLine	Bill Rockwell	US	06/06/06
		Charles Levesque	NorthEast	10/16/06
Industry	TIME Inc.	David Refkin	Global	05/31/07
Academic	University of Minnesota	Tom Koontz	US	06/06/06
Federal	USDA Forest Service	Mike Higgs	US	05/16/06
		Denise Ingram		03/29/07
		Doug MacCleery		06/11/07
NIPF	WA Farm Forestry Association	Rick Dunning	Washington	05/04/06
State	Washington DNR	Craig Partridge	Washington	10/17/06
Industry	Weyerhaeuser	Cassie Phillips	North America	03/15/06
		Kirk Titus	Minnesota	10/03/06
		Jim James	US	03/29/07
		Bob Emory	US South	10/12/06
State	Wisconsin DNR	Bob Mather	Wisconsin	10/25/06
Academic	Yale University	Connie McDermott	US	06/07/06

c) Sweden Interviews

Sector	Organization	Interviewee	Date
Academic	FNI, Oslo	Lars Gulbrandsen	09-21-07
Certifier	FSC Sweden	Peter Roberntz Former Executive Director	09-18-07
		Karin Fallman Vice-director	09-18-07
Certifier	PEFC Sweden	Folke Stenstrom Executive Director (retired)	09-11-07
		Magnus Norrby National Executive Secretary	09-17-07
Industry	SCA	Mårten Larsson Manager Technical Development/TQM	10-31-07
Academic	SLU, Uppsala	Dr. Fred Ingemarson	09-17-07
Academic	SLU, Uppsala	Dr. Matts Nylinder	09-12-07
Industry	Stora Enso	Ragnar Friberg Senior VP Sustainability	09-12-07
Industry	Sveaskog	Olof Johansson	10-31-07
National Government	Swedish Environmental Management Council	Peter Nohrstedt EKU Manager	11-23-07
Small Forest Owners	Swedish Federation of Forest Owners	Jan-Åke Lunden Chief forester LRF	09-19-07
		Tage Klingberg Former National Chairman (1993-99)	09-11-07
National Government	Swedish Forest Agency (SFA)	Erik Sollander Senior Advisor Bo Wallin Former head of Environment Dept.	09-13-07 09-14-07
Industry	Swedish Forest Industries Assoc.	Roland Palm	09-12-07
NGO	Taiga Rescue Network	Karin Lindahl (Founding member of Taiga Rescue Network and on FSC Int'l Board)	09-17-07
National Government	SEPA	Sune Sohlberg	11-01-07
Academic	UBC, Vancouver	Dr. Gunilla Öberg	08-29-07
Academic	Umeå University	Dr. Katarina Eckerberg	06-07-06
Academic	University College of Gävle	Dr. Tage Klingberg (past chairman, Skogsägarna LRF)	11-09-07
NGO	WWF, Swedish Chapter	Lena Dahl, Co-ordinator, TetraPak (former Co-ordinator of WWF Sweden Forest & Trade Network)	09-13-07

APPENDIX B

THE LEADING GLOBAL FOREST CERTIFICATION PROGRAMS

Forest Stewardship Council
The FSC is an international, non-profit, NGO. Founded in 1993, it is run by a board of environmental, business and social interests. The FSC is a membership organization with nearly 600 members from more than 70 countries. FSC's mission is to promote environmentally appropriate, socially beneficial and economically viable management of the world's forests according to 10 FSC principles and 56 criteria. A company certifies to the relevant regional standard.   The FSC standard includes a chain of custody certification and label. (See: www.fsc.org.)

Program for the Endorsement of Forest Certification (PEFC)
The PEFC is an independent, international, non-profit, non-governmental organization established in 1999 to provide an umbrella framework for the development and mutual recognition of national or sub-national forest certification programs (under a common eco-label) that meet internationally recognized requirements for sustainable forest management. Originally founded by private land owners in Europe to accredit their national and regional forestry certification programs, the PEFC membership now includes 35 independent national forest certification programs worldwide (23 of which have been endorsed). (See: www.pefc.org.)

Canadian Standards Association Sustainable Forest Management Standard (CAN/CSA-Z809)
The CAN/CSA-Z809 is a national SFM standard developed through a multi-stakeholder process under the auspices of the Canadian Standards Association – an independent non-profit organization accredited by the Standards Council of Canada (SCC).   The CAN/CSA-Z809 standard was first published in 1996 and revised in 2002.   Drawing on nationally and internationally recognized criteria for sustainable forest management, the standard requires that 17 key SFM elements be addressed at the local forest level through a rigorous public participation process. SFM performance requirements are complemented by management system requirements consistent with the ISO 14001 standard. Companies seeking to certify a defined forest area (DFA) through the CSA must undergo an independent third-party audit of their management system and field inspection to confirm the attainment of performance objectives. In 2001, the CSA launched a chain of custody and labeling option. The CSA Z809 standard was endorsed by the PEFC in March 2005.
www.csa-international.org/certification/forestry

Sustainable Forestry Initiative (SFI)
The American Forest and Paper Association (AF&PA) developed the SFI standard in 1994.   In 2000, an independent Sustainable Forestry Board (SFB) was established to oversee the SFI standard's ongoing development including the certification process, dispute resolution and quality control. The SFB included representatives from industry,

environmental, conservation, academic and public sectors. The SFI standard includes a set of SFM principles, objectives, performance measures and core indicators. As well, the standard offers a certified procurement system audit and an on-product label option for use by 3rd party certified program participants that meet the Federal Trade Commission guidelines for environmental claims. The 2005-2009 SFI revised standard now requires SFI auditors to be accredited by the American National Standards Institute (ANSI) or the Standards Council of Canada (SCC).   In January 2007, the SFI separated from the AF&PA and became a fully independent non-profit organization (SFI Inc.) with a 15 member multi-stakeholder board of directors. The PEFC endorsed the SFI program in December 2005. (See: www.sfiprogram.org.)

The American Tree Farm System (ATFS)
The ATFS program applies to non-industrial forest owners in the U.S. The ATFS has existed since 1941, however, certification standards were approved in 1998. Those seeking certification must have a written management plan based on the ATFS SFM standards and guidelines. Volunteer foresters conduct the certification inspections. The AF&PA recognizes the ATFS as being an acceptable alternative to SFI for non-industrial private landowners. The ATFS was endorsed under the PEFC program in August 2008. (See:www.treefarmsystem.org.)

APPENDIX C

U.S. STATE FOREST AGENCY INTERVIEW SUMMARY

The following table presents a summary of the state forest agency interviewee responses to the questions:

- What were the key drivers that led your state to certify its state forests when you did?
- What were the implementation challenges?
- What have been the outcomes from certifying your state forests?

It should be noted that the following summarizes the unprompted state responses to a set of open questions rather than their reply to a formal pre-structured questionnaire.

	PA	NC	TN	ME	NY	MA	MN	WI	MI	WA	IN
Drivers											
Pinchot Funding	✓	✓	✓	✓	✓		✓	✓			
Buyer Pressure				✓			✓	✓	✓		
ENGO Advocacy			✓	✓					✓	✓	✓
State Economy				✓			✓	✓	✓		✓
Interstate Competition							✓	✓	✓	✓	✓
State Leadership	✓			✓		✓	✓	✓			
Market Opportunity	✓		✓	✓	✓			✓			✓
Challenges											
Workload & documentation		✓	✓	✓	✓	✓	✓	✓	✓		
Budget Justification		✓	✓	✓	✓	✓	✓		✓	✓	
Coordination & Policy Alignment	✓					✓	✓	✓	✓	✓	
Public Sector Flexibility	✓	✓	✓		✓			✓	✓	✓	
Gaining Staff Cooperation				✓	✓	✓	✓	✓	✓	✓	✓
Addressing SFM Audit Findings		✓			✓	✓	✓		✓		

	PA	NC	TN	ME	NY	MA	MN	WI	MI	WA	IN
Benefits											
Transparency & Accountability		✓		✓		✓		✓		✓	✓
State Forest administration	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
State Forest Management		✓		✓		✓		✓	✓		✓
Market Gains				✓			✓			✓	✓
State Leadership	✓			✓	✓	✓	✓	✓	✓		✓

APPENDIX D

U.S. STATE FOREST CERTIFICATION AUDIT OUTCOMES

As reported in the respective state forest certification audit summary reports[705], specific examples of administrative and forest management improvements resulting from state forest certification have included:

State	Audit Outcomes
Maine	❑ Improved land management planning and policies including improved: land classification; sustainable harvest levels; increased focus on wildlife, biodiversity and landscape level issues; riparian management standards; and water quality and habitat management ❑ Improved harvest Practices with respect to wildlife habitat and aesthetics considerations and clear-cut implementation. Overall BMP effectiveness at 82%. ❑ Improved identification of operations out of compliance with BMPs/regulations and better processes to help correct behaviour. ❑ Revised old growth definition. ❑ Legacy and Reserve tree policy revised.
Maryland	❑ ESA modeling software acquired and collaborative work initiated between DNR and Heritage staff. ❑ Staff job descriptions updated to include performance of SFI and FSC requirements. ❑ Sustainable forestry information sheet developed for loggers and timber sale contracts. ❑ HCVF Task Group established to define and map high conservation value forests. ❑ The Sustainable Forest Management Plan and the Annual Chesapeake Forest summary report prepared and posted on the website. The Summary of the Chesapeake Forest Monitoring Plan report also posted on the DNR website. ❑ Citizen Advisory committees re-organized (combined) to improve efficiency.
Michigan	❑ Implementation of a Timber Pre-sale Checklist. ❑ Additional funding made available to address identified issues such as BMP follow-up and Outdoor Recreation Vehicle (ORV) trail improvement (e.g. ORV Task Force created) and increased resources made available for management plan updates. ❑ Increased DNR involvement on State SFI Implementation Committee. ❑ Working with the Office of the State Archaeologist to develop staff training on site identification and reporting. ❑ Stand retention guidelines developed. ❑ Timelines established and held for completion of state forest plans. ❑ Tracking and reporting system implemented to identify water quality and soil erosion issues and make the case for funding to fix the problems.
Minnesota	❑ DNR discontinued the use of simazine as of December 2005. ❑ Thresholds established for residual stand damage and rutting as per DNR site-level guidelines.

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[705] The state forest certification summary audit reports can be accessed on the respective state forest agency websites, as well as from the SFI, FSC and certification auditor web pages. For example, see:
http://www.sfiprogram.org/auditreports.cfm
http://www.scscertified.com/forestry/forest_certclients.html; http://www.rainforest-alliance.org/forestry/public_documents.cfm;

State	Audit Outcomes
	❑ Statutory requirement enacted regarding required logger BMP and safety training. ❑ Developed an elaborate monitoring program and established an internal audit team for tracking and following-up on management plans. ❑ Certification now in the DNR vernacular e.g. loggers are now talking about CARs they have to address.
North Carolina	❑ Policy to limit clear-cut harvests in plantations to less than 40 acres without green tree retention. ❑ GIS system established. ❑ Improved methods for handling records of forest monitoring and management activities and reporting on results. ❑ Collaborative biological survey undertaken with NC Natural Heritage Program and cultural survey initiated with N.C. Department of Cultural Affairs. ❑ Formal policy established for stakeholder contact and communication and procedure implemented for public input into management planning. ❑ Identification and mapping of high conservation values in Bladen Lakes State Forests. ❑ Training conducted for all field personnel on management plan objectives, processes and procedures.
Pennsylvania	❑ Contracts now include a safety clause and the contracts are being used consistently across the BOF Districts. ❑ A Deer Management Plan for PA's State Forest Lands and DCNR Action Plan (2004-2005) for deer management have been developed. ❑ The DCNR and the Pennsylvania Game Commission working co-operatively on deer management research and implementation of the Action Plan. ❑ A landscape examination and planning method has been developed. ❑ Logger certification requirement has been added to timber sale contracts. ❑ System for training, guiding and supervising logging contractors in place and documented. ❑ A training database is being developed for foresters and Division staff. ❑ Road inventories conducted and indicators established for assessing environmental impacts.
Tennessee	❑ Safety and forest management training plans have been developed and implemented. ❑ Creation of new positions and improvement in salaries (e.g. established the position of State Forest Supervisors; and an "Outreach/Information and Education Unit Leader"). ❑ New policies and procedures developed and communicated through convening a forum on State Forest Practices. ❑ A "Framework for State Forest Resource Monitoring" developed and implemented. ❑ State forest inventory plan developed and being implemented. ❑ Planning process to identify the need for and extent of representative ecosystems and high conservation value forests has been developed. ❑ Specific and achievable objectives included in all revised management plans. ❑ A State Forest Monitoring Plan has been developed and implemented through inter-agency co-ordination (e.g. with the Department of Environmental Conservation). ❑ Further co-ordination opportunities with groups such as the Conservation Heritage Foundation, Nature Conservancy, Conservation Commission and the TN Wildlife Resources Association.

APPENDIX E

SWEDEN INTERVIEW QUESTIONS

The interviews that I conducted in the Fall 2007 with Swedish forest stakeholders were semi-structured, focusing on the drivers, opportunities and challenges of certification in Sweden, and specifically, the nature and expectations of government role and the interaction of certification and forest policy. The questions were open and included general lines of inquiry that were followed-up by specific questions tailored to the respective groups. The interview questions included:

- What were the drivers of certification development in Sweden?
- What were the challenges of certification development and adoption?
- Why did companies certify and when?
- Why did family forest owners certify and when?
- What is the current status of certification in Sweden?
- What are the current challenges of forest certification in Sweden?
- What has been the government's response to forest certification? Why?
- What have been the expectations of government role in certification?
- How have certification and forest policy interacted and what have been the forest governance implications?

APPENDIX F

CERTIFICATION CO-REGULATION – A NON-PARTISAN POLICY APPROACH

Over the past 15 years, whether under a right-of-centre or left-of-centre ruling political party, governments in the leading certified nations have become increasingly engaged in certification, leveraging the private rules as a supplement to forest law. The evidence demonstrates that certification co-regulation has been a non-partisan policy. Shifts in political party have not triggered shifts in the co-regulatory approach. For example, in Sweden, the Swedish Forest Agency (SFA) has consistently maintained their position of non-interference and enabling support for certification over the course of three electoral cycles despite the shifts in political parties (Moderate 1991-1994; Social Democrat 1994-2006; Moderate-Right Alliance 2006-). In the U.S., state forests have been certified, and the certification maintained whether under Democrat or Republican-controlled state governments. And, as shown by the timelines in the analysis below, the approaches and evolving engagement of Canadian provincial governments in certification have traced steady policy trajectories uninterrupted by shifts in political parties.

However, it is important to note that the exception where electoral politics *have* played a role in contributing to a shift in government response to certification are the instances where certain elected officials (irrespective of party) have played a leadership role, as individuals, in promoting certification co-regulation. For example, as explained in Chapter 5, section 5.4.1f, this occurred at the state-level in the U.S. in the cases of Maine and Wisconsin where during their term of office, the Governors of these states were persistent in pushing their legislatures and forestry departments to certify the state-owned forests. However, even in these cases, there were other interacting socio-political, economic and environmental factors that were also key drivers of state certification.

The Continuity of Provincial Government Certification Response

The following section provides policy timelines for British Columbia, New Brunswick, Ontario and Quebec demonstrating the evolution and continuity of certification co-regulation approaches across electoral cycles and relative to legislative changes.
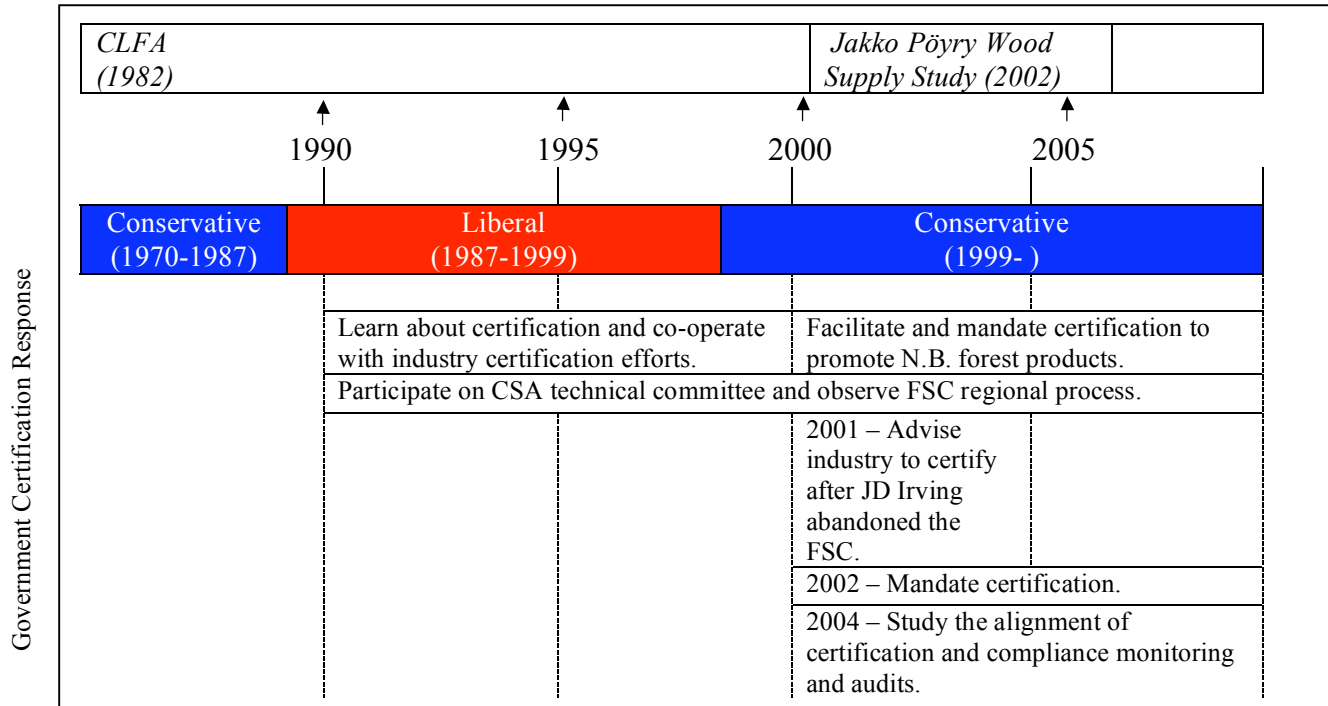
a) British Columbia

In British Columbia, the movement towards greater government engagement in certification began under the New Democratic Party (NDP) (1991-2001) and carried over into the Liberal term (2001 -). In particular, the shift in the forest regime from prescriptive to results-based forest legislation that occurred under the Liberals reinforced rather than changed the Ministry of Forest's position of pursuing opportunities to leverage certification as a supplementary policy tool while guarding provincial government policy sovereignty.

	FPC (1995)	*Forest Policy Review (2000)*	*FRPA (2004)*
	↑	↑	↑
1990	1995	2000	2005

Social Credit (1986-1991)	NDP (1991-2001)	Liberal (2001-)

Government Certification Response

Protect policy sovereignty and ensure viable certification options for provincial forest operators.

Participate on CSA technical committee and engage in FSC regional standard-setting process when possible.

2000 – Advisory Council on Certification established.

2000 - Certification implementation established as MoF priority.

2000 – Government certification options reviewed including certifying the small business program.
2007 - BC Timber Sales certification completed.

2002 – Pilot studies to test alignment of certification and regulatory forest monitoring and audits.

b) New Brunswick

In New Brunswick, the Department of Natural Resources adopted the policy approach of mandating certification in 2002, which was mid-term under the Conservative government (1999-2006) and not the result of a campaign promise or party platform.

CLFA (1982)			*Jakko Pöyry Wood Supply Study (2002)*	

1990 1995 2000 2005

Conservative (1970-1987)	Liberal (1987-1999)	Conservative (1999-)

Learn about certification and co-operate with industry certification efforts.	Facilitate and mandate certification to promote N.B. forest products.
Participate on CSA technical committee and observe FSC regional process.	
	2001 – Advise industry to certify after JD Irving abandoned the FSC.
	2002 – Mandate certification.
	2004 – Study the alignment of certification and compliance monitoring and audits.

Government Certification Response

c) Ontario

In Ontario, the Ministry of Natural Resources shifted towards greater certification engagement in 1999 (following the signing of the Ontario Forest Accord), mid-term under the Conservative government (1995-2003). When the Liberals came to power in 2003, the OMNR did not change the direction of their co-regulatory policy approach but rather continued along the same policy path, which led to mandating certification in 2004.

	CFSA (1994)	Forest Accord (1999)	Red Tape Reduction Act (2000)	Streamlining Taskforce (2006)

1990   1995   2000   2005

Liberal (1985-90)	NDP (1990-1995)	Conservative (1995-2003)	Liberal (2003-)

Government Certification Response

Facilitate and engage in both CSA and FSC processes to ensure consistency with forest legislation.
Participate on CSA technical committee and cooperate in FSC regional standard process.

2001 – Provincial FSC certification announcement and retraction.

2001 – FSC-OMNR partnership to review audit alignment.

2002 – MOU with SCC to facilitate CSA adoption.

2004 – Mandate certification.

2006 – FSC-OMNR Collaborative Action Plan.

d) Quebec

The Quebec Ministry of Forests shifted their approach towards increased certification engagement over the final three years of the Parti Québécois' (PQ) term in office (1994-2003).   The Ministry's new co-regulatory response to certification was carried forward when the Liberal government came to power in 2003, and was reinforced by the Coulombe Commission recommendations.
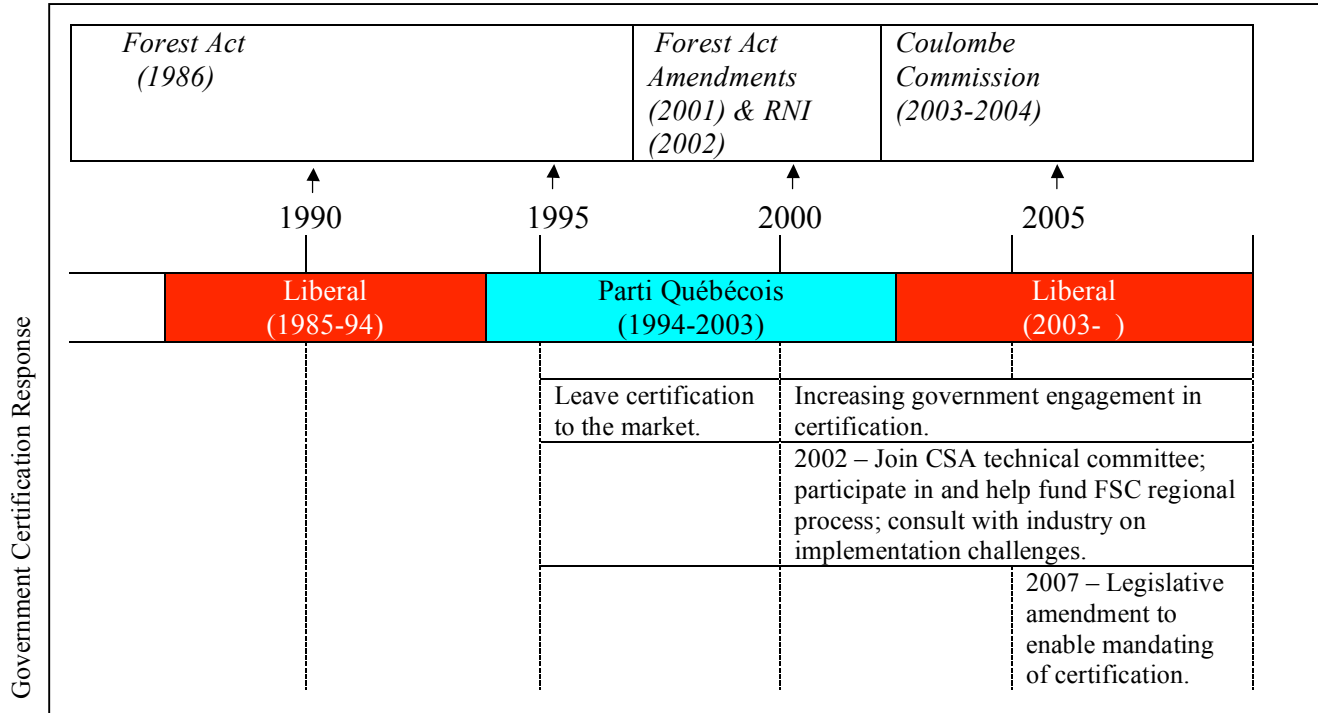
Overall, as the above analysis demonstrates, certification co-regulation has been a bureaucratic rather than a partisan issue, delivered and carried forward across electoral cycles by the lead forest agencies within the respective provincial jurisdictions.

APPENDIX G

ETHICS REVIEW BOARD APPROVAL

The University of British Columbia
Office of Research Services
Behavioural Research Ethics Board
Suite 102, 6190 Agronomy Road, Vancouver, B.C. V6T 1Z3

CERTIFICATE OF APPROVAL- MINIMAL RISK RENEWAL

PRINCIPAL INVESTIGATOR:	DEPARTMENT:	UBC BREB NUMBER:
Peter JM Dauvergne	UBC/Arts/Political Science	H05-80648

INSTITUTION(S) WHERE RESEARCH WILL BE CARRIED OUT:

N/A
Other locations where the research will be conducted:
N/A

CO-INVESTIGATOR(S):

Jane Evelyn Lister

SPONSORING AGENCIES:

Social Sciences and Humanities Research Council of Canada (SSHRC) - "Co-regulating Private Environmental Governance: The Shifting State Role in Forest Certification"

PROJECT TITLE:
Co-regulating Private Environmental Governance: The Shifting State Role in Forest Certification

EXPIRY DATE OF THIS APPROVAL: July 2, 2009

APPROVAL DATE: July 2, 2008

The Annual Renewal for Study have been reviewed and the procedures were found to be acceptable on ethical grounds for research involving human subjects.

Approval is issued on behalf of the Behavioural Research Ethics Board

Dr. M. Judith Lynam, Chair
Dr. Ken Craig, Chair
Dr. Jim Rupert, Associate Chair
Dr. Laurie Ford, Associate Chair
Dr. Daniel Salhani, Associate Chair
Dr. Anita Ho, Associate Chair