To inform or empower? Transparency in non-state certification of forestry and fisheries

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Abstract

Numerous non-state certification initiatives have emerged and consolidated in the past 20 years to address social and environmental problems associated with production practices in several economic sectors. These programs embody the idea that information disclosure can, in part, be a tool for NGOs, investors, governments, and consumers to differentiate between high and low performers, and hence, advocates hope, place upward pressure on sector-wide performance. Beyond this simple appraisal, however, there remain many unanswered questions concerning how information disclosure is handled across programs and within programs across involved actors and across geographic regions of the world. With this gap as a point of departure, we examine non-state certification programs in fishery and forest sectors to explore the relationship between how much decision-making power is granted to stakeholders and the attention these stakeholders pay to concerns for transparency. The analysis highlights an important asymmetry between transparency and provisions for decision-making power. While granting stakeholders decision-making power inevitably gives them access to information, the disclosure of information need not come with provisions for decision-making power. Recognizing this asymmetry underlines how assessing transparency alone can miss critical issues of authority and power that ultimately shape the evolution and effectiveness of non-state certification.

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Introduction

Governance through disclosure has gained mainstream popularity as a means of social steering. From information-disclosure policies about the roll-over risk of SUVs and health-related mailing requirements for US public drinking water systems to the Global Reporting Initiative and the Carbon Disclosure Project, efforts to use the disinfectant power of information have grown in prevalence and scope.[1] Moreover, the growing significance of supranational governance organizations and their distance from the accountability mechanisms of the state have spurred demands for greater transparency of organizations and institutions including the European Union, the World Bank, the World Trade Organization, and the International Monetary Fund.[2] In all cases, key debates surround the efficacy of transparency as a means of improving the effectiveness of global governance.[3]

Set within these broader trends and debates, certification programs, organized and coordinated by non-state actors, exemplify an effort to embrace, encourage, and control information flows in order to resolve environmental and social challenges both within and beyond state boundaries. As governance organizations, certification initiatives are critical test cases for the power of information disclosure in that they not only embody a normative commitment to the transformative potential of information disclosure, but they also provide specific transparency policies with both procedural and substantive aims and attempt to position themselves as multi-stakeholder venues for global governance. In this regard, clear questions emerge regarding how well their provisions for transparency do in empowering actors and in addressing social and environmental problems.

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[1] Fung, Graham, and Weil 2007.
[2] Lodge 1994; Roberts 2004; Esty 2002; O'Brien, Williams, and Goetz 2000.
[3] Esty 2006; Nanz and Steffek 2004; Held 1995b, 102; Keohane and Nye Jr. 2003.

There is a further consideration which is implicated in discussions of transparency, even if rarely tackled directly. Some level of transparency is a necessary condition for participatory modes of decision-making, even if how information is conveyed and how much decision-making power it comes with varies.[4] Indeed, what remains under explored in the context of non-state certification is the relationship between the granting of decision-making power to a broad array of stakeholders and the attention these stakeholder pay to concerns for transparency. We argue that looking at these issues simultaneously reveals a great deal about why transparency alone is not a sufficient condition for the empowerment of actors or for ensuring certification helps alleviate social and environmental problems. To explore this proposition, we describe and assess the development of certification initiatives in the forest and fisheries sectors, two sectors where certification has gained a notable foothold in the global governance arena. Across these initiatives, levels and forms of transparency differ in ways that allow us to examine how the granting of decision-making power relates to the importance actors place on the transparency of a given certification initiative.

The remainder of this article proceeds in four parts. First, it reviews extant work on transparency identifying key understandings of its potential and shortcomings. The review also discusses three transparency-relevant themes emerging from work on non-state certification initiatives, the third of which serves as the article's theoretical and empirical focus. Second, it assesses how fishery and forest certification programs address transparency and how and whether, in turn, variation in transparency across the programs can be connected to actual improvements in the environmental conditions in the forest or fisheries sectors. Third, drawing on the empirical assessments, it examines the relationship between transparency and participation in certification initiatives to determine how stakeholders' access to rule-making processes influence demands for transparency and governance reforms. To close, the fourth section links the specific discussion of non-state certification back to broader concerns about the role of transparency in global environmental governance.

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[4] Fung 2006.

Conceptual discussion and analytical approach

A commitment to transparency is a basic tenet of democracy. From the ideal of free and fair elections to models of open bureaucratic decision-making, democracies root themselves in principles of procedural openness and fairness.[5] Beyond this normative commitment, specific transparency policies can serve procedural and/or substantive ends. The former, referred to as procedural transparency, concerns the openness of governance procedures such as decision making or adjudication.[6] The latter, referred to as outcome transparency, concerns openness about regulated or unregulated behaviors; for instance, a law might require disclosure about the health effects of marketed products or pollution released from manufacturing processes. This is termed outcome transparency as it deals directly with the substantive ends of a give policy intervention.[7] Although outcome and procedural transparency can occur simultaneously, they may not. A closed decision-making process (no procedural transparency) may produce a disclosure requirement for some regulated party (extensive outcome transparency). Hence they are useful to disentangle.[8]

A key question for students of global governance is what governance through disclosure is likely to accomplish. With procedural transparency, certain scholars see careful design of rule-making procedures as a clear path to improving the legitimacy and effectiveness of global governance arrangements.[9] That is, better rules and procedures, the greater likelihood that organizations and institutions not supported by norms of popular sovereignty can secure organizational or institutional legitimacy.[10] With outcome transparency, scholars underline how information is essential for identifying and managing social and environmental problems.[11] Many economists, for example, show how mandatory information disclosure creates incentives for reduced health or environment related violations and helps consumers avoid risk or opt for choices with better health and environmental impacts.[12] Outcome transparency is also relevant to the dynamics of

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[5] Held 1995a; Dahl 1971.
[6] Vermeule 2007, 187.
[7] Vermeule 2007, 187.
[8] Vermeule 2007, 187.
[9] Esty 2006, 1514.
[10] Gupta 2008 identifies this as the central assumption of procedural transparency; see also Kutting 2000.
[11] Mitchell 1998; Akerlof 1970; Stiglitz 2000.
[12] Bennear and Olmstead 2008; Viscusi, Magat, and Huber 1986; Levy et al. 1985; Teisl, Roe, and Hicks 2002.

"accountability politics", where transnational advocacy networks use information to hold prominent international players (e.g., corporations, states, and international organizations) to account for their spoken commitments.[13] Here transparency is critical for providing information on practices groups can then highlight as problematic. These findings support the idea that information put in citizens' and/or stakeholders' hands facilitates behavioral change and, hence, may help solve societal problems without the need for other policy interventions.

However, there are a number of constraints to consider. First, a transparent process does not necessarily empower those affected by decision-making processes.[14] It may greatly empower narrow special interest groups, but do little to ensure the accountability of decision-makers to a broader stakeholder base.[15] With accountability politics, research has also questioned the selection of campaign targets and how aligned these are with societal priorities about critical global challenges.[16] Second, transparency is often in direct tension with concerns for confidentiality and privacy. When issues of national security emerge, secrecy may trump any and all calls for transparency.[17] Finally, although some are optimistic that information-age technologies will make transparency more broadly relevant and effective, others note how too much information can crowd out or create confusion around credible sources.[18] Human cognitive limitations also mean too much or selective disclosure may reduce effectiveness rather than improve it.[19]

In sum, information matters and can empower. Yet, transparency alone may not solve problems in a systematic way. Who produces the information and how credibly they do so, will shape how that information is interpreted and deployed, and hence, transparency's impacts will be shaped by factors beyond the act of disclosure itself.

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[13] Keck and Sikkink 1998.
[14] Langley 2001.
[15] Vermeule 2007, 192.
[16] Bob 2005, 189, 191.
[17] Roberts 2004, 411; Fenster 2006.
[18] See Esty 2004 and Fuller 2006 for optimistic perspective; see Keohane and Nye Jr. 1998 for points of concern.
[19] Fung, Graham, and Weil 2007.

Non-state certification and transparency – existing work

Concern for transparency is implicit in many works examining the development of non-state certification systems. Three themes are particularly apparent. First, across the sectors where certification has emerged, the importance placed on transparency varies. Concern for transparency appears most extensive in the apparel sector. Based on assessments of many apparel programs, O'Rourke argues transparency is essential for stakeholder empowerment within non-state governance since, "[if] concerned critics, and the public, cannot see for themselves where and how products are being produced, and how problems are being resolved, these systems will continue to face widespread skepticism."[20] By contrast, with programs in other sectors, such as certified fair trade and organic coffee, transparency received less initial attention, only gaining salience as additional programs were formed by actors outside fair trade and organic social movements.[21] This implies that concern for transparency in O'Rourke's case may flow from the specific nature of the problems facing the apparel sector. Concern for commercial secrecy, for instance, might be stronger in apparel than either in forestry or fisheries.[22] Alternatively, and more aligned with the pattern in coffee, the entry of larger commercial organizations, due to their concern for commercial secrecy, could be the critical factor behind increased attention to transparency.[23]

Second, competition among emerging certification initiatives conditions the extent to which disclosure is demanded and pursued. With the apparel case, Rodriguez-Garavito points to transparency as a central point of debate for third-party codes and monitoring.[24] Much like Overdevest's work identifying the strategic use of comparisons between forestry programs to put upward pressure on the standards and procedures of producer-backed initiatives, Rodriguez-Garavito discusses a similar dynamic between the Workers Rights Consortium and the Fair Labor Association.[25] The former was partly responsible for the latter's increased attention to procedural transparency. Thus, while the specific use of information was different (i.e., the comparison in forestry focused on different controversial policy issues than were salient in apparel), the use of

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[20] O'Rourke 2006, 909-10; O'Rourke 2003 also identifies information as critical for measuring effectiveness.
[21] Raynolds, Murray, and Heller 2007.
[22] O'Rourke 2005.
[23] Meidinger 2006.
[24] Rodríguez-Garavito 2005.
[25] Overdevest 2005.

comparisons as a tool to put upward pressure on standards is common to both sectors. In forestry as well, Meidinger notes how competition between the producer-backed programs and the FSC has led to more transparency among the former.[26]

Finally, demands for transparency appear inversely related to how much decision-making power stakeholders gain in participatory aspects of a certification's governance structures. The logic here is simple. When stakeholders are on the inside, they are likely to see less need for transparency as compared to when they are not. While there are exceptions, most research has not carefully assessed the independent effects of transparency and participation, even though these program features are considered critically important.[27]

Transparency, participation, and non-state certification

Our central proposal is that participation and transparency are closely related. Fung offers a useful point of departure for examining this relationship. He discusses three aspects of participation, which, together, generate what he terms the democracy cube.[28] The first dimension involves participant selection; that is, who gets to participate in a rule-setting process. This can range from broad public participation to narrow participation of specialized experts.[29] The second dimension involves the communication of information and decision making; this varies from the passive disclosure of information to active fora involving negotiation, debate, and deliberation. The third and final dimension pertains to authority and power; specifically, who gets authority to determine policy choices. Authority may remain centralized or it can be given over to partnership arrangements or even held exclusively by an individual stakeholder.[30]

These details highlight how the effects of procedural and outcome transparency are filtered through other aspects of a certification program's institutional design. Giving stakeholders participatory rights, also gives them access to the information that is being considered in the

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[26] Meidinger 2006.
[27] See, Meidinger 2006 in comparison to Bernstein and Cashore 2007 and Espach 2005.
[28] Fung 2006.
[29] See also Jasanoff 1996.
[30] Börzel and Risse 2005.

decision-making process.[31] Yet, transparency without some decision-making power means key stakeholders are more likely to feel a process is illegitimate as a governance mechanism. On this basis, we argue that variation in the extent to which stakeholders are granted a direct participatory and decision-making role in a non-state certification program will affect how discussions of transparency are framed and debated. In addition, we expect that those groups not given access to decision-making processes will demand greater transparency, but will not be satisfied with information alone. Ultimately, they will seek leverage over decision-making outcomes.

The emergence of forest and fisheries certification

Forest certification formed after prolonged efforts within intergovernmental fora and NGO networks to push for changes in global forest governance.[32] For our argument, the key facet of this emergence was the broad coalition of parties that took an immediate interest in the certification idea, which in part led to an early decision to establish the FSC as a membership organization. Direct participation in the FSC rule-making processes was also institutionalized through national affiliates that would work to localize the FSC Principles and Criteria of responsible forest management. Fisheries certification, by contrast, did not emerge from a broad coalition; rather, the World Wide Fund for Nature (WWF) teamed up with Unilever to create an FSC-type organization for certifying responsible fisheries practices.[33] Although the partners quickly moved to include other stakeholders through workshops and outreach that sought feedback on standards development, they purposefully avoided two institutional designs chosen by the FSC: direct membership and national affiliates for localization of a global standard.[34] Hence, MSC emerged with more streamline attention to stakeholder involvement than had the FSC.

Nevertheless, in both case, the MSC and the FSC serve as anchor organizations around which other programs have emerged and further developed. For forestry, a host of national programs formed around when the FSC launched and have since slowly consolidated under the direction of the Programme for the Endorsement of Forest Certification (PEFC), formerly the Pan-European

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[31] Fung 2006.
[32] Elliott 2000; Gulbrandsen 2004; Bartley 2003; Humphreys 1996.
[33] Constance and Bonanno 2000; Murphy and Bendell 1997.
[34] Auld 2007.

Forest Certification scheme. In fisheries, the pattern is more fragmented. While MSC formed, organic certifiers developed a set of initiatives for aquaculture production, building from what they were already doing with terrestrial farming systems.[35] This, too, began with a different set of provisions for participation, a pattern much more fragmented than even true of the early development of the FSC.

As the discussion below shows, these different starting points shaped the debates over transparency. Likewise, the conditioning effect of competition also mattered in a different way across the sectors.

Characterizing and assessing differences in transparency

With certification initiatives, procedural transparency is relevant at multiple stages of policy development and implementation. For analytic purposes, we separately examine the procedural transparency of both certification initiatives' *rule-making processes* and *certification and auditing procedures*. Outcome transparency, by contrast, captures information disclosure about both *behavioral changes* and institutional *impacts*. Whereas behavioral changes address the extent to which companies must modify operations to become certified, institutional impacts capture the extent to which environmental and social problems are solved or ameliorated through certification.[36] In the following, we address these issues in turn, that is, (1) the rule-making process, (2) the certification and auditing process, and (3) behavioral changes and environmental impacts of certification.

Rule-making processes

Forestry

With the FSC, rule-making occurs in various settings. The ultimate authority of the organization rests with its membership. These organizations and individuals are separated into three interest-based chambers (environment, social, and economic) each which control 1/3 of the total voting

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[35] Auld 2007.
[36] Underdal 2002; Kutting 2000.

rights (although originally 1/4 of the rights went to economic and 3/4 went to social and environmental). Parity between northern and southern interests is also required within each chamber. The secretariat is the FSC's central organizational body. Led by the Executive Director, it serves as the workhorse for operational issues, carrying out the mandates of the membership and the strategic planning efforts of the FSC Board of Directors.[37]

From the beginning, standards development has been delegated to national affiliates.[38] Groups of interested stakeholders in a give country (sometimes a region within a country), were given official status from the FSC to take its international Principles and Criteria and develop more locally appropriate indicators and verifiers for assessing the practice of responsible forest management. Although local processes were underway when the FSC established, the first national FSC contact person was endorsed in the United Kingdom in 1995.[39] Since certifiers were operating before the FSC launched, and as a way to not restrict participation in areas where standards remain incomplete, FSC-accredited certifiers may assess operations against "generic" standards developed with stakeholder consultation that apply the Principles and Criteria appropriately for specific ecological and socio-political conditions in a given region.[40] We return to the role of certifiers in the next section.

With the national initiatives, consideration for procedural transparency features prominently in FSC's guidance documents for these national efforts. The National Initiatives must be organized in a manner that meets high standards of transparency; the National Initiatives' manual explains: "In order for the FSC as a whole to maintain its credibility and transparency, the organization and its National Initiatives must act in an open and participatory fashion."[41] Likewise, with the National Initiatives' standards development work, the FSC requires procedural transparency for the standards it will endorse. This means: "The consultative process [has to] be transparent and

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[37] Forest Stewardship Council 1995.
[38] Synnott 2005.
[39] Synnott 2005.
[40] Forest Stewardship Council 2004d.
[41] Evison 1998, 29.

accountable, both to working group members, and to the wider public. Minutes of all meetings and draft standards [are to] be made available to any interested party."[42]

For the PEFC-member programs, there were a host of different starting points. Some were reactions to intergovernmental processes discussing tropical forest management. Others responded to domestic focused concerns over forest practices. Still others occurred in response to signals from export markets.[43] Partly because of these various starting points, the degree to which procedural transparency was emphasized varied and assessing this variation is beyond the scope of this article. To highlight the general tendencies, we can look at the PEFC rules.

Similar to the FSC, the PEFC requires local standards development fitting within the structure of various intergovernmental forest policy processes. However, a greater emphasis is placed on one key stakeholder – forest landowners – as the appropriate initiator of standards setting activities: "The process of development of certification criteria shall be initiated by national forest owners' organizations or national forestry sector organizations having support of the major forest owners' organizations in that country. All relevant parties will be invited to participate in this process."[44] In addition, the national group is also required to, "define its own written procedures based on the consensus principle which govern the methods used for standards development. Copies of the procedures shall be made available to interested parties upon request."[45] The written materials must also stipulate an, "appeal mechanism for the impartial handling of any substantive and procedural complaints."[46] Finally, the requirements focus on the broad issue of transparency, stating: "The start of the standard setting process shall be communicated to the public. Information on the development process shall be distributed and discussed and final draft standards shall be available to all interested parties, e.g., by posting it on the Internet."[47]

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[42] Evison 1998, 61.
[43] Cashore et al. 2006; Auld, Gulbrandsen, and McDermott 2008.
[44] PEFC 2006.
[45] PEFC 2006.
[46] PEFC 2006.
[47] PEFC 2006.

Fisheries

The origins of the MSC were also important for determining which issues were initially on the agenda. Unlike the links to the stalled intergovernmental negotiations for forest management, the founders of the MSC saw standards as less controversial than the actual process of implementation. Indeed, MSC's standards built off a code of conduct for responsible fisheries issued by the UN Food and Agriculture Organization, indicating that they were meant to supplement rather than supplant existing intergovernmental rules.[48]

Overall, the institutional design of the MSC lent in favor of less direct participation in order to maximize flexibility and decision-making speed. In addition to a Board of Trustees and Chair serving as the organization's public face, the MSC would be run by a Secretariat that coordinated the activities of a Standards Council, Advisory Board, and National Working Groups.[49] The Advisory Board was the closest thing to a membership body; according to the MSC's original website it, "[was] open to any individual with an interest in fisheries and their certification irrespective of their own background."[50] The Advisory Board was partitioned into three chambers: one for those making an economic living from fisheries, a second for environmental groups and government bodies (domestic and international) and a third for educational, social, and consumer interests.[51]

With the drafting of the initial standards, the MSC emulated the FSC, carrying out extensive consultations with fisheries stakeholders in various countries; however, divergence occurred in the approach to localization.[52] The MSC did include national affiliates, but these were solely developed for the purpose of outreach and promotion instead of as a way to make global standards locally appropriate. This rule-making task was instead given to the certification bodies that were to assess individual applicant fisheries.[53]

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[48] Auld 2007; Gulbrandsen 2005.
[49] Fowler and Heap 2000, 141.
[50] Marine Stewardship Council 1999.
[51] Marine Stewardship Council 2000; Fowler and Heap 2000, 141.
[52] Murphy and Bendell 1997; Constance and Bonanno 2000.
[53] May et al. 2003, 21.

Operations seeking certification can undergo a confidential pre-assessment which acts as a gap analysis determining what steps the operation will likely need to take before being ready for a full, public assessment.[54] Public notice is required when they choose to pursue the full assessment. At this stage, the analogous process to localization conducted by FSC national initiatives begins; yet, with the MSC, an assessment tree comprising specific performance indicators and scoring guideposts for evaluating the candidate fishery are developed by the expert assessment team. MSC requires that they are guided by previous assessments, but the hope is to develop interpretations of the standards distinctly relevant to a given operation. Procedural transparency in this process is facilitated by a comment period, where the team has to give interested stakeholders 30 days to react to and make suggestions about the performance indicators and scoring guideposts. The final versions are to incorporate this feedback and are made public before the assessment begins.[55]

Differences between assessment trees were intended to allow for variation in the conditions of each fishery. However, the MSC observed that this approach gives certifiers significant leeway in interpreting the standard and that different certifiers developed different assessment trees for essentially similar fisheries. Critics also observed that the assessment scores awarded by different certifiers were significantly different from each other.[56]

To address these problems, the MSC in July 2008 introduced a new fisheries assessment methodology.[57] It described the new methodology as the "biggest change" to the program since the standard was drafted in the late 1990s.[58] The core of the new methodology is a default assessment tree; certifiers are now required to use the performance indicators and scoring guideposts of the default assessment tree as the basis for all candidate fisheries. Whereas the client for certification has to provide the assessment team with the information that will allow the team to score the fishery, the team members are required to interview relevant stakeholders and to take into account all concerns relating to the management and sustainability of the fishery. The

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[54] Chaffee, Phillips, and Ward 2003, 64.
[55] Chaffee, Phillips, and Ward 2003, 70.
[56] Ward 2008.
[57] Marine Stewardship Council 2008a.
[58] Marine Stewardship Council 2008b.

team members then score the fishery according to the assessment tree and issue a preliminary report for peer review and public comment. In this way, the MSC has sought a balance between stakeholder input into a transparent assessment process and the need for consistency across like fisheries seeking MSC endorsement.

Unlike forestry, the field of certification programs surrounding the MSC is more fragmented and it does not appear poised to consolidate in an equivalent way to the PEFC. Prior to MSC forming, organic certifiers were drafting standards and audit procedures for fish farming, particularly for high value species such as salmon and shrimp. Rulemaking in this arena was fragmented, with separate processes guided by the leading certifiers. The Soil Association began developing a standard for organic aquaculture back in 1989. Naturland started soon after and had released a standard for pond farming in 1995. Bio-Gro, a New Zealand based certifier, was also active at this time; it certified the first salmon farm operation in 1994.[59] Although the International Federation of Organic Agriculture Movements (IFOAM) was overseeing and coordinating the practice of organic agriculture around the world, it had not yet sought control over standards-development work of individual certifiers. It did so in 1998 when it began drafting a "Basic Standard for Organic Aquaculture Production"; these were only endorsed by IFOAM membership in 2005.[60]

What complicated things further from a procedural transparency perspective was the entry of government into the organic regulatory arena. This created some degree of confusion about what was appropriate process for developing and implementing organic standards. With the Soil Association, for instance, claims were made that its standard was not truly organic given that it lacked endorsement from the government.[61]

The remaining initiatives in the fishery sector have varied in their attention to procedural transparency. The Responsible Fisheries Society and the Global Aquaculture Alliance (GAA) were borne out of industry concerns associated with government regulation and direct pressure

[59] Tacon and Brister 2002.
[60] Tacon and Brister 2002.
[61] Edwards 2000.

from NGOs on specific players in the industry.[62] While engaging many of the industry players and the fisheries scientific community, these initiatives did not seek to engage a broader audience in the development of standards. More recent programs, such as the Friend of the Sea, have been even less open about their processes and operations, to date.[63]

Certification and auditing processes

For certification and auditing, both procedural and outcome transparency are relevant. We turn our attention to outcome transparency – that is, information disclosure on behavioral changes and the link to environmental impacts – in the next section. Here we examine certification and auditing with an eye for procedural transparency.

Forestry

While the standard-setting body develops rules and accreditation requirements, the actual certification of applicants is carried out by independent certification bodies (certifiers). All of the forest certification programs claim to have transparent certification and auditing processes. Yet there are some salient differences between the FSC and the producer-backed schemes.

The FSC's approach to accreditation has evolved from an in-house process, conducted by its Accreditation Business Unit, to one controlled by a separate organization – Accreditation Services International (ASI) – which began operations in March 2006. Still, the basic rules for what auditors must disclose have been the same since late 2004. The requirements for procedural transparency are extensive. In their relationship with the FSC, the accredited certification bodies must maintain seven years of records on a wide range of issues, and all this information must be made available to the FSC, upon request. The records must cover, *inter alia*, information on the certification body's staff including their qualifications, potential conflicts of interest and training records; information on its decision-making processes and operations including committee operations, evaluation and certification contracts, reporting, and approvals for use of the FSC

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[62] Auld 2007.
[63] Auld 2009.

Trademarks; details on all certificate holders and their products; and meeting minutes or notes from all committees overseeing certification and dispute resolution decisions.[64]

Additionally, the rules require that certifiers provide interested stakeholders information on the names and qualifications of those responsible for, *inter alia*, the "overall performance of the certification body's activities", "certification decision making", and "dispute resolution."[65] Stakeholders are also to be consulted during the certification assessment process to aid in determining whether the operation is in, "compliance with the environmental, legal, social, and economics requirements of the Forest Stewardship Standard."[66] With the exception of small forest owners (operations meeting FSC's eligibility requirements for small and low intensity managed forests), FSC defines stakeholders to include, at least: any FSC National Initiative operational in the country or region, relevant government bodies, NGOs with interest in the area, representatives of relevant Indigenous Peoples and forest dwelling or using communities affected by the operations, labor unions, contractors, and international NGOs with expressed interest in the operations.[67] In addition to detailing set procedures for soliciting stakeholder opinions, FSC requires documentation of all input, with explanations for how they affected the certification outcome. Should the certificate be awarded, the auditor must contact stakeholders to inform them of the outcome and note the way in which the stakeholders' specific concerns were addressed. None of the opinions of stakeholders are made publicly available without prior written consent.[68]

Recall that accredited certifiers may assess an operation against a "generic" standard built from the FSC Principles and Criteria in situations where no national or regional standard has been developed. Here, too, FSC imposes careful requirements for stakeholder consultation, including solicitation of input from the above-noted groups in addition to representatives of forest industry and forest owners.[69] In a language generally used in the region, the certifier is required to contact stakeholders about the assessment and indicate that their input will inform the localization of the

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[64] Forest Stewardship Council 2004c, clause 9.
[65] Forest Stewardship Council 2004c, clause 3.3.
[66] Forest Stewardship Council 2004e, clause 1.1.
[67] Forest Stewardship Council 2004e.
[68] Forest Stewardship Council 2004e.
[69] Forest Stewardship Council 2004d, clause 3.1.3.

"generic" standard for the assessment. The standard must also be made available on the certifier's website.[70]

In either the case where a "generic" standard is used or the assessment is against an endorsed national or regional standard, the results of the assessment are summarized and made available via the certifier's website. The FSC requires, at minimum, that the report includes: a description of the forest and its land-use history; details on the forest management systems in use; summary of the operation's management plan in terms of FSC's requirements (Criterion 7.1); details of the operation's monitoring and assessment procedures consistent with FSC requirements (Criterion 8.2); and a description of the audit's scope and justification for any areas excluded from assessment. The report must also note the standard used for the assessment, details of the evaluation process, general observations taken to make the certification decision, and a clear statement of the certification outcome, including any conditions or pre-conditions.[71] This is in addition to a longer report detailing the full assessment of the operation, which is made available to the FSC.[72]

With the PEFC-endorsed schemes, there has been a greater reluctance to bring stakeholders on board and to allow complaints in the certification process.[73] Whereas standard setting has become more transparent and inclusive, the certification process itself is less open to other stakeholders.[74] Not all schemes used to require on-the-ground field inspections of forestry operations and environmental performance, focusing instead on the management system of forest companies. This was initially the preferred approach of the European and American producer-backed programs.

Aside from the general differences in acceptance of stakeholder input, the family of PEFC programs builds its certification and accreditation procedures from government-sanctioned bodies

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[70] Forest Stewardship Council 2004d.
[71] Forest Stewardship Council 2004a.
[72] Forest Stewardship Council 2004b.
[73] Nussbaum and Simula 2005.
[74] Gulbrandsen 2008.

and standards.[75] Its basic requirements were first established in 2002 and have been amended numerous times since. Unlike the FSC, many of the specific requirements are left to the discretion of the national member schemes. The PEFC does require that "the audit evidence to determine the conformity with the forest management standards shall include relevant information from external parties (e.g., government agencies, community groups, conservation organizations, etc.) as appropriate," but it does not go further in specifying who these groups should be and what information must be provided to them by the certifier.[76] Likewise, a public summary report is required, but the specifics of the report are determined by individual schemes.[77]

At the scheme level, clarity is also absent. For instance, on the inclusion of information from external parties, the Austrian Scheme notes that the evaluation will comprise, "consideration of relevant information from external interest groups (government bodies, associations, environmental groups, etc.), in as far as *sensible* and appropriate" (emphasis added).[78] Here, the Austria program appears to set an even less stringent requirement than PEFC by giving the auditor discretion to determine what *sensible* consideration of input means. In general, some of the schemes are beginning to provide more public disclosure on inspections, but they are still lagging behind the FSC.[79]

Fisheries

With fisheries, programs have also converged to a model were accreditation is conducted by some external organization, but which organization is responsible for this function varies across the programs, as does provisions for procedural transparency.

The MSC fisheries assessment methodology prescribes how the MSC standard should be interpreted when assessing fisheries for certification.[80] Initially, the accreditation of certifiers was handled by the MSC in a similar in-house fashion to how the FSC was operating. However, due

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[75] PEFC 2007.
[76] PEFC 2007.
[77] PEFC 2007.
[78] PEFC Austria 2006.
[79] Meidinger 2006, 81.
[80] Marine Stewardship Council 2008a.

to a need to align the program with the FAO "Guidelines for the Eco-labeling of Fish and Fishery Products from Marine Capture Fisheries" the MSC separated its accreditation functions from its role as a standard setter.[81] Rather than reinvent the wheel, it contracted ASI to conduct accreditation for the program.

Recall that a fishery must undergo a pre-assessment to determine if it can proceed to a full certification assessment. The pre-assessment is fully confidential, but sometimes clients release the outcome of the assessment on their website to show stakeholders areas for improvements that have been identified.[82] Based on the pre-assessment, the candidate fishery decides whether to undergo a full assessment; a choice to proceed must be made publicized – in a local newspaper, for example – and all relevant stakeholders need to be notified. By 2004, less than half of the fisheries that had undergone pre-assessment proceeded to a full assessment.[83]

In a full assessment, the certifier appoints a team comprising experts in fishery stock assessments, ecosystem management, and fishery management, who ascertain if a fishery meets the MSC certification requirements. There is significant stakeholder involvement throughout the fishery assessment process. Any stakeholder can provide input into the process, and the team members must demonstrate that these comments have been considered in their final report. The assessment team will also arrange a number of meetings with various stakeholders throughout the process. At the culmination of this process, the certifier decides if a fishery is to be certified. Stakeholders who have been involved in the assessment may object to the certifier's decision, however, in which case a complaints procedure is activated. All relevant assessment documents are posted on the MSC webpage. These documents include a number of stakeholder notifications, a public comment draft report, final report and determination, a public certification report, and annual surveillance reports. Should someone object to the final determination, a summary report of the objections panel and other relevant documents from the objections procedure are also posted on the webpage.

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[81] Marine Stewardship Council 2006.
[82] Gulbrandsen's interview with Alice McDonald and Daniel Suddaby, MSC Fishery Assessment Officers, 23 May 2006.
[83] Bridgespan Group 2004, 4.

The other programs in the fishery sector do not neatly mirror the certification and auditing approach adopted by the PEFC in forestry. In step with the FSC and MSC, IFOAM began work on accreditation for organic certifiers in the early 1990s and eventually delegate this work to an independent organization – the International Organic Accreditation Service (IOAS) – which was formed in March 1997.[84] Currently IOAS accredits certifiers to assess against IFOAM standards, EU standards, ISO 65 and the Canadian Organic regime, reflecting the fragmented nature of the organics sector noted in the previous section. With the GAA program, certification is conducted by accredited evaluators, who themselves are vetted by the Aquaculture Certification Council. Evaluators must pass minimum education and experience requirements and have no conflicts of interest with aquaculture producers. They must also pass a training course.[85] Thus, to date, other active fisheries certification programs have yet to develop the same extensive certification requirements as those being practiced by the lead programs in forestry or the MSC and organics in fisheries.

Behavioral changes and environmental impacts

This final section focuses on outcome transparency, both as the behavioral changes operations have undergone to become certified and as environmental impacts. We assess the extent to which existing research speaks to a link between requirements for transparency, in general, and improved environmental effectiveness.[86] Although some certification programs, like FSC, also address social issues, it is beyond the scope of this study to address the social impacts of certification.

Forestry

With the FSC, the rules regarding procedural transparency feed directly into our ability to assess the behavioral changes of certified operations. The availability of certification reports detailing the specific corrective action requests (CARs) provided for by the audit have allowed research to tract what specific changes operations have made by being FSC certified. Interestingly, these reports highlight that many CARs require operations to improve planning, documentation and

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[84] International Organic Accreditation Service 2006.
[85] http://www.aquaculturecertification.org/
[86] See also, Auld, Gulbrandsen, and McDermott 2008; Gulbrandsen 2009.

monitoring, which themselves may increase the transparency of the participant companies.[87] As Rametsteiner and Simula note, "it can safely be said that forest certification has brought along improvements in internal auditing and monitoring in forest organizations."[88] A more recent study of 80 audits in the United States by SmartWood, an FSC-accredited certifier, found that 94 percent required improved management plans, 79 percent required enhanced monitoring, 71 percent dealt with inventory issues, and 69 percent involved forest mapping activities.[89] On this basis, there appears to be a link between certification and behavioral changes for participating firms, on certain issues.

When we turn to the issue of environmental impacts, the link to transparency becomes more tenuous. Studies have found auditing increased forest managers awareness of sensitive issues like natural regeneration, thinning operations, reduced impact harvesting, forest road construction, use of chemicals, and relations with society.[90] Newsom, Bahn, and Cashore show that with forest protection, 79 percent of operations were required to address management of sensitive sites and high conservation value forests, and 63 percent had to address other ecological issues such as protection of threatened and endangered species.[91] A similar study in Sweden reported similar results.[92] A slightly different pattern holds for operations in developing countries. Newsom and Hewitt examined a sample of 129 SmartWood audits stratified by regions (South America, Central America and Mexico, Asia, New Zealand and Australia, United States and Canada, and Europe) and showed that developing-country operations were more likely to have conditions on conflict resolution with local communities and other stakeholders, training, worker safety, non-timber forest products, and worker wages and living conditions than were operations in developed countries.[93] These findings are corroborated by research in Brazil, Bolivia, and Mexico where certified operations more frequently faced conditions concerning compliance with laws and regulations to do with workers' rights.[94]

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[87] Rametsteiner 1999; Bass et al. 2001.
[88] Rametsteiner and Simula 2003, 95.
[89] Newsom, Bahn, and Cashore 2006.
[90] Rametsteiner and Simula 2003.
[91] Newsom, Bahn, and Cashore 2006. High conservation value forests (HCVF) is an FSC term to delineate forest with environmental and social values of significant importance.
[92] Dahl 2001.
[93] Newsom and Hewitt 2005, 22.
[94] Espach 2006; Nebel et al. 2005; Klooster 2006; Auld, Gulbrandsen, and McDermott 2008.

The upshot of these studies is that forest management practices are changing as a result of FSC audits. Yet, certification impacts in most countries have been quite marginal, either reinforcing underlying government regulations or reinforcing established industry standards.[95] Certification has thus far been unable to significantly ameliorate environmental deterioration in forestry. There is also a general opinion that certification, to date, has not been a tool for addressing protection at the landscape level or for reducing pressure for deforestation.[96] On balance, while we do see evidence that FSC certification has changed forestry practices, i.e., certified operations do change their behavior; certification's role in improving environmental conditions at the landscape level remains in question.

Another important point concerning transparency comes from a comparison between the PEFC and FSC audits. Based on public summaries of audit reports, WWF Austria analyzed the effects of FSC certifications in Germany, Sweden, Latvia, Estonia, and Russia. In a follow-up study, the group wanted to conduct an equivalent analysis of PEFC certifications in the same countries. However, there were only public summaries of audit reports available from PEFC Germany, despite PEFC requirements to publish such information. The study thus reported that, of the countries examined, PEFC Germany had the most transparent information practice, but that a number of weaknesses in the reporting and auditing process made it, "nearly impossible to assess or verify positive effects of PEFC-certification in Germany on the basis of the audit reports published by PEFC Germany".[97] Most of the issues addressed by auditors were in the shape of recommendations as opposed to corrective action requirements. This meant that implementation was not controlled in follow-up audits. In contrast to FSC audits in Germany, PEFC audits identified few weaknesses concerning forest biodiversity, despite the fact that forestry is a major threat to many forest-dwelling species in Germany. Most environmental weaknesses identified by PEFC audits were on the issues of toxics and waste, soil and water, forestry and game management, and silviculture.[98]

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[95] Cashore et al. 2007, 166.
[96] Gullison 2003; Auld, Gulbrandsen, and McDermott 2008.
[97] Hirschberger 2005, 5.
[98] Hirschberger 2005.

Fisheries

With the MSC, analyses of its environmental achievements have yielded mixed results. A study commissioned by the MSC to investigate the environmental gains resulting from its certification program offers some insights.[99] The researchers examined a total of 62 certification conditions in the 10 fisheries that, by late 2005, had been the subject of at least one post certification audit, to determine whether they would ultimately lead to environmental improvements. They then identified environmental gains indices for each certification conditions and categorized the gains according to five different levels, ranging from no gain to the most desirable gains (called "operational results"). Finally, they considered whether the environmental gains were caused primarily by the certification conditions; whether it was ongoing anyway; or whether it was a combination of the two.

The team found that all the certified fisheries have shown some environmental gain resulting from the certification process.[100] The team also reported some lessons learned, two of which are particularly interesting to reflect upon.[101] First, they identified the biggest gains in areas which carried conditions for certification. Second, they argued that certification of difficult fisheries could be encouraged in order to maximize the environmental gains from the assessment process. These lessons learned point to a dilemma for the MSC, and indeed for all market-based certification programs.[102] On the one hand, the stricter the certification requirements, the higher the potential environmental benefits from certification. On the other hand, there could be an inverse relationship between standard stringency and the adoption of a scheme by fisheries, particularly the difficult ones. The willingness to adopt a voluntary certification scheme with stringent standards is likely to be low among difficult fisheries, where the need for changing management practices is most urgent. Accordingly, there could be a trade-off between environmental gain and producer adoption of a certification program.

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[99] Agnew et al. 2006.
[100] Agnew et al. 2006.
[101] Ponte 2008.
[102] Ponte 2008; Auld, Gulbrandsen, and McDermott 2008; Bernstein and Cashore 2007

Looking further into the environmental benefits from certification, Ward investigated the distribution of all scores in the first 22 certified fisheries for each MSC principle.[103] He found that one of the two main MSC certifiers systematically awarded higher scores for Principle 2 than did the other main certifier, indicating that "the poorly expressed Principle 2 criteria are interpreted differently by these two certifiers, and applied differently in the various fisheries."[104] He concluded that the MSC certification program has been unable to demonstrate major achievements in marine biodiversity conservation, reaffirming earlier contentions that the program has failed to contribute significantly to resolving the key environmental challenges in the fisheries sector.[105] At this stage of fisheries certification, perhaps the least tentative conclusion is that management processes in certified fisheries are becoming increasingly transparent and accountable to outside stakeholders. As in forestry, fisheries certification has thus far failed to address some of the most pressing and persistent management challenges.[106]

Certification, transparency and participation

The certification initiatives assessed have varying rules for procedural transparency. They also aimed, on the whole, to foster transparent outcomes, specifically by offering information on the behavioral changes of participant companies, or by at least reassuring interested consumers and stakeholders that the behavior of participants passes program standards. Building from the previous sections, we now return to the relationship between participation and transparency to assess our central proposition. The debates surrounding the development and ongoing operations of certification in forestry and fisheries are instructive in this regard.

Our core assertion is that participation and transparency are closely related. Giving stakeholders participatory rights, also gives them access to the information that is being considered in the decision-making process.[107] Yet, transparency without the devolution of decision-making power can leave key stakeholders feeling a process is illegitimate as a governance mechanism. Based on the origins of the FSC and MSC, this implies that we should see more demands for governance

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[103] Ward 2008.
[104] Ward 2008, 174.
[105] Kaiser and Edwards-Jones 2006; Jacquet and Pauly 2007; Ponte 2008; Ward and Phillips 2008.
[106] Gulbrandsen 2009.
[107] Fung 2006.

reforms directed at the MSC than directed at the FSC. Furthermore, we expect that those groups not given access to decision-making processes will demand greater procedural and outcome transparency, but will not be satisfied only with information.

Evidence from the MSC's history offers preliminary support to this proposition. Early in the program's development concerns centered on its governance, even though it was, at the same time, being championed for its transparent consultation process. As one observer noted, "[the] process of consultation being undertaken by the MSC project in devising and developing its Principles and Criteria is being conducted in an extremely open and transparent manner. The project is seeking to consult with, and be guided by, the views of as many stakeholders in the fisheries sector as possible."[108] However, this transparency did not come with a similar power to shift the MSC in a direction aligned with some of the groups being consulted. The observer above and other contributors to *Samudra* (a periodical of the International Collective in Support of Fishworkers) between 1996 and 1998, highlighted misgivings with the ostensible direction MSC was taking. Much of the debate centered on the interests that were going to be served: large industrial fisheries of the north versus small-scale fisheries of the south. In this respect, they were not questioning whether consultation was being done well and transparently on the issue of standards, but rather whether they were adequately involved in the broader discussions about what the MSC ought to be doing as an organization. It was on these issues that the early choice of the MSC to avoid membership apparently worked to close off a certain kind of procedural transparency. Indeed, Sutton's contribution to *Samudra* explained how the decision to not include membership had been a critical issue of debate during the standards-development workshops and would inform future revisions to the MSC's governance structures.[109]

Subsequent revisions to the MSC's governance have sought greater stakeholder involvement. According to Rupert Howes, who became chief executive of the MSC in 2005, the secretariat is doing their utmost to operate an inclusive, transparent, and fully-accountable program: "I've spent 15-20 years in the non-government sector and never worked for an organization that

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[108] O'Riordan 1997.
[109] Sutton 1998.

devotes so much of its resources to governance and policy issues".[110] Some of this energy has been in response to criticisms on the issues of stakeholder support, particularly among the US conservation community.[111] And, thus, what emerges is a seemingly contradictory situation where the MSC is highly transparent and yet remains controversial. This supports our point that only assessing procedural and outcome transparency may miss critical issues of authority and power in decision-making processes.

Turning to forestry, it was not as though the FSC did not experiences similar controversies. Yet, the choice to grant authority to national initiatives and to provide for direct membership within the organization – a membership that had ultimate authority over the direction of the organization – appears to have contained the debates that spilled outside the MSC's institutional boundaries. Moreover, given this position of power, it was easier for stakeholders supporting the FSC to use the language of transparency and participation as a point of contrast with other emerging initiatives, particularly PEFC-member programs. The themes exposed by Overdevest in her analysis of reports comparing the FSC with various producer-backed schemes are informative.[112] A report by the Certified Forest Products Council, for instance, emphasized openness and transparency of standards development as a key measure of comparison. This focus is further underscored by guidelines established to evaluate credible from non-credible certification initiatives. For instance, the World Bank / WWF Global Forest Alliance developed a "Forest Certification Assessment Guide" to evaluate the relative merits of separate schemes. Procedural transparency features in two ways. First, under criteria 3 (meaningful and equitable participation of all major stakeholder groups in governance and standard setting), the guide lists the following requirement: "Written documents are available on what efforts have been taken to include stakeholders as well as on how issues raised by stakeholders have been addressed."[113] Second, the guide also advises attention to these issues in the process of certification and accreditation.

Although implementation of the high standards FSC sets has been mixed, those supporting the program continue to champion the work it has done to advance transparent procedures in its

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[110] Interview with Rupert Howes, MSC Chief Executive, 23 May 2006.
[111] Highleyman, Amos, and Cauley 2004.
[112] Overdevest 2005.
[113] WWF / World Bank Global Forest Alliance 2006, 16

governance. As a recent Greenpeace report explains: "Key strengths of the FSC network and organization have been its transparency and its ability to pioneer approaches and adaptations of certification… It is in effect an elaborate conflict resolution mechanism for reconciling many differing views and values in relation to forests and some plantations."[114]

Two facets of the FSC program appear important in fostering this kind of outside support for its efforts. First, there was the choice to develop transparent procedures that devolved considerable policy-formulation authority to national stakeholders. Although the ultimate authority to decide on policy pertaining to acceptable forest management standards in different locations remained with the FSC Board, its decision to devolve formulation was significant in terms of how stakeholders viewed the organization. As well, it meant that political controversy over what would and would not be acceptable centered on a different aspect of the certification procedure than occurred in fisheries. Indeed, for the FSC, developing national (sometimes sub-national) standards has been one of the most prolonged and arduous aspects of its work. National or regional standards have taken upwards of eight years to produce.[115] Second, the choice to grant ultimate decision-making authority to FSC's membership influenced perceptions of the program's transparency. The point in relation to our argument concerns how transparency and participation relate. Perceptions that the FSC was transparent stemmed, arguably, from its openness to stakeholder involvement, the power of membership provisions, and the devolution of authority to national initiatives, not, by contrast, from any specific efforts to disclose information on how decisions were being made.

Finally, there are also hints at the relationship we describe in the types of criticism leveled at the FSC from outside skeptics. Recall that the FSC grants considerable authority to the certification bodies to apply "generic" standards in situations where endorsed-national standards are not yet in place. This discretionary power has been a source of concern for critics who argue that it undermines the credibility of the FSC given the lack of effective control mechanisms.[116] Additionally, it relates to a broader concern that too much power for auditors undermines the

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[114] Rosoman, Rodrigues, and Jenkins 2008.
[115] Cashore, Auld, and Newsom 2004.
[116] Counsell and Loraas 2002.

authority delegated to national initiatives. Material for these reports would have been difficult to compile had the FSC not published public summaries of audit reports and certification documents.

Conclusions

By reviewing the procedural and outcome transparency of fishery and forestry certification initiatives, this paper documented important differences across and within programs, assessed transparency as it related to environmental effectiveness, and probed the relationship between transparency and participation. It reveals notable differences across programs in terms of transparency of rule-making and certification procedures, but found tenuous links to environmental effectiveness. Though the disclosure of information about the practices of fisheries and forestry operations is a step forward in improving our understanding of the environmental performance of a subset of these respective sectors, certification has not shed light on practices of non-certified operations. Moreover, certain programs continue to disclose paltry information on their participants.

In this way, information disclosure on forestry and fishery practices may divert attention away from dire environmental problems and the need for fundamentally changing patterns of over-consumption of limited natural resources. Indeed, transparency can mask as much as it reveals.[117] Conformity to transparency requirements could become more important than resolving key environmental problems. Publication of certification determinations, assessment reports, and surveillance reports are positive indicators of a high level of transparency in certification programs. But the underlying causes of the environmental problems the certification schemes were established to resolve are not necessarily addressed. The MSC does not, for example, address the overcapacity in the world's fishing fleets, despite the fact that the imbalance between harvesting capacity in the fishing fleets and the fish resources is the primary driving force for the depletion of fish stocks.[118] Neither the MSC nor the FSC and other forest certification schemes address the fact that marine and forestry environmental problems partly emanated from large-

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[117] Fung, Graham, and Weil 2007.
[118] FAO 2007.

scale, market-driven mechanization of harvest technologies in these sectors and increasing commercialization and trade in seafood and forest products.[119]

Finally, the differences between the MSC's and FSC's approaches to transparency and stakeholder participation revealed important insights into the limits of governance through disclosure more broadly. On the one hand, disclosing information on the outcomes of audits facilitated outside stakeholders' assessments of how fisheries and forest operations were performing. Yet, on the other hand, these assessments sometimes were the fuel for criticism of the procedures and practices of said certification systems. Thus, even though certification may involve extensive provisions for transparent process and outcomes, this may be insufficient without simultaneous attention to questions of power addressed through joint-decision making and other forms of decentralized authority.

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[119] Speth 2008.

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