Notes on MSI Design: Power, Design, and the Possibilities for Reform in Global Industries

Tim Bartley  
Associate Professor of Sociology  
Ohio State University  
bartley.83@osu.edu

Multi-stakeholder initiatives (MSIs) that set labor and/or sustainability standards have proliferated over the past two decades, but their performance has often been questionable. Programs focused on labor standards, such as Social Accountability International, the Ethical Trading Initiative, Fair Labor Association, and Business Social Compliance Initiative, have grown and evolved. But unsafe conditions and harsh treatment remain common in many parts of the apparel, footwear, and electronics industries. Sustainable forestry initiatives, such as the Forest Stewardship Council and its competitors, have received a great deal of attention from scholars, and they have inspired several waves of new certification and “commodity roundtable” initiatives (e.g., roundtables on sustainable palm oil, soy, and sugar production). But these initiatives have struggled to keep up with dynamics of deforestation, declining biodiversity, and land grabs; and the high-bar and high-participation reputation of the FSC has been faced with growing charges of greenwashing.

In this memo, I will draw on my research on fair labor and sustainable forestry standards—and their implementation in Indonesia and China—to consider the design of several MSIs and some links between design and effectiveness. Much of the discussion will focus on the Forest Stewardship Council and Social Accountability International—two MSIs that appear quite similar on the surface but operate quite differently. For example, although both certify particular sites of production and subscribe to best practices as defined by the ISEAL Alliance, SAI is far less participatory and transparent than the FSC, although the FSC’s rigor and transparency has been incomplete in important respects.

Drawing on these cases, I will make two larger points about the design of MSIs. First, the design of standard-setting MSIs derives largely from the power of different constituencies during the period of founding. Even when there is surface-level isomorphism in an increasingly structured field, important differences in governance and transparency can persist and influence the implementation of standards. This account is in line with the “negotiation process” and “stakeholder power” explanations discussed in the concept note, but my account will say more about decision-making, transparency, and links to effectiveness.

Second, organizational design is not everything. To understand the efficacy of MSIs, we have to consider the ways in which standards are enforced or undermined—what might be called system design rather than just organizational design. I will discuss how enforcement and implementation are shaped by the activities of brands and retailers and by some features of the
relevant products and industries themselves. My overall point is that the design of MSIs is important, but it is only one ingredient in promoting meaningful reform in global industries. At a minimum, the design of an MSI interacts with the business conduct of the companies pushing standards and the more-or-less inherent characteristics of the production process.¹

Organizational Design and Imprinting: Founding Processes and Constituencies

As acknowledged in the concept note, one reason for divergence among MSIs is that founding coalitions differ. In some, NGOs and other non-industry actors are the primary “institutional entrepreneurs.” They take the lead in setting standards, enrolling firms, and finding initial material support. In others, NGOs and industry outsiders are invited to the table once the agenda has been set—or perhaps even after the initiative has been formed. (One can see a “multi-stakeholderization” of some initiatives that were started almost exclusively by industry, such as the Sustainable Forestry Initiative.) Comparing the Forest Stewardship Council (FSC) and Social Accountability International (SAI), I will argue that founding moments and constituencies imprint initiatives with substantive standards and design features that shape their operation and consequences over time. In particular, founding coalitions shape the stringency of rules, the structure of multi-stakeholder participation, and the type of transparency. These, in turn, affect the ability of both insiders and outsiders to push for meaningful implementation.

Sustainable Forestry: The Forest Stewardship Council

The FSC was founded in 1993, but preceding this were several years of meetings of individuals from NGOs (WWF, Greenpeace, Rainforest Action Network, and Cultural Survival), professional foresters (including several who had worked together on community forestry projects in South America), certifiers (Rainforest Alliance and Scientific Certification Systems), high-end/craft-based woodworking companies (including small companies that had created the Woodworkers Alliance for Rainforest Protection and a few larger companies such as Smith & Hawken and Herman Miller), and eventually larger home improvement retailers (B&Q and The Home Depot). Members of the Woodworkers Alliance for Rainforest Protection and WWF took the lead in developing Principles and Criteria for forest stewardship and consulting with others about them. WWF soon became what one participant called the “incubator and the surrogate mother” for the nascent FSC.² B&Q and The Home Depot were involved in the first semi-official meeting of the FSC in 1992, and a B&Q representative was elected to the interim founding board. A larger set of companies and industry associations were invited to the FSC’s founding meeting in 1993, and this made the meeting especially contentious. Fearing a corporate takeover, several NGOs withdrew from a heated discussion and abstained from voting. “At that moment, I realized that the meeting had succeeded,” one founder later wrote. “The great

¹ In other work, I have also emphasized the importance of domestic governance in the location where implementation occurs. I will leave those issues aside in this piece, but suffice it to say that there is increasingly clear evidence that the degree and meaning of implementation can vary from place to place.
² interview with FSC organizer, Aug. 9, 2002
majority of the participants were in agreement on the key issues of participation and membership in FSC, while the small group had abstained without leaving.”

At some points it looked as if the FSC would be organized as a foundation governed by a board but without members. But in part because of the disagreements at the founding meeting, “the interim board members soon realized that they could not expect the assembly participants to agree to an organization in which they would have no future voice.” The FSC was founded as a membership organization, with voting power apportioned into an “economic” chamber (25%) and a social and environmental chamber (75%). Each chamber was further split into those from the global north and south, and representation on the board of directors was similarly weighted. This was later revised into a three-chamber system—economic, environmental, and social—each with 1/3 of the voting and board power and each split into equal northern and southern representation. In either structure, the design of the FSC was clearly intended to limit the power of companies within the organization. This made it difficult for major policy changes to occur, and it fostered what a few participants called “psychotic democracy.”

The FSC grew tremendously as an organization over the next decade, but its Principles and Criteria for Forest Stewardship remained fairly stable. The most significant revisions involved the opening to percentage-based claims (i.e., allowing certification if less than 100% of the wood comes from certified forests), the new concept of “high conservation-value forests,” and perhaps most importantly, the addition of a principle on timber plantations in 1996. The latter principle proved to be controversial, since plantation development in some locations fueled land grabs, overuse of water and pesticides, and the clearing of natural forests for plantation development, and resulting declines in biodiversity. In 1999, a specific criterion was added to prohibit the certification of plantations that had been converted from natural forests since 1994. This cutoff date has prevented a number of plantations from being certified, especially in southern countries with more recent histories of deforestation. On the other hand, FSC certification has grown much more rapidly in plantation forests (including in the global south) than in natural forests. As Klooster (2010) has shown, the ongoing discussions about revising the plantation principle could have weakened the FSC project, but the FSC’s strong norms of democratic procedure kept that from occurring. Ultimately, the revised principles and criteria, which were approved in 2012, made only minor changes to the treatment of plantations. As a whole, the revised Principle and Criteria represent a reorganization of some of the previous content, with a few notable additions but also a high degree of continuity.

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3 (Synnott 2005:23)
4 (Synnott 2005:24)
5 Interview with foundation official, March 5, 2004. Interestingly, the Marine Stewardship Council was in many respects modeled on the FSC, but its founders decided to avoid this situation by not making it a membership organization. The consulting firm hired by the MSC’s founders visited an FSC general assembly and recommended steering clear of democratic decision-making.
6 One interesting change involves lands in which indigenous people have customary rights. In the prior version, companies had to receive “free and informed consent” to manage this land. The new version requires "free and prior informed consent." This may be nearly impossible to implement in places like Indonesia, where companies get logging concession from government irrespective of indigenous communities located there.
An important design feature of the FSC is that detailed summaries of audit reports for certified forests are publicly released. These include information on the company and land being certified, the auditing process, areas of non-compliance, corrective action requests, and the steps that companies have taken to resolve them. This kind of transparency has allowed both critical insiders (members such as Greenpeace) and external watchdogs (such as the Rainforest Foundation and FSC-Watch) to discipline the certification process to some degree. They have issued reports and led campaigns against controversial certifications and sometimes appealed to Accreditation Services International, which oversees the FSC’s certification bodies. Public audit reports have also allowed researchers to examine corrective action requests as a measure of the changes required for certification. This has allowed them to show that companies aren’t simply given a “free pass” by auditors, although a careful look at the corrective actions also reveals that many reforms are procedural rather than substantive.

Public reports and scrutiny from critical insiders and outsiders have helped to minimize the cutting of corners by auditors. To take one example from Indonesia, when Perum Perhutani, the state forestry company, sought to recover after having its FSC certification suspended, its attempts at re-certification were heavily scrutinized by international NGOs. The company had lost its certification in 2001 in the midst of violence and illegal logging, after the company’s armed forest guards killed a villager. As the company worked toward re-certification, one of its certifiers—the UK-based Soil Association—was described by an observer as “scared shitless to issue the certification” (interview with forestry consultant, 9/22/10). Perum Perhutani did get some areas re-certified in 2011-12, after several years of reforms and multiple rounds of auditing and re-auditing. One can argue about the depth of these reforms, but there is little doubt that they were more extended and more extensive because of public scrutiny of the company, the FSC, and the certifiers.

It is not clear precisely where the requirement for this kind of public reporting originated, but it is notable that competing programs that originated with industry—namely, the Programme for the Endorsement for Forest Certification—did not require public disclosure of audit reports until the credibility contest with the FSC heated up. It is doubtful that a company-led initiative would require public reporting on its own. Public release of audit reports has become somewhat of a norm, though a weak one, in the broader field. The ISEAL Alliance treats it as an “optional good practice” for assurance providers, and as we will see, not all ISEAL Alliance members embrace this norm.

In sum, the design of the FSC institutionalized a fairly high bar for certification, a powerful seat at the table for non-industry groups, a durable set of standards, and a form of transparency that enabled external scrutiny. As I will argue below, this does not guarantee that the FSC’s principles are well-implemented on the ground, that its standards are equally scrutinized, or that...

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7 See Auld and Gulbransen (2010) for an account of this and comparison to the MSC, which also requires public audit reports but what “uses transparency and stakeholder consultation instrumentally . . ., [while] the FSC treats transparency and stakeholder consultation as ends unto themselves.”

8 (e.g., Newsom, Bahn and Cashore 2006; Newsom and Hewitt 2005; Nussbaum and Simula 2004)

9 (Overdevest 2010).

10 ISEAL Alliance, Assurance Code
large companies lack power in the FSC system. But as an organization, the FSC does much more than most MSIs to guarantee that multiple stakeholder groups have power.

Labor Standards—Social Accountability International and Beyond

Initiatives focused on auditing and certifying labor conditions stand in contrast to the story of the FSC. Here, I will focus on the Fair Labor Association and especially Social Accountability International (SAI), which is in many ways the analogue to the FSC. SAI created the SA8000 factory certification standard, has multi-stakeholder representation, and is well integrated into the larger field. Its accreditation body, Social Accountability Accreditation Services, is a member of the ISEAL Alliance. In addition, Fair Trade USA’s plan to certify apparel and home goods takes SA8000 certification as the starting point for factories (and adds a fair trade premium component).

Both SAI and the Fair Labor Association emerged in the U.S. in the mid- to late-1990s. The Fair Labor Association grew out of the government-initiated Apparel Industry Partnership, which brought apparel and footwear brands (e.g., Nike, Reebok, Liz Claiborne), labor and human rights NGOs (the International Labor Rights Fund (ILRF), Interfaith Center for Corporate Responsibility, and Lawyers Committee for Human Rights), and unions (UNITE and the Retail, Wholesale and Department Store Union) together to hash out a code of conduct for the industry. As the group spawned the FLA as a body to monitor compliance, the two unions and one NGO dropped out in protest—primarily due to concerns about the lack of a “living wage” provision, the ability of companies to produce in China while claiming to respect freedom of association, and the use of large auditing firms as independent monitors. This left the FLA with few allies in the labor rights movement.\(^\text{11}\) By recruiting universities to join, the FLA regained some multi-stakeholder involvement, but it has struggled ever since to retain NGO affiliates and to be seen as something other than a consortium of brands. In this case, NGOs and unions were at the table in the early negotiations, but they were divided and less powerful than the participating companies. In addition, some were ideologically uncomfortable with voluntary initiatives and market-based strategies for change.

SAI was formed as a spin-off of the Council on Economic Priorities, a non-profit advocate of socially responsible investment and consumption. Before becoming SAI, it was known as the Council on Economic Priorities Accreditation Agency (CEPAA). The Council on Economic Priorities had worked with Levi Strauss and other companies on a “study group” on codes of conduct starting in the early 1990s. It embraced the certification model through a partnership with SGS, the multinational certification and testing company; both SGS and the Council were paying attention to the expanding world of certification, including ISO 14001, Rugmark, Fair Trade, and the FSC.\(^\text{12}\) In addition, as the CEPAA was being formed, some practitioners in the field thought it could become the enforcement wing of the Apparel Industry Partnership.\(^\text{13}\)

\(^{11}\) The ILRF’s decision to stick with the FLA caused internal strife and the severing of some of its ties with the labor movement. The Lawyers Committee had always been more professionally-oriented, and one other NGO member, Business for Social Responsibility, was more like a business association.

\(^{12}\) Interview with certification initiative representative, July 18, 2002; interview with auditing company representative, March 3, 2004
Perhaps because the CEPAA was a spin-off rather than a distinct association, other stakeholders were invited to help develop the SA8000 standard, but through an advisory board as opposed to membership in a new organization. The initial advisory board members, who helped to develop the SA8000 standard, included representatives of consumer products companies (e.g., Toys R Us, Avon, The Body Shop, Reebok, Eileen Fisher), auditors and certifiers (SGS and KPMG), unions (the International Textile, Garment, and Leather Workers Federation and a retired leader of the Amalgamated Clothing and Textile Workers Union), a few NGOs (National Child Labor Committee and the Association Francois-Xavier Bagnoud), and two academic economists (including globalization enthusiast Jagdish Bhagwati). Notably, none of the NGOs that were involved early on were major players in the labor rights, anti-sweatshop, or human rights arena, and the representative of the ITGLWF faced criticism from other parts of this union for his involvement.

The SA8000 standard was more stringent than the AIP/FLA code in some respects. It called for payment of a “living wage” and for companies to facilitate “parallel means” of worker representation in countries where independent trade unions were outlawed. On the other hand, the first wave of auditors to receive accreditation—SGS, Bureau Veritas, and Det Norske Veritas—reflected a preference for large certification/testing firms and rejected the debates about “independent monitoring” by non-profits and local NGOs that were being waged in and around the FLA. Governance of the SA8000 standard remained very close to the founders. As CEPAA transitioned into Social Accountability International in 2000, it was governed by a small board of directors (with one NGO representative and one from Toys R Us and others mainly with backgrounds in investment, law, or government) and an advisory board split into business and non-business groups.\(^\text{14}\) Representatives of several NGOs, including Amnesty International and the Maquila Solidarity Network, joined the advisory board in the years that followed. Various representatives from NGOs and unions have come and gone from the advisory board over the past 15 years, but often the non-business side of the board has been weak. In recent years, the seven member non-business group has included someone from an industry association (the Foreign Trade Association, a body made up of European companies), the president of SAI itself, and several academics.\(^\text{15}\)

The oversight of SA8000 has in some respects evolved toward best practices in the field, such as the splitting off of accreditation functions (to Social Accountability Accreditation Services). Transparency, however, is minimal. There is only a public list of certified facilities, which includes the certification body, but no audit reports are made public. Watchdogs have essentially no information on how audits are conducted or what kinds of changes factory managers have to make in order to get certified. This lack of public scrutiny has contributed to an overall lack of quality control in the issuance of SA8000 certification, particularly as it has grown rapidly in settings where overall labor standards are low. Much of the early growth of SA8000 certification occurred in Italy, where both regional governments and national agencies were promoting and

\(^{13}\) Interview with NGO representative, Aug. 22, 2002
sometimes subsidizing it.\textsuperscript{16} By the mid-2000s, auditors were rapidly certifying factories in China, India, and Pakistan, and quality control seems to have fallen by the wayside.

In China, the number of SA8000-certified facilities increased from 28 in 2001 to 134 in 2006 to 440 in 2011.\textsuperscript{17} Some of this growth was facilitated by lax auditing. Factory managers in China had become adept at falsifying records and coaching workers to give the correct answers to auditors, and many auditors were willing to play along or open to bribes for a passing grade.\textsuperscript{18} It is difficult to know how many factories received SA8000 certification because of lax or fraudulent auditing, but practitioners in China suspect that it was not uncommon. Because the SA8000 standard has strict requirements for working hours, wages, and non-discrimination, “it’s hard for companies in China to get SA8000 the normal way,” explained one practitioner.\textsuperscript{19} A few SA8000-certified factories have later been found to have abysmal conditions. At one primitive and dangerous candle factory producing for Tchibo, “the office building was nice and modern, but the factory behind it was like 1980s China,” as one investigator described it. Factory managers said they hoped getting certified would reduce audits from brands.\textsuperscript{20}

Part of the problem with SA8000 in China is that external oversight was minimal. An SAI representative within China expressed great uncertainty about how frequently major improvements had been made, and wished that the SAI office in New York had been paying closer attention to the complications of SA8000 certification in China.\textsuperscript{21} Because audit reports are not publicly released, there was little chance of external watchdogs providing this scrutiny.

In Pakistan, SA8000 certification grew rapidly after the government began subsidizing it in 2007. One affiliate of an accredited certification body appears to have been especially aggressive in awarding certificates to help factories take advantage of the subsidy.\textsuperscript{22} The lack of external oversight became painfully clear in 2012, when a factory fire occurred at an SA8000-certified factory. More than 250 workers died, often because they were trapped by locked doors and barred windows. SAI cracked down on certification in Pakistan after the fire, but Pakistan continues to have the fifth largest number of workers employed in SA8000-certified factories (behind India, China, Italy, and Brazil).\textsuperscript{23}

In sum, the founding team of SAI created a structure in which decision-making power was centralized, the representation of labor and human rights NGOs was limited to an advisory board, and transparency was minimal. As much as SAI has sought to portray itself as a high-bar multi-stakeholder system, it has struggled to do so in light of weak buy-in from NGOs and weak oversight of the certification process. In contrast, the FSC’s founding team created a structure in which decision-making power was widely distributed, industry stakeholders were limited in their

\textsuperscript{16} (Carey 2008)
\textsuperscript{17} SA8000 Certified Facilities, as of Jan. 2001, Sept. 2006, Dec. 2011
\textsuperscript{18} (China Labor Watch 2009; China Labor Watch v. Intertek Group PLC 2011)
\textsuperscript{19} interview with compliance initiative representative, Beijing, July 15, 2011
\textsuperscript{20} interview with certification initiative representative, Shenzhen, Nov. 12, 2010
\textsuperscript{21} interview with certification initiative representative, Beijing, Dec. 8, 2010
\textsuperscript{22} (Walsh and Greenhouse 2012)
\textsuperscript{23} SA8000 certification by country as of Dec. 31, 2015
power, and public disclosure enabled external scrutiny. These early differences have continued to shape the implementation of standards. The comparison of FSC and SAI suggests that apparent convergence in form can mask persistent differences in governance, transparency, and performance.

Uneven Implementation of FSC Standards

The pattern is not simply that FSC standards have integrity that SA8000 standards lack. There is unevenness in the rigor with which different FSC standards are implemented, audited, and scrutinized—and to some extent, this reflects the priorities of the FSC’s founding constituencies. In particular, FSC standards related to the rights of workers in the forest are often ignored even while other “social” standards (e.g., community rights) and even other labor issues (e.g., worker safety) are taken more seriously. FSC criterion 4.3 states that “the rights of workers to organize and voluntarily negotiate with their employers shall be guaranteed as outlined in Conventions 87 and 98 of the International Labour Organization (ILO),” which say that workers should be allowed to create and join unions of their own choosing and that “the public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.” Yet this requirement of freedom of association for forest workers is rarely taken seriously by auditors in the field.

In China, legal restrictions on association and the monopoly of the state-backed All China Federation of Trade Unions (ACFTU) make it nearly impossible to comply with global norms on freedom of association. One might expect a debate about how FSC standards can be implemented there or promotion of “parallel means” of worker representation, as called for by SA8000. In practice, certification bodies have essentially ignored the issue altogether. In 84 audits for FSC forest management certification in China from 2001 to 2010, auditors issued only four corrective action requests (all categorized as minor) related to criterion 4.3. Auditors usually restricted their attention to worker safety or uncritically accepted assurances that workers were represented by an ACFTU-affiliated union. In interviews, several auditors confirmed that they see management- and state-controlled ACFTU unions as satisfying the FSC standard. “In the northeast state forest bureaus, it’s no problem, because the forest bureau is also the government, so the workers’ union is no problem,” explained one auditor. This person went on to describe it as a good thing if companies set up unions in order to please the government and if

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24 The convention says that workers and employers must respect the law of the land, but also that the “the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.”

25 Two called for the establishment of grievance procedures, and the other two required only the most miniscule changes: “FME [forest management enterprise] shall have the copy of ILO Conventions 87 and 98” (SmartWood 2009:11), and “An employee must be appointed for communication with unions and other workers organizations” (Institute for Marketecology 2010:18). Based on the number of corrective action requests, weighted by major (1) and minor (.5) requests, criterion 4.3 ranked 41st out of 58 in China.

26 In one case, the auditors blithely reported that “there was no evidence that the rights of the workers to organize and voluntarily negotiation with their employers were not guaranteed as outlined in Conventions 87 and 98 of the International Labour Organisation (ILO)” (Bureau Veritas Certification 2012:64).
union representatives are in high-level management positions. Notably, the interviewed auditors never raised questions about how well ACFTU unions represent rank-and-file workers or whether alternative means of worker representation might be preferable.

In Indonesia, independent unions are legally allowed, but they are rare in forestry and agriculture, and union organizers often face retaliation. Here too, auditors rarely problematized the issue. In 53 audits for FSC certification from 2001 to 2010, only one major corrective action request and three minor corrective action requests related to criterion 4.3 were issued. In the major case, the auditors observed that the union representative was not communicating effectively with workers, but this request was quickly closed in the next audit.

A likely explanation for this weak scrutiny of labor rights is that unions and labor rights NGOs were not among the FSC’s founders or core constituency. By 2000, a handful of unions and labor organizations were FSC members (i.e., Pulp, Paper and Woodworkers of Canada, General Workers Union in Denmark, Swedish Forest and Wood Trade Union, Centro dos Trabalhadores da Amazonia, Industriegewerkschaft Metall), but these amounted to a small fraction of the roughly 300 organizational members at the time. The Building and Woodworkers International global federation and some of its affiliates became more involved with the FSC in the next decade, and very recently a union organizer working in Indonesia and Malaysia was elected as the chair of the FSC Board of Directors. This may signal a change in the status of labor rights in the FSC, but for most of the organization’s history they have been discussed but often pushed to the margins in the certification process.

A second weakness of the FSC lies in the “chain of custody” system, which is far less transparent than other parts of the FSC’s operations. It is opaque and potentially full of misleading or fraudulent claims. Getting an FSC chain of custody certificate allows a manufacturer of paper, plywood, flooring, furniture, or other forest products to put the FSC label on product lines that originate in FSC-certified forests. Growth in chain of custody certificates has far outpaced the amount of forest land being certified. Globally, the amount of FSC-certified forest land nearly doubled between 2008 and 2015 (from approximately 98 million hectares to 185 million hectares). The number of chain of custody certificates increased by nearly 400% during roughly the same period (from approximately 5,800 in 2007 to approximately 28,600 in 2015). The

27 Interview with forester/auditor, Beijing, March 14, 2014. Another auditor mentioned ILO conventions, but ignored conventions on freedom of association, instead pointing to conventions on child labor and forced labor and portraying them as irrelevant in China at this point (interview with auditor, Beijing, July 14, 2011).
28 In 2014, a stakeholder complaint to Accreditation Services International alleged that auditors had failed to examine workers’ rights in one certified forest. ASI observed that the auditing process was indeed insufficient to fully assess freedom of association but declined to take any action against the certifier.
29 Here, criterion 4.3 ranked 45th out of 58.
30 The auditors reported that “The National Union (SPSI) are now represented on the site and their activities facilitated (but not interfered with) by DRT [the company]. The assessment team also contacted the Jakarta offices of the International Federation of Builders and Woodworks to ensure that they were content with the current situation.”
31 (Forest Stewardship Council 2000)
32 (Building and Wood Worker’s International 2016)
33 (Forest Stewardship Council 2015; Monument 2008)
growth was especially dramatic in China, from roughly 250 chain of custody certificates in 2006 to more than 1,000 in 2010 to more than 3,000 by 2013.\textsuperscript{34}

While some of this growth stems from the growing market for FSC-certified paper—and corresponding changes to the rules for mixing certified and uncertified inputs—practitioners also suspect that many manufacturers are getting chain of custody certification to please their clients without actually using certified wood. It is also possible that manufacturers are buying invoices for certified wood but actually receiving certified wood. Or they could buy only a small amount of certified timber and then falsify documents in order to sell more products as certified. As one practitioner explained, “The certification body is relying on company-produced documentation . . . If they really want to cheat you, it’s very easy.”\textsuperscript{35} As another auditor explained, “for [chain of custody] auditors, it’s impossible to go to the forest to check how much timber is sold to the company and match it to the records.”\textsuperscript{36} Even careful auditors face information problems, as one practitioner explained: “Manufacturers usually have complex supply chains, and there are several different certification bodies [auditing different parts of this supply chain]. Different certification bodies don’t share information. Documents on the amount coming in may not be trustworthy . . . [and] certified and non-certified . . . may not be marked in the raw wood.”\textsuperscript{37}

Here, the limits of the FSC’s transparency have become painfully clear. Although auditors and other practitioners have called on the FSC to develop a shared database that would allow auditors to track certified inputs and outputs, this has been held up in debates about confidentiality and resistance from some parts of industry.\textsuperscript{38} FSC began a process of revising its chain of custody standard in 2015, which should allow for better matching of certified inputs and outputs. Criticisms from watchdogs, as well as certifiers themselves, have opened the door to likely improvement in the system. At the same time, the chain of custody system has been operating in an opaque and potentially unruly fashion for more than a decade of growing markets for FSC-certified goods.

**Beyond Organizational Design**

Founding coalitions leave a deep imprint on the design of MSIs, which can have lasting effects—both direct and indirect—on the performance of private regulatory initiatives. But design is not everything. If we want to think about the on-the-ground implementation of standards governed by MSIs, we have to consider some other features of this model, what might be considered system design (rather than organizational design) principles.

First, most standard-setting initiatives are structurally dependent on the companies that agree to participate and to “push” the MSI’s standards through their supply chains. This goes beyond the fact that MSIs are often dependent on the resources that participating companies provide. If an

\begin{itemize}
\item \textsuperscript{34} (Forest Stewardship Council 2013; 2015; Monument 2008)
\item \textsuperscript{35} interview with forester, Beijing, July 15, 2011
\item \textsuperscript{36} interview with forester/auditor, Beijing, March 14, 2014; in interview with sustainable forestry consultant, Beijing, March 14, 2014
\item \textsuperscript{37} interview with auditor, Beijing, Dec. 10, 2010
\item \textsuperscript{38} http://www.nepcon.net/newsroom/tackling-fsc-fraud-will-online-claims-platform-fail-or-fly-0
\end{itemize}
MSI’s standards are to be implemented by their ultimate targets—typically the upstream suppliers to participating retailers and brands—those retailers and brands must issue specific demands, preferences, or premiums. Suppliers might adopt a low-cost, low-bar standard on their own, in hopes of attracting business, but with high-cost, high-bar standards, a diffuse hope is usually insufficient. In the case of forest certification, demand from Ikea, The Home Depot, TetraPak, and other companies has been critical for getting forest management companies to pursue FSC certification. Ikea has not only demanded certification; it has subsidized the cost in some areas, and as a result, Ikea is responsible for much of the FSC certification in China and Russia.\(^{39}\)

The power to enforce an MSI’s standards, then, lies with the retailers and brands that have business relationships with the ultimate targets. These firms give MSIs “teeth”—or they defang them, as the case may be. The problem is that even companies that push an MSI’s standards often manage their supply chains in ways that undermine compliance. Pressure for low prices leaves suppliers with few slack resources to devote to implementation. For instance, Ikea, like Wal-Mart, has a reputation in the forest products industry for squeezing tightly on suppliers’ prices. Similarly, when buyers impose pressures for quick deliveries, and especially quick responses to mistakes or last-minute design changes, make it extremely difficult for suppliers to comply with voluntary labor standards.\(^{40}\) Short-term relationships and the shifting of orders between suppliers and locations also constrain the implementation of standards, particularly if they require significant reforms that take time.

In Bartley et al. (2015) we refer to these problems as the “contradiction of concentrated retailing.” Voluntary standards initiatives depend in many ways on large retailers and brands—to push standards through their supply chains and to provide eco- and social-labeled products to consumers. But large retailers also have also used their power to impose low prices and quick delivery times, which tend to undermine the standards that their compliance, CSR, and sustainability departments are pushing.

An interesting question for MSIs is whether the commitments that retailers and brands make in order to join an MSI can be extended to address this problem. In most MSIs, joining simply means that companies agree to push rules onto their suppliers, regardless of how those suppliers are chosen or managed. It appears that some initiatives are moving in a new direction. The Fair Food Program, developed by the Coalition of Immokalee Workers, requires participating buyers to pay a premium that goes directly to farmworkers, while also prioritizing purchases from participating buyers. The Bangladesh Accord on Fire and Building Safety rests on a legally binding agreement in which participating companies commit to funding improvements, staying with core suppliers for at least two years, and sourcing from suppliers in ways that “ensure it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements.”\(^{41}\) These kinds of harder commitments appear to be the wave of the future for MSIs, at least those with non-industry groups as the founding constituency.

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39 It is worth noting that support for FSC standards has come from some integrated paper companies, with their own forest management divisions, such as Stora Enso, Domtar, and Suzano. Here, it is different divisions of a company, not separate suppliers, that must be encouraged to take the standards seriously.  
40 (Locke, Amengual and Mangla 2009; Locke 2013)  
41 (Bangladesh Accord 2015)
Second, the characteristics of products themselves—that is, the necessary conditions of production for a given item—can shape the prospects for implementation of MSI standards. Some production processes are tied to a specific and limited set of places, while others can occur in a wider array of locations. For instance, certain timber products and agricultural crops are tied to particular locations because of climate, soil, and histories of cultivation. Some manufactured products, such as apparel and some home furnishings, can be made largely identically in a variety of locations. This does not on its own determine the effectiveness of standard-setting—and resources that are valuable and rooted in place are often subject to especially repressive governance. Nevertheless, fixity and mobility shape the implementation of transnational rules.

In general, when production processes are rooted in place, there is greater potential for standard-setting projects to mobilize local knowledge and to facilitate significant but gradual reform processes. In contrast, if orders for a given project can be shifted easily from one location to another, then local reform processes will often be undercut, especially if they are drawn out and contentious. In addition, if reforms in one location raise costs—through increased wages, for instance—orders may perversely shift to a location with lower standards.

We can see these dynamics at play in sustainable forestry and fair labor standards initiatives. In each field, brands and retailers can switch from one supplier to another, but some types of forest products constrain this movement. Particular species of trees, including teak, ramin, and some other high-value tropical timbers, are only harvested in a handful of locations after decades of growth. Even softwoods grown in temperate forests are to a large extent limited to particular places (like Russia, Canada, the U.S., and Scandinavian countries). Because their exit options are limited, timber buyers are forced into some degree of “loyalty” to particular locations. To the extent that those buyers push standards, such as those of the FSC, implementation can occur over time in a given location without spurring the exit of orders to a new location. In Indonesia, for instance, the long, tumultuous, and eventually somewhat productive engagement between the FSC and Perum Perhutani was facilitated by the stable market for the company’s teak. In addition, sustained criticism and dialogue related to Indonesian forests have contributed to new systems for verifying and regulating timber legality.

In contrast, basic apparel products can be assembled relatively cheaply in a variety of locations with sufficient power and transportation infrastructure and a pool of trainable workers. Indeed, the global apparel industry has moved rapidly from one location to another over the past three decades, with once-vibrant industries in Mexico, Central America, and the Caribbean declining as orders moved to China, Vietnam, and then Bangladesh. Apparel orders from Indonesia have repeatedly risen and fallen depending on prevailing wages and risks of disruption in other parts of Asia. Standard-setting projects have often been undermined by this mobility. The Worker Rights Consortium has supported independent unions seeking recognition in factories in Mexico, the Dominican Republic, Thailand, and Indonesia, and some such efforts have been supported by particular brands and the Fair Labor Association as well. In nearly all cases in which significant gains were made, the factories—and often the countries—soon lost their orders. MSIs and the broader field of CSR might be able to generate a counterweight through a “slow goods” or “patient capital” (or “patient sourcing”) movement (Bartley and Kincaid 2015), but so far this has been lacking.
Without resorting to product determinism, we should recognize that production processes differentially bind global production networks to particular places over time—and time is important for meaningful solutions to complex problems.\(^{42}\) Gradual, contentious reform is more likely when products are bound to a given place and MSIs mobilize local knowledge. Products that can be made essentially the same way in a variety of places are more prone to globetrotting orders and “hit and run” rule implementation efforts.

A second way in which products matter is that some production processes are more visible—or directly observable—than others. This shapes the quality of auditing to an MSI’s standards. To compare forests and factories once again, some elements of forest management can be observed fairly directly by auditors assessing compliance with the FSC’s standards. They can observe (for a sample of locations at least) the species of trees, the conditions of other plant life in the forest, the condition of logging roads, and the size of ecological buffer zones. A distant view of forest conditions can also be gained from satellite imaging. Sustainable forestry auditors do rely on testimony from managers, workers, and stakeholders, but at least some of them—such as local community residents—are not employed by the company being audited. In factories, there is less that auditors can observe directly. They can look for fire escapes, dangerous chemicals, and safety guards on machines, but they rely heavily on management’s records of wages and hours (which have sometimes turned out to be doctored). They conduct interviews with workers (usually on-site) who have often been coached by managers and who may share managers’ interest in appearing compliant.\(^{43}\)

In my larger work on sustainable forestry and fair labor standards, I argue that some combination of the factors discussed above—the power of industry outsiders in standard-setting initiatives and the mobility and observability of industries—go a long way to explaining why private regulation has been weaker for labor standards than for forest management. I hope these observations can also help to spur discussion of variation in the design and implementation of MSIs more broadly.

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\(^{42}\) To my knowledge, scholars of global rule-making and corporate social responsibility have not previously considered this idea, but it might also help to explain the relative success of Fair Trade coffee, which rests on decades of capacity-building of producer cooperatives in a limited number of high-elevation locations where specialty coffee can be grown.

\(^{43}\) Conducting worker interviews off-site increases the quality of information, but very few auditing organizations do it, due to costs and inconvenience.
References


