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## **National Government Responses to Marine Stewardship Council (MSC) Fisheries Certification: Insights from Atlantic Canada**

### **Abstract**

Over the last decade, the proliferation of social and environmental certification programmes has attracted the attention of a growing number of political scientists interested in new forms of 'private' transnational governance. However, we still lack analyses on the nature and extent of different state responses to and involvement in new private transnational governance arrangements in particular sectors and in different jurisdictions. This paper advances our understanding of the interactions between nation-state and private transnational modes of governance by analysing the role of national government authorities in Marine Stewardship Council (MSC) fisheries certification in Atlantic Canada, known more for the disastrous collapse of Northern cod stocks than good marine stewardship. Focusing on the 2008 certification of Northern shrimp (*Pandalus borealis*) fisheries off the Province of Newfoundland and Labrador, the analysis finds that the implementation and maintenance of MSC certification in this case depended on significant support from government authorities. The delicate legitimacy of both authorities face a period of uncertainty in this case since some certified shrimp stocks appear to be in decline and perhaps also migrating northward off Newfoundland and Labrador.

**Keywords:** Marine Stewardship Council, certification, governance, government, Atlantic Canada, shrimp

### **Introduction**

Private<sup>1</sup> authority is not a historical novelty, but the number and types of institutions that make rules and standards outside formal channels of state and inter-state authority have substantially

increased in number and scope over the past two decades. Private standards for ‘responsible’ business practices have emerged in just about every international industry and internationally traded commodity, including fisheries, forestry, coffee, cocoa, palm oil, minerals, energy, apparel, chemicals, computers and electronic equipment, financial services, tourism, toys and athletic equipment (Vogel 2010: 71). Since the late 1990s, the study of different forms of private transnational governance has developed into a major research agenda in political science (for example, Clapp 1998; Cutler, Haufler and Porter 1999; Higgott, Underhill and Bieler 2000; Haufler 2001; Biersteker and Hall 2002; Pattberg 2007; Graz and Nölke 2008a; Hansen and Salskov-Iversen 2008; Büthe and Mattli 2011; Cutler 2011). Frequently studied private transnational governance arrangements include industry and firm level self-regulation, corporate social responsibility initiatives, public–private partnerships and social and environmental certification standards. Sometimes explicitly moving beyond the singular ontology of states or markets, studies of new agents and hybrid patterns of authority involving business entities, civil society organisations and other social forces are key elements in the development of a full-fledged field of research on globalisation, global governance and the neo-liberal agents, institutions and disciplines that shape contemporary world order (Graz 2001; Ougaard 2008; Gill 2008; Cutler 2011).

The body of research on new forms of private transnational governance is rapidly growing but still in its infancy. It remains rather fragmented in scope and contains a number of important conceptual, empirical and normative gaps (Büthe 2004; Vogel 2008; Graz and Nölke 2008b; Vogel 2010). One of the most significant areas in need of further research concerns the relationship between states and private transnational governance mechanisms. A number of scholars writing on private transnational governance systems have recognised that

conceptualising the phenomenon under discussion as purely ‘private’ is somewhat misleading and that analysing and comparing the nature and extent of states’ involvement in these governance arrangements will contribute to empirical and conceptual clarification (Ougaard 2008; Vogel 2008; Porter and Ronit 2006; Nölke and Graz 2008; Büthe 2010). Vogel sees the role of governments as one of two critical factors that will determine the future *impact and effectiveness* of what he calls ‘civil regulation’ (Vogel 2010).

Studies of social and environmental certification and labelling programmes created and administered by non-governmental organisations (NGOs) have started to address the question of the relationship between states and private transnational governance systems. Indeed, scholars are ‘bringing the state’ into the study of putatively private social and environmental certification and labelling systems, sometimes conceptualised as non-state market-driven (NSMD) governance (Cashore 2002; Gulbrandsen 2010). Scholars have increasingly acknowledged that the future paths of third-party certification and labelling systems administered by organisations like the Forest Stewardship Council (FSC) and Marine Stewardship Council (MSC) will potentially develop through reinvigorated state processes or hybridised forms of authority and that such systems are fundamentally interconnected with governmental and inter-governmental-based political and legal institutions and norms (Bartley 2007; Meidinger 2008: 284; McDermott et al. 2009; Auld et al. 2009: 190; Hysing 2009; Hallström and Boström 2010; Gale and Haward 2011; Lister 2011). However, we still lack detailed empirical analyses on the nature and extent of different state responses to and involvement in the implementation and maintenance of certification in particular sectors and in different jurisdictions.

This paper builds on and deepens the literature exploring the relationship between states and private transnational governance through an analysis of the implementation of MSC fisheries

certification in Atlantic Canada, where state-centric managerialism facilitated the disastrous collapse of Northern cod stocks (Bavington 2010). Specifically, the paper examines the role of national government authorities in the certification of a significant shrimp fishery that developed in the Province of Newfoundland and Labrador in the wake of its infamous cod collapse, which the MSC's founders used as their main example of fisheries depletion to justify the need for the establishment of the programme (Sutton 1998). In August 2008, a shrimp fishery conducted by many former cod fishers in the Province of Newfoundland and Labrador became the first Canadian fishery and largest coldwater shrimp fishery in the world to attain MSC certification.

The remainder of this paper is developed in seven sections. The first two sections (1) introduce the MSC certification and labelling programme and (2) assess some important patterns of state responses to the MSC in North Atlantic jurisdictions where uptake has so far been greatest. The next three sections (3) introduce the multiple sectors of the Canadian Northern shrimp fishery and then examine the role that Canadian government authorities played in MSC certification (4) assessment, (5) maintenance and (6) surveillance in this fishery in the late 2000s. The paper (7) concludes by reflecting on the significance of how the implementation and maintenance of MSC certification not only enlisted significant support of national fisheries management authorities but also largely depended on state cooperation and managerialism.

### **The Marine Stewardship Council**

Unlike in agriculture and aquaculture sectors, in which a variety of different environmental certification and labelling programmes mark the landscape, the wild fisheries sector witnessed the emergence of the MSC environmental certification and labelling programme as the clear-cut

global leader in market-oriented efforts to reshape wild fisheries governance in the 2000s. Indeed, in its first decade of operation, the MSC held a virtual monopoly in the sector in setting widely adopted standards for responsible fisheries management (Ponte 2012 (forthcoming)). The MSC was created in the late 1990s through a partnership between the World Wildlife Fund (WWF), the world's largest environmental organisation, and Unilever, an Anglo-Dutch transnational corporation and the world's largest seafood buyer in mid 1990s. While the WWF's interest in fostering sustainability in global fish stocks can obviously be understood as fundamental to its purpose as a conservation organisation, the collapse of the Grand Banks cod fishery off Newfoundland in the early 1990s ignited Unilever's concern over fisheries sustainability, showing how the closure of fisheries could cut off cheap, plentiful and secure supplies of frozen seafood and therefore threaten profits and long-term financial returns to investors (Fowler and Heap 2000: 136; Howes 2008: 83). The 1996 WWF-Unilever Statement of Intent that first announced the idea of the MSC referred to the Newfoundland cod fishery collapse as signalling the need for a new approach to addressing the problems facing global fisheries. 'To reverse the fisheries crisis,' WWF's Michael Sutton explained at the time, 'we must develop long-term solutions that are environmentally necessary and then, through economic incentives, make them politically feasible' (Sutton 1998). To do so, WWF and Unilever designed the MSC as a very specific approach to governance, an approach designed to harness the disciplinary power of markets to push world fisheries towards more sustainable seafood production and consumption patterns.

Modelling the organisation partly on the FSC's certification and labelling programme as a potential win-win, business-friendly voluntary approach to environmental governance, the MSC's founders subsequently brought together dozens of experts, including scientists,

academics, industry representatives and government officials in 1996 and 1997 to develop standards for sustainable fishing practices that could be certified by accredited third-party organisations, not the MSC itself. In the meantime, the WWF and Unilever legally constituted the MSC as a company limited by guarantee, legally owned by a Board of Trustees, and registered as a charity with the United Kingdom's Charity Commission in February 1997. With the MSC certification programme set up by 1999, efforts shifted towards building a solid network of support within international civil and political society, with outreach campaigns primarily targeting seafood producers, buyers and government managers in the North Atlantic. Accredited third-party companies subsequently began assessing a number of fisheries against the environmental standard and, in March 2000, the Western Australia rock lobster fishery became the world's first fishery certified to the MSC environmental standard (MSC n.d.).

The MSC consists of four main internal governance bodies, which administer two certification standards. The most important component of the MSC's administrative structure is the legal owner of the organisation, the Board of Trustees. The self-elected Board of Trustees has the most power in appointing members of the Technical Advisory Board, the Stakeholder Council and the International Secretariat with a Chief Executive (Hallström and Boström 2010). Individuals in these advisory bodies tend to come from organizations resembling the MSC's founders, with representatives of large commercial interests and large conservation organizations from North America and northern Europe making up the balance of members.

The first certification standard administered by the organization is the MSC Environmental Standard for Sustainable Fishing. This standard is based on the *Principles and Criteria for Sustainable Fishing*, which has three main assessment principles of sustainability that measure: (1) the health of fish stocks, (2) the impacts of the fishery on marine ecosystems and (3) the

efficacy of the existing fisheries management system. Since governments often play a central role in managing fisheries resources and producing scientific information on the health of stocks and effects of fishing, assessing fisheries often requires assessment of government management rules, institutions, and data. The certification process for this standard typically starts when a fishery ‘client’—the organisation that applies for and ultimately holds the MSC certificate—contracts an accredited third-party certification body to conduct a confidential feasibility study called a pre-assessment. This study is followed by an official public full assessment if the ‘client’ decides to continue with the assessment. For the full assessment, accredited third-party certification bodies nominate a three member assessment team to review information about the fishery in relation to performance indicators and guidelines based on the MSC’s environmental standard. If successful in official full assessment, clients receive a certificate that is valid for five years, subject to annual surveillance audits (MSC 2010c).

The second MSC certification standard is the MSC Chain of Custody Standard for Seafood Traceability, which tracks information along the supply chain from boat(s) through point(s) of sale. For this standard, accredited third-party bodies audit storage and record-keeping practices of businesses to establish whether fish products sold with the MSC eco-label are really from fisheries certified to the MSC’s environmental standard. The MSC’s subsidiary trading company, Marine Stewardship Council International Ltd, licenses and charges a fee for the use of the trademarked MSC eco-label on products bought and sold by traders such as processors, wholesalers and retailers. Businesses who pass chain of custody certification receive a certificate with a unique code, which can be held for three years before reassessment (MSC 2010b).

The MSC struggled to gain legitimacy in the early 2000s and uptake by fisheries and markets grew slowly through the mid 2000s. However, the programme experienced significant

growth in the number of fisheries certified, the volume of fish certified and the number of products sold with the MSC's blue eco-label by the late 2000s. Along with changes to its assessment methodology in 2008, which led to more homogeneous processes and faster times for certification, commitments from large retailers such as Walmart played an important role in raising the number of fisheries certifications in the late 2000s (Ponte 2008; Ponte 2012 (forthcoming)). Supporters have praised the MSC as the international 'gold standard' for sustainable wild-caught seafood, while detractors in Canada and elsewhere have criticised the MSC as a tool of corporate 'greenwashing' or 'bluewashing' that privileges the interests of notoriously destructive industrial fisheries, giant retailers, big buyers and affluent consumers (Constance and Bonanno 2000; Ponte 2008). For example, the MSC has been criticized as in 'crisis' over its processes and methodology by the University of British Columbia Fisheries Centre, a world-leading fisheries assessment institute that is home to some of the scientists who helped define the MSC's environmental standard in the late 1990s (Jacquet et al. 2010).

By March 2011, 104 fisheries were certified to the MSC, 145 more were under assessment and an additional 40 to 50 were estimated to be engaged in confidential pre-assessments. In all, over 250 fisheries were engaged in the MSC and more than 8000 products were being sold with the MSC's eco-label by the end of its first decade certifying fisheries. The annual volume of fisheries products certified or in assessment reached seven million tonnes in 2011, accounting for over 7 per cent of the total capture production for direct human consumption according to the MSC (MSC 2011a). The rapid increase in the number of chain of custody certifications and associated growth in volume of products sold with the MSC eco-label meant that logo licensing fees generated 42 per cent of total revenue in 2009-10, up from 12 per cent two years earlier (Foley 2011: 149). The MSC's shift away from depending almost exclusively on charitable

donations in the early 2000s towards a greater reliance on eco-label licensing revenues in the late 2000s means that we can understand the MSC as a hybrid economic entity lying somewhere along a continuum between grant-dependent charities and commercial enterprises.

Patterns of voluntary uptake of MSC certification have been noticeably uneven around the world. The vast majority of fisheries engaged in the MSC programme in the 2000s were located in the North Atlantic Ocean, particularly in European waters, and, to a lesser extent, in the Northeast Pacific Ocean. Only four fisheries from developing countries had been certified by 2011, with only about 3 per cent of the total certified tonnage of MSC-certified fish caught off the coasts of developing countries which produce most of the world's wild captured seafood (Mathew 2011; Perez-Ramirez et al. 2012). The MSC has become the leader in the 'global' market for sustainability certification by enrolling large volume European and North American fisheries in its programme and by working aggressively with major branded processors, retailers and, more recently, food service corporations to shape the supply of and demand for certified fish (Ponte 2012 (forthcoming)). The marketisation of governance in the global seafood trade through MSC certification has also been accompanied by an increasingly politicisation of fisheries certification.

### **State responses to the MSC in the North Atlantic**

Three important factors help explain why governments in seafood producing countries have become interested in the development and extension of MSC fisheries certification within their jurisdictions. First, states have ultimate legal responsibility over controlling and managing access to marine fisheries and often produce management frameworks and scientific data required for

fishery assessments. Further, the MSC also explicitly integrated its environmental standard into the international state system (Gulbrandsen 2005) and did not promote itself as providing an *alternative to* state management. The initial draft standard drew on a range of existing international standards and documents, including the 1995 United Nations (UN) Food and Agricultural Organisation (FAO) *Code of Conduct for Responsible Fisheries* (a voluntary, non-binding document), the UN *Agreement on Highly Migratory Species and Straddling Stocks* and the *Principles for the Conservation of Wild Living Resources* (May et al. 2003: 18, Cummins 2004: 87, OECD 2005: 255). In addition, the third principle of the MSC's three core principles requires third-party assessors to evaluate the efficacy of the existing management regime in fisheries and includes provisions requiring that fisheries must be in compliance with local and international laws. This third principle is arguably the most important principle in the MSC's standard since it is also intended 'to ensure that there is an institutional and operational framework for implementing Principles 1 and 2, appropriate to the size and scale of the fishery' (MSC 2010a). Thus, the MSC's assessment criteria requires an assessment of existing management frameworks within a given fishery, which means that national and regional fisheries management bodies are among the main actors being certified (Meidinger 2008: 273). As Hernes and Mikalsen observe,

assessments are not just a matter of evaluating the behaviour of private producers, but as much about passing judgment on government policies and management institutions...The truth is that in order to achieve its ultimate aim of sustainable fisheries, the MSC may indeed have to play politics. Fisheries are usually managed by governments; governments need to be persuaded that MSC certification is the way to achieve sustainability; and they

must be willing (and able) to adjust management practices and institutions accordingly (Hernes and Mikalsen 2002: 21, 23).

Even though the *raison d'être* of the MSC is often portrayed by scholars as being about the failure and retreat of government and inter-government regulatory efforts, the programme gains legitimacy through harmonisation with existing government and inter-government institutions (Hallström and Boström 2010).

Second, and related to the last point, assessments of particular fisheries against the MSC standard can undermine or affirm the legitimacy of existing government management regimes. For instance, the MSC was initially seen more positively by governments in Australia and New Zealand who had been undertaking changes to improve fisheries management during the late 1990s and who believed they were in a favourable position in terms of qualifying for certification (OECD 2005: 258). International standards also provide a feedback mechanism for national management organisations to improve management performance and legitimacy (Haward 2009). Government management bodies often use international standards as 'benchmarks' or as 'best practice' references in their ongoing policy development.

Third, governments in seafood producing countries have an interest in facilitating commercial development of seafood industries operating within their jurisdictions, particularly in facilitating market opportunities for export-oriented domestic industries. In other words, the relations and interests of seafood production are more or less bound up in the state system, which not only legalises and manages access to fisheries resources but often supports the commercial development of domestic fishing industries. In their study of state responses to the MSC and FSC, Gale and Haward (2011) argue that a state's response to certification depends on the structure of the policy network reacting to the particular certification program, conceptualising

states as disaggregated into sectoral policy networks that are bureaucratic, clientelistic, triadic or pluralistic. They use this framework to analyse the relative autonomy of states from, or capture by, different societal groups interested in eco-certification, with policy networks further shaped by the political economy of the region, the political economy of the commodity, the ecology of the region and the management discourse of the region (Gale and Haward 2011). In important ways, it may be more accurate to assess state-society responses to the MSC rather than assuming states act independently of societal interests, especially since MSC certification is designed as a voluntary, industry-driven governance mechanism. For this reason, we can expect an increasing politicisation of MSC processes as more industry actors seek and acquire certifications required by domestic and international traders and importers.

Indeed, government-industry responses to the MSC programme in the North Atlantic, which we can understand as the ‘heartland’ of MSC certifications in the 2000s, illustrate the significant potential for politicisation in the domain of fisheries certification. For example, some governments in Scandinavian countries were very sceptical of the MSC in late 1990s and early 2000s, questioning the right of private bodies to govern fish stocks (Gulbrandsen 2009). In response to the creation of the MSC, the Nordic Council of Ministers created a working group network in 1996—the year the WWF and Unilever announced their plan to create the MSC—that was instrumental in the subsequent development of the ‘Guidelines for the Eco-labelling of Fish and Fishery Products from Marine Wild Capture Fisheries’ adopted by the UN FAO in 2005. The FAO guidelines did not prescribe mandatory requirements for the use of eco-labels but, according to Gulbrandsen, represented ‘an effort by certain governments to regain control of an issue area dominated by non-governmental actors’ (Gulbrandsen 2010: 128). In Sweden, state and industry actors rejected the MSC program as it was being developed and promoted the

subsequent development of an alternative eco-label created in 2004 and administered by the NGO KRAV (Association for Control of Organic Production) (Boström 2006; Gulbrandsen 2009). Dissatisfied with the MSC programme, Icelandic government and industry officials used the 2005 FAO guidelines as a reference when they started developing their own eco-label programme in August 2007, with the Icelandic Minister of Fisheries, the Marine Research Institute, the Directorate of Fisheries and the Fisheries Association of Iceland releasing a ‘Statement on Responsible Fisheries in Iceland’ (Guðfinnsson et al. 2007). The Icelandic group subsequently contracted the Ireland-based certification company Global Trust Certification Ltd, a firm accredited to carry out MSC certifications, as the sole body to carry out third-party certification for Icelandic fisheries that apply for the Iceland Responsible Fisheries eco-label. MSC CEO Rupert Howes questioned the development of the Icelandic eco-label programme, suggesting it could potentially undermine the harmonisation of global eco-label standards under the MSC system (Hedlun 2009).

In other coastal jurisdictions in the North Atlantic, governments initially reacted more positively to the MSC and helped domestic industry attain certification. For example, in the late 1990s, UK government departments reacted cautiously to the London-based MSC but recognised that fisheries applying for certification needed catch and harvest data administered by management bodies (Gale and Haward 2011: 226-27). In the mid 2000s, the UK government shifted from an active but ‘hands off’ approach to a more explicitly supportive role, including offering direct financial support to the MSC. Further government support was tempered in the UK, however, because industry support there was not universal, with the catch sector and key industry bodies in particular expressing concern about the costs and lack of benefits of certification and refusing to endorse the MSC (Gale and Haward 2011).

A similar pattern of government support occurred across the Atlantic in Canada. It became clear in the early 2000s during the assessment of British Columbia salmon fisheries that significant support from the federal Department of Fisheries and Oceans (DFO) was required, mainly because of costly information requirements (Gale and Haward 2011). Canada's DFO subsequently made certification and eco-labelling a cornerstone of its Oceans to Plate policy strategy, which was announced in 2007 as part of the Federal-Provincial Fisheries Renewal policy initiative launched by the newly elected Conservative Party of Canada. Among other commitments, the Oceans to Plate policy initiative was intended to help ensure that sustainable management systems were in place that would secure eco-certificates and to engage in assessment processes for certification 'when demanded' by industry (Bouffard 2008; Stringer et al. 2009). Various Canadian Government documents and presentations by government officials to industry also note the more or less official government endorsement of the MSC, an endorsement often accompanied by referring to the programme's compliance with FAO protocol and its popularity in major Canadian seafood export markets such as the US and Europe.

Thus, in addition to not responding at all, states and domestic industry interests face a number of options with respect to MSC certification that are not mutually exclusive. They can promote multilateral responses, they can develop territorial eco-label programmes and they can facilitate industry uptake of certification within their jurisdictions. Notably, two features appear to be common to all political responses to certification and remain fundamental to the legitimacy of the MSC: third-party methods of verification and claiming compliance with FAO guidelines. It is likely that the FAO system will continue to provide the key global 'meta-governance' reference point for different fisheries certification and labelling initiatives and political responses to them. Indeed, in addition to Iceland, FAO-oriented territorial certification and labelling

programmes have been developed in the late 2000s in Japan (Hall 2011) and in the state of Alaska in the US, both of which were developed in large part because of dissatisfaction with the MSC.

Despite the emergence of national variations in the state-society political responses to MSC certification, our empirical understanding of government responses to the MSC remains at a relatively general level. For example, we know little about the role of governments in the implementation and maintenance of third-party certification over time in specific fisheries. The next section deepens our understanding of such processes through an analysis of the first completed MSC certification in Canadian fisheries. The analysis builds on Gale and Haward's (2011) study of state responses to MSC certification in Australia, the United Kingdom, and Canada. Their study emphasises the importance of national and regional political economies, ecologies and management contexts from a policy network perspective but offers only a very brief overview of the Northern shrimp fishery.

### **Canadian Northern shrimp fisheries**

In contrast to the colonial roots of the Northern cod fishery, commercial fishing of Northern shrimp by Canadians is a relatively recent development. Following national government funded exploratory fishing programs off Canada's east coast in the late 1960s, skippers from Newfoundland, New Brunswick and Québec attached otter trawls<sup>2</sup> to their boats to catch shrimp in the Northern Gulf of St. Lawrence (Sinclair 1983). A separate offshore factory freezer trawler shrimp fishery began after Canada claimed jurisdiction over a 200 mile Exclusive Economic Zone in 1977. The Canadian government started a process to 'domesticate' much of the existing Nordic distant-water fleet of trawlers that caught shrimp between Canada and Greenland, though

Nordic fleets continued to trawl shrimp in areas outside Canadian jurisdiction (Parsons and Frechette 1989; Allain 2010).

Canada's DFO established National Shrimp Fishing Areas (SFAs) in the early 1980s to manage the Northern shrimp fisheries. These SFAs fall within Canada's 200 mile Exclusive Economic Zone from the waters off Baffin Island south to Nova Scotia. However, two important areas—the Flemish Cap and the Davis Strait—are subject to annual bilateral negotiation with members of North Atlantic Fisheries Organisation (NAFO), a regional fisheries management organisation responsible for setting quotas for shrimp that migrate between Canadian and international jurisdiction. The Canadian Government further divided the management zones for Northern shrimp fisheries into the Maritime Region (the Eastern Scotian Shelf), the Laurentian Region (the Gulf of St. Lawrence) and the Newfoundland Region (from the northeast coast of Newfoundland north to Baffin Island). Each of these regions is managed under separate DFO Integrated Fishery Management Plans with input from Advisory Committees composed of government and industry representatives. The main instrument used in Integrated Fishery Management Plans to prevent overexploitation of shrimp stocks are Total Allowable Catches (TACs), which DFO establishes annually. The offshore, factory freezer trawler sector is managed under an Enterprise Allocation system established in the late 1980s, with each license holder receiving an equal allocation within each SFA. The inshore, small boat sector operates under a competitive system in which industry sets trip limits and catch caps through the season (Barrow et al. 2001; DFO 2007).

Another small-boat Northern shrimp fishery emerged in the wake of the cod and other groundfish collapses in the 1990s, which put tens of thousands of Atlantic Canadians out of work, threatened the sustainability of hundreds of coastal communities and caused a crisis of

legitimacy in Canadian fisheries management. With successive extensions of the initial cod moratorium and new closures announced through the 1990s, Atlantic Canada's fishing industries increasingly turned their efforts towards internationally lucrative shellfish, particularly snow crab in Newfoundland and Labrador and lobster in other Atlantic provinces.<sup>3</sup> At the time, scientists also observed significant growth in the biomass of Northern shrimp, a key prey of the depleted cod, in areas off the northeast coast of Newfoundland and Labrador. Starting in 1997, the Canadian Government authorised significant increases in quotas for increasingly abundant Northern shrimp stocks off Newfoundland and Labrador's east coast and, to a lesser extent, in the Gulf of St. Lawrence and off Nova Scotia. Although shrimp quota increases were distributed to an owner-operator fishery of several dozen vessels that trawled shrimp in the Gulf of St. Lawrence since the early 1970s and the separate offshore factory freezer fleet that trawled shrimp off Newfoundland and Labrador since the late 1970s, much of quota increases in the late 1990s went to more than 300 multi-species owner-operator fishers that operated out of coastal communities around Newfoundland and Labrador. For areas off Newfoundland and Labrador, DFO increased the TAC of Northern shrimp from 37,600 tonnes in 1996 to 59,050 tonnes in 1997. Quotas were distributed to the new inshore small-boat fleet and the offshore fleet; however, the latter received assurance from DFO that their previous level of quotas would be protected and the former received temporary allocations, which would be removed on the basis of a 'last in first out' principle if the TAC fell below a threshold of 37,600 tonnes (DFO 2007).

The rise in the TAC for Northern shrimp in the late 1990s and 2000s meant that shrimp product consistently represented Canada's leading seafood export by volume by the late 2000s, with total annual catches reaching 185,974 tonnes in 2007. Despite this growth, global market conditions for Canadian shrimp producers deteriorated in the 2000s because of competition with

farmed tropical shrimp, changes in exchange rates, declining world shrimp prices and rising fuel and fishing costs (Gardner Pinfold 2006). Inshore sector fishers and processors were also negatively impacted by additional factors of continued tariffs on imports of cooked and peeled shrimp and high food safety standards and retailer requirements in Europe, the main market for their product. These interrelated domestic and international market factors help explain why a group of inshore sector processors which were based in Newfoundland and Labrador and who supplied mainly European buyers decided to apply for MSC certification in 2006 (Foley 2012 (forthcoming)). The first successful client for MSC certification in Canada was the Association of Seafood Producers (ASP), an industry association that represented owners of processing firms' facilities based in the Province of Newfoundland and Labrador.

### **The assessed, the assessors and the assessment process**

The public assessment process for MSC certification constitutes an important area in which fishery clients may enlist public authorities in private certification. In 2006, the ASP, with the help of a CND\$50, 000 grant from the Government of Newfoundland and Labrador, contracted Moody Marine Ltd to carry out third-party assessment of the Northern shrimp fishery (Bartlett 2008). Employees of Moody Marine Ltd, a firm that has carried out about half of all MSC fisheries certification in the 2000s, led the full assessment process, which consisted of notifying stakeholders, nominating and contracting an independent assessment team of three experts, drafting performance indicators, conducting stakeholder meetings, carrying out a scoring meeting and preparing a draft report based on a review of scoring and evidence.

The recruitment of experts with experience in the management regime under assessment constitutes an area of subtle blurring between the public processes being assessed and the private assessors, a practice NGOs have criticized in other high profile certification cases (Gilmore 2008: 276). For MSC certification, independent experts hired by third-party certification bodies typically consist of individuals with expert knowledge about the particular fishery that corresponds to the MSC's three core targets of assessment—stock health, ecosystem impacts and management system. For the ASP assessment, Moody Marine Ltd nominated and selected a Professor in fisheries biology at the Norwegian College of Fishery Science; a former Head of the Shellfish Resource Group at the UK government's Centre for Environment Fisheries and Aquaculture Science and a scientific member of the Canadian Government Review Panel for the Snow Crab fishery in the Gulf Region of Canada and; a fishery consultant and former Director of Fisheries Science and of Biodiversity Science at DFO Headquarters in Ottawa (Aschan et al. 2008).

After compiling a set of detailed performance indicators and scoring guideposts to assess the Northern shrimp fishery (with scoring posts of 60, 80 and 100 as measures of relative compliance), the assessment team engaged in the 'information gathering' stage of the assessment, which commenced in summer 2007. The information sources mainly included published and unpublished scientific reports, most of which written by DFO scientists, and a site visit to the 'fishery' when a number of individuals and organisations were interviewed or provided information for the evaluation. For the main area of the Northern shrimp fishery off Newfoundland and Labrador, Moody Marine Ltd listed 29 individuals in the full assessment report. They consisted of four ASP representatives, five representatives from the offshore factory freezer shrimp fishery (mainly from the Canadian Association of Prawn Producers, including one

skipper), nine DFO officials, two Government of Newfoundland and Labrador representatives, three experts from Memorial University (two from The Marine Institute), three Fish Food and Allied Workers (FFAW) union representatives and three environmental NGO representatives from WWF-Canada and the Halifax-based Ecology Action Centre. Stakeholder consultation included public notifications, which basically meant sending emails to each stakeholder and posting various stages of the assessment documents on the MSC website. Moody Marine Ltd carried out consultations with 38 stakeholders whom it and the client identified. Stakeholder feedback included written submission from DFO, WWF-Canada, The Humane Society of the United States and the Ecological Action Centre. The Humane Society of the United States and the Ecology Action Centre were opposed to certification, while submissions from WWF-Canada and DFO identified ways to improve the assessment document (Aschan et al. 2008: 33-4).

After consultations, the assessment team began putting together their first draft report and Moody Marine Ltd nominated three peer reviewers. The peer reviewers were a consultant with previous experience in DFO and the FAO and who was developing a traffic light monitoring system for the Northern shrimp fishery; a Senior Scientific Advisor at the Danish Institute for Fisheries Research; and a senior scientist in fisheries biology at the Marine Research Institute in Reykjavik, Iceland, who was also a NAFO designated expert on the Northern shrimp. On 8 April 2008, the draft report of the assessment, including peer review comments, was posted on the MSC website for public comment. After a 30 day period of comment, the Governing Board of Moody Marine Ltd reviewed the draft report of the assessment team, the reports of the peer review panel and stakeholder comments. The Board decided that the Northern shrimp fishery should be certified in compliance with the MSC's *Principles and Criteria for Sustainable Fisheries* and released the Final Report and Determination on the MSC website in early July. No

objections were received within the 21-day objections period and on 5 August 2008 the Northern shrimp fishery became the first Canadian fishery to meet the MSC's sustainable fisheries standard. Subject to annual surveillance audits, the ASP received its own MSC certificate for a five year period through to 2013 (Aschan et al. 2008). In addition to the assessment process, the identification of weak areas that needed improvement for the fishery to maintain certification generated more explicit new public-private governance relations.

### **Conditions of certification for whom?**

In order for a fishery to be certified to the MSC's performance standard, two main scoring requirements must be met. First, for each principle, a fishery must obtain an overall average of 80 or above on a series of performance indicator scores. Second, the fishery must score 60 or more on all of the performance indicators in each principle category. Scores lower than 80 but 60 or higher on particular performance indicators do not prevent a fishery from attaining certification, but require that the certification body create a time-bound condition of certification to raise the scores in the future. For the Northern shrimp fishery, overall score averages for each set of weighted principle questions were: principle 1-sustainability of exploited stock-92 (pass); principle 2-maintenance of ecosystem-80 (pass); principle 3-effective management system-80 (pass) (Aschan et al. 2008).

Although the fishery obtained an overall pass average of above 80 on the three main categories of principles, the fishery scored a 'conditional pass' score, that is between 60-79, on 18 of the 76 total performance indicator questions used in the assessment. The conditions of certification identified by Moody Marine Ltd for ASP's certification were associated with 5 key

areas of weakness: (1) reference points to identify the level of acceptable biomass fluctuations, (2) ecological impacts of the fishery, (3) impacts on protected and endangered species, (4) unobserved fishing mortality and (5) measurable and explicit long-and short-term objectives (Aschan et al. 2008: 46). Moody Marine Ltd drafted a set of outcome oriented and time-bounded conditions of certification to raise the level of low scores to at least the 80 level within the 5 year term of certification. ASP subsequently developed an action plan for meeting conditions of certification (Aschan et al. 2008: 148). These conditions of certification provide the basis for improvement in fishery performance scores and provide one of the bases for subsequent annual surveillance audits.

The processes leading to the implementation of conditions of certification illustrate how the dynamics of governance change blur the boundaries between public and private, state and non-state sources of fisheries management and authority.<sup>4</sup> To meet condition one, ASP's action plan indicated that it received assurance from DFO that the government management agency would develop strict precautionary reference points for considering levels of shrimp abundance deemed acceptable or unacceptable. Moreover, the action plan noted that 'key ongoing uncertainties and assumptions currently documented in the scientific advice, and reflected in the low exploitation rates in management decision, will be formalized in the IFMP [Integrated Fisheries Management Plan] within 2 years' (Aschan et al. 2008: 148). To meet condition two, ASP's action plan indicated that the Regional Advisory Process (a DFO programme designed to acquire peer review information on the status of fisheries), in consultation with the Northern Shrimp Advisory Committee, would evaluate, monitor and address negative impacts on ecosystems. To meet condition three, ASP indicated that DFO agreed to update its Integrated Fisheries Management Plan for the Northern shrimp fishery to reference the Recovery Plans for endangered and

threatened species. To meet condition four, ASP's action plan stated 'it is agreed that the relevant RAP [Regional Advisory Process] assessment of northern shrimp will consider available studies on unobserved mortality and make a qualitative determination of the level of unobserved fishing mortality' (Aschan et al. 2008: 148). To meet condition five, the action plan indicated that '[t]he client will work with DFO in consultation with NSAC [Northern Shrimp Advisory Committee] to discuss the development of measurable and explicit long and short term objectives and include these in the IFMP [Integrated Fisheries Management Plan]' (Aschan et al. 2008: 148). Similar processes can be observed in other Atlantic Canadian fisheries that were subsequently entered into MSC assessment and in BC fisheries. In the case of the BC dogfish fishery, for example, a biologist working for the provincial government explained that 'If the regulator buys into doing the necessary scientific work, then you have got a very good chance of reaching the MSC levels...It's essential for fishermen to buy into the programs, but the stocks and areas are under the jurisdiction of the federal government. So, it is more important to get them to buy into the program' (Seaman 2007).

Although many of the governance processes generated by MSC certification conditions refer to scientific and procedural improvements, the condition to develop more explicit long-and short-term goals brings certification into the realm of complex and contentious allocation disputes between and within Northern shrimp fishery fleets and sectors. While the introduction of harvest control strategies seeks to provide mechanisms to determine when and at what overall metric point DFO would make reductions in TACs, other mechanisms require clarification to determine exactly how and to whom to *distribute* quota reductions among and within fleets. In one of the MSC's Net Benefits reports, ASP's executive director highlighted the importance of conditions of certification in potentially facilitating the implementation of particular DFO

policies to reduce fishing capacity if biological conditions changed: ‘One [condition] was that our management plan should dictate what would happen if biomass declined, because shellfish fisheries are cyclical...If it did [decline], how would we reduce the number of fishing vessels fishing?’ (MSC 2009). The reference to reducing the number of fishing vessels is important because ASP tends to promote the reduction of fishing vessels as the mechanism of reducing total catch and industry rationalisation, while the Government of Newfoundland and Labrador and the FFAW union which represents independent fishers who supply ASP processors often promote the equal distribution among sectors (offshore factory freezer fleet and inshore small boat) and within sectors (quota holders) and prioritise the principle of adjacency (those fishers who operate closer ought to have priority) in allocation decisions.

The governance debates over allocation principles are currently intensifying because biological conditions of Northern shrimp stocks started to change in the late 2000s. Even during the MSC assessment, peer reviewers stressed that the level of uncertainty regarding environmental change remained high in the Northern shrimp fishery. Peer reviewers highlighted a certain laxity in which good current conditions were taken for granted by Moody Marine Ltd’s assessment team (Aschan et al. 2008: 130). They also noted that there was limited existing knowledge of the effects of climatic change and that the political and social implications of rapid biological regime changes in the future were a concern. As one peer reviewer put it,

The key practical question is whether this change from a high abundance of groundfish and more modest abundance of shrimp, to the current situation where shrimp are very abundant and groundfish stocks depleted, is a permanent one? If not, and we are assured that a return to the former regime may be rapid, will it be easy to remove the temporary

licences if the oceanic/climatic/faunal regime reverts to that which applied several decades ago (Aschan et al. 2008: 129)?

One of the peer reviewers also noted that ‘should another change in regime restore the situation in the 1970’s,’ the division of authority between Canadian and NAFO management bodies will also likely become aggravated (Aschan et al. 2008: 131). Such tensions have surfaced in the past even with healthy shrimp stocks. For example, in 2005 the Faroe Islands filed an objection to a NAFO quota allocation and unilaterally increased its quota to 1, 344 tonnes, 10 times more than the 144 tonnes allotted to them the previous year (Tutton 2005). Like the Northern cod and the turbot of the 1995 ‘Turbot War’ between Canada and Spain, Northern shrimp stocks straddle Canadian and international jurisdiction and are regularly subject to allocation disputes.

### **Surveillance audits**

The processes of annual surveillance audits further enlisted public agencies into private governance. The first annual surveillance audit for the Northern shrimp fishery took place in September 2009. Moody Marine Ltd’s surveillance team met with three representatives from ASP and three members of DFO-Newfoundland and Labrador Region staff. This surveillance meeting involved gathering information about the status of the stock, assessing the performance of the fishery and evaluating measures to meet the conditions of certification and changes in management.

None of the conditions were fully met or ‘closed out’ by the first surveillance audit, though the ASP and DFO made clear progress towards meeting the conditions. For example, in relation to condition one, the surveillance team observed that a national working group, including two

industry experts, was established in May 2008 to develop reference points and precautionary approach guidelines. This was followed by a national workshop co-led by DFO in Ottawa in November 2008. The surveillance report noted that ‘[t]he client has significant support from the DFO to ensure that progress is made toward achieving this Condition. Progress is on target and it is anticipated that this Condition will be met within the second year of certification’ (Knapman et al. 2009: 6). For condition three on the potential impacts of the fishery on protected, endangered and threatened species, the assessment team noted that new wording in a re-drafted DFO Integrated Fishery Management Plan appeared to be adequate to meet part of the condition and expected the condition to be met by the next surveillance audit. For condition five, DFO staff confirmed the imminent publication of a revised DFO Integrated Fishery Management Plan for the Northern shrimp fishery that would clarify short and long term objectives (Knapman et al. 2009).

The surveillance report also noted that during the first year of certification, there were no reported legislative changes, no changes in regulation and no complaints brought to the attention of the assessment team during the ‘site visit.’ Changes in the management regime were noted with respect to DFO’s new policy initiative, the Sustainable Fisheries Framework, which was part of the 3 year federal-provincial Fisheries Renewal program slated for completion in 2011. The surveillance team also noted briefly that ASP agreed to share access to its certification with five other processing companies, bringing all of the inshore sector shrimp processing plants in Newfoundland and Labrador within the scope of the certification. Though no reason was given for this development in the Moody Marine Ltd surveillance report, ASP reluctantly decided to share access to its MSC certificate in 2009 following a dispute in which processors outside the

MSC client group claimed that the certification unfairly excluded them (Foley 2012 (forthcoming)).

For the second annual audit, conducted on 31 August 2010, Moody Marine Ltd's surveillance team met with two representatives from ASP and seven representatives from DFO-Newfoundland and Labrador Region. This surveillance report determined that condition one (on the development of precautionary reference points and decision rules) had been 'closed out,' with five performance questions re-evaluated at or above a score of 80. The development of precautionary reference points and decision rules can be observed in an updated DFO Integrated Fishery Management Plan for Northern shrimp, published online in May 2010 (Knapman et al. 2010).<sup>5</sup>

Moody Marine Ltd's surveillance team found that condition two on the ecological impacts of the fishery was behind schedule. However, some notable actions to address condition two included the client providing funding to the Marine Institute's School of Ocean Technology (a division of Memorial University) to gather information required to satisfy part of the condition involving mapping the distribution of fishing effort data and determining the impacts of trawling on seabed habitats. The Provincial Government of Newfoundland and Labrador subsequently provided CDN\$10, 000 toward the same project (Government of Newfoundland and Labrador 2010). The assessment team also advised the client on how it might mobilise additional expertise to speed up the process of meeting condition two by year four of certification:

It may be useful to consider recruiting expertise from DFO, academia, NGOs or other agencies to the task of examining the information on distribution of fishing effort in relation to sensitive habitats or species, determining whether the impacts are potentially important, and considering what additional mitigation measures are necessary if impacts are considered

unacceptable. DFO's developing Centre of Excellence on cold-water corals and sponges, based in DFO's Newfoundland and Labrador Region, might be a good source of such expertise (Knapman et al. 2010: 16).

The surveillance team deemed that condition three related to accidental catch of and impacts on endangered and threatened species was 'closed out.' The team attributed improvements mainly to textual changes in the DFO Integrated Fisheries Management Plan and written confirmation from a DFO scientist that the impact of this fishery on two relevant vulnerable species was minimal and unlikely to impact their recovery. The surveillance team also decided that a review of the unobserved fishing mortality in the fishery conducted by scientists from Memorial University's Marine Institute satisfied condition four on the unobserved fishing mortality from the Northern shrimp fishery. Condition five on the 'measurable and explicit long and short term goals' was considered ahead of target. The surveillance team attributed this progress to the updated DFO Integrated Fisheries Management Plan for the Northern shrimp fishery. Therefore, conditions one, three and four were 'closed out' by August 2010, condition two was behind schedule, and condition five were ahead of schedule and expected to be satisfied by year three.

The second annual surveillance audit also identified alarming trends in the biological regime of Northern shrimp stocks. Northern shrimp stocks appeared to be diverging geographically, decreasing in some areas, increasing in others and uncertain in still others. The 2010 surveillance report noted that stock changes were occurring but for reasons that they deemed remained unclear. Changes in shrimp stock in areas adjacent to Newfoundland's northeast coast, which had the largest share of TAC in the Northern shrimp fishery in the 2000s, had fallen 50 per cent below the 1996-2006 average (Knapman et al. 2010). The surveillance report indicated that

‘[t]he assessment team learned that out of concern for the stock and the MSC certification, NSAC [Northern Shrimp Advisory Committee] responded by negotiating the 2010 SFA 6 TAC down to 61, 632 tonnes, requiring the elimination of some licences on the last-in first-out (LIFO) principle’ (Knapman et al. 2010: 10). The elimination of inshore sector shrimp licenses through the ‘last in first out’ principle suggests that MSC certification perhaps helped DFO solidify this approach (preferred by the ASP) as the mechanism to implement total catch reductions (as opposed to the FFAW union’s and Government of Newfoundland and Labrador’s preferred mechanism of equity in distribution and adjacency).

The following season, DFO announced further startling declines in shrimp stocks off Newfoundland before Moody Marine Ltd’s third annual surveillance report. In June 2011, DFO announced a more than 9, 000 tonne quota cut compared to 2010 in key areas adjacent to Newfoundland. DFO again implemented the ‘last in first out’ policy to allocate cuts. This resulted in DFO completely removing two special offshore allocations, the Labrador Innu and the Fogo Island Co-operative Society Ltd., with a combined total of 2, 500 tonnes. The FFAW union, which represents inshore sector fishers who were receiving the bulk of the quota reductions, called on the newly appointed DFO Minister to establish an independent review of Northern shrimp allocation principles. The union’s president said that the 2011 quota allocation decisions made ‘a mockery of the principle of adjacency...[and] perpetuates the special status DFO has given to the offshore shrimp fleet, and poses serious implications for the inshore shrimp fishery in future years’ (Graney 2011). The Ottawa-based Canadian Association of Prawn Producers (CAPP), an organisation created in 1996 to represent offshore sector shrimp licensees, responded by saying the FFAW union was attempting to redefine existing DFO policy. The CAPP claimed that the ‘last in first out’ policy was based on the principles of historic

dependence and economic efficiency, and that FFAW union efforts amounted to an attempt to get DFO to abandon or redefine a long-standing policy. The provincial government of Newfoundland and Labrador and the federal government of Canada subsequently jointly announced they would review how Northern shrimp are allocated by the 2012 season (MacLean 2011). To complicate matters even more, on 15 July 2011, the CAPP acquired its own MSC certification for the factory freezer fleet of shrimpers, meaning that separate clients in the offshore sector and inshore sector have MSC certification for the some of the shrimp fishing areas that are facing possible future quota reductions.

## **Conclusion**

This paper has assessed the interactions between nation-state and private transnational forms of governance in the fisheries sector. Although the rules of MSC certification technically treat governments as unprivileged stakeholders, states are unique in that they have ultimate legal responsibility over controlling and managing access to marine fisheries, they often produce and possess management and scientific data required in fishery assessments and they may also be called upon by certification applicants to facilitate and implement management changes necessary to meet and maintain fisheries certification standards.

We observed two prevailing types of state-industry responses to MSC certification in the North Atlantic in the late 1990s and 2000s. On the one hand, some states and domestic industry interests collaboratively reacted *against* the MSC. Some Nordic governments responded by promoting multilateral responses through the FAO while others created territorial eco-labelling programmes to better reflect and serve their domestic interests. On the other hand, some states

and industry partners clearly, though initially reluctantly, facilitated and accommodated MSC certification processes. The federal government of Canada falls into the latter category and we examined the Canadian government's role in the certification of Northern shrimp fisheries in the Northwest Atlantic Ocean. What can we learn from the analysis of government involvement in MSC certification in the case of Northern shrimp fisheries?

One important lesson is that the dynamics of governance change analyzed above show how a clear ontological separation between state and market, or public and private, disappears in the specific processes of certification (for similar arguments in the seafood sector, see Vandergeest 2007; Hall 2010). The Canadian government's relatively elaborate framework for managing multiple sectors of the Northern shrimp fishery was the main target of third-party assessment. Moody Marine Ltd enrolled former government officials who had expertise in Canadian and NAFO fisheries management to act as third-party assessment team members and peer reviewers. This practice is understandable since Canadian government officials tend to be highly knowledgeable about Canadian fisheries management data and information. Yet this practice also complicates the issue of independence and neutrality in assessments because it means some third-party assessment team members are more or less embedded in the management regimes they are asked to audit. Similarly, MSC certification relied heavily on the use of government-produced data and government self-evaluations, which is also common practice in other Canadian MSC certification cases.

The role of Canadian government authorities in the implementation of conditions of certification and in annual surveillance audits also illustrated the institutionalisation of certification requirements into national management processes. While fisheries clients are technically responsible for making improvements or changes required by conditions of

certification, Canadian government authorities were heavily relied upon in order for the ASP to maintain certification. Therefore, certification was not purely an industry-driven process but also a government process, with government expenses. During a 2007 workshop to inform industry about the growing eco-labelling trend, DFO reported that the lengthy assessment for Canadian Sockeye salmon cost \$400, 000 between 2002 and 2007, with almost \$300, 000 of DFO in-kind contribution (PEIFA 2007). Ironically, then, in Canada MSC fisheries certification may not be necessarily releasing budgetary pressures on public administration, but instead shifting some of the resources *for* public management towards privately certified fisheries.

Therefore, the successful implementation and maintenance of fisheries certification in this case to a large extent has become the *de facto* responsibility of government managers. MSC certification in Canada's Northern shrimp fishery was not a simple move from public to private governance, nor should it be understood as governance without government. It is a case of what Hysing calls governance *with* government (Hysing 2009). As Eden and Bear note in their study of FSC and MSC certification, 'a shift from environmental government to environmental governance "beyond the state" still remains largely a normative aim, rather than a practical achievement' (Eden and Bear 2010: 103). This case study supports other studies which find that privatisation can strengthen state mechanisms of authority and facilitate state advance (for example, Gainsborough 2009; Büthe 2010). A key lesson of this case study for our understanding of the changing nature of governance in a global system of states is that the privatisation, marketisation and internationalisation of authority is consistent with and in fact may substantially depend on state intervention (for an example of a similar argument in the fisheries sector, see Mansfield 2004). The blurring of public-private categories in non-state standard-setting requires deeper and more innovative analyses of the structures of political

economy constraining and enabling different forms of governance and authority (Peters et al. 2009: 508).

The case study examined above also illustrates how new governance relations become embedded in and shaped by complex structures and processes of political economy. Technical standards such as labour codes of conduct and sustainability certifications become embedded in political and social contexts where uneven relations of market power, privilege and interest shape the politics of production and trade (for example, Ponte 2008; Taylor 2011; Foley 2012 (forthcoming)). Although the MSC requires a stakeholder engagement during the initial assessment process, stakeholder consultations in this case were concentrated at early points in certification process. The processing organisation which took the initiative as the certification client gained a new channel of access to and perhaps influence over policy-making processes. The client occupies a privileged position in the certification process because it is largely responsible for information gathering and designing stakeholder engagements and for developing action plans to meet conditions of certification. Much of the actual responsibility for meeting conditions of certification were taken on by Canada's DFO. While conditions of certification mainly required scientific and data-gathering improvements, the requirement to establish and institutionalise more explicit short and long-term objectives involved hotly contested principles of quota allocation and distribution in a complex, multi-sector Canadian fishery that shares shrimp stocks with Nordic distant water fleets.

Finally, the interpolation of the MSC's environmental principles and criteria into Canadian fisheries management processes means that the legitimacy of both authorities will face a major challenge in this case as some certified shrimp stocks appear to be declining off Newfoundland and Labrador. It is questionable whether MSC certification in this case will help the federal

government of Canada in its efforts to re-establish its managerial legitimacy and reputation in the wake of the collapse of the Atlantic cod fishery if a major biological regime change occurs in Northern shrimp. For some observers, MSC certification will provide assurance that declining shrimp stocks will not share the same fate as the historic cod. For others, declining shrimp stocks will likely reinforce concerns in Canada and elsewhere that the MSC's processes and methodologies are either not being applied at a high enough level by third-party auditors or simply inadequate. In any case, the legitimacy of the MSC, third-party certification companies and Canada's DFO are in the same boat for the certification of Northern shrimp fisheries and will likely sink or swim through the coming storm together.

## Notes

1. It is helpful to distinguish between two main types of 'private' organisations. The first group is private commercial enterprises, generally profit-seeking businesses of one form or another. The second is non-governmental organisations (NGOs), some of which are part of broader social movements (Higgott, Underhill and Bieler 2000).
2. Trawls are fishing nets which vessels tow or drag through the water.
3. For example, in 2008, shellfish accounted for almost 78 per cent of total landed value of marine species in Canada while shrimp, snow crab and lobster accounted for about 66 per cent of the total landed value (DFO 2008).
4. It is important to note that some of the improvements related to conditions of certification may be based on new information becoming available since the original certification report was completed. Some of this information is produced independently of MSC certification processes as part of ongoing scientific studies and research initiatives. Other information was produced with an explicit view towards meeting MSC certification requirements.
5. It is not unusual that this document has been updated, since it is an 'evergreen document,' but many of the changes since 2007 were directed at incorporating the MSC conditions of certification as set out in Moody Marine Ltd's assessment and ASP's action plan. Moody Marine Ltd's surveillance team noted, however, that DFO's new Integrated Fishery Management Plan for Northern shrimp, originally published in 2007, did not indicate that it had been updated, nor did it explain where changes were made.

## References

- Allain, M. (2010), 'Lessons Learned from the Domestication Process of the Canadian Cold Water Shrimp Fishery', *Draft Report Submitted to Greenpeace International*, 15 August.

- Aschan, M., Powles, H., Bannister, C. Hough, A., and Knapman, P. (2008), *Public Certification Report for Canadian Northern Prawn Trawl Fishery Shrimp Fishing Areas 5, 6, 7/Final*. Moody Marine Ltd, Derby, UK. Available from: [http://www.msc.org/track-a-fishery/certified/north-west-atlantic/Canada-northern-prawn/copy\\_of\\_assessment-downloads-1/assessment-downloads/Final-Public-Certification-Report\\_SFA-567.pdf](http://www.msc.org/track-a-fishery/certified/north-west-atlantic/Canada-northern-prawn/copy_of_assessment-downloads-1/assessment-downloads/Final-Public-Certification-Report_SFA-567.pdf) [Accessed on 3 December 2010].
- Auld, G., Balboa, C, Bernstein, S., and Cashore, B. (2009), 'The Emergence of Non-State Market-Driven (NSMD) Global Environmental Governance: A Cross-Sectoral Assessment', in M.A. Delmas and O. Young (eds), *Governance for the Environment: New Perspectives* (Cambridge: Cambridge University Press), pp. 183-218.
- Barrow, J., Jefferson, G.E., Eagles, M.D. and Stevens, G.J. (2001), 'Allocation of Harvesting Rights in Three Atlantic Canada Marine Fisheries,' in R. Shotton (ed.), *Case Studies on the Allocation of Transferable Quota Rights in Fisheries* (Rome: FAO Fisheries Technical Paper-T411), pp. 32-57.
- Bartlett, S. (2008), 'Shrimp harvest gets international nod as sustainable trawl fishery', *The Telegram*, 23 August. Available from: <http://www.thetelegram.com/index.cfm?sid=165016&sc=82> [Accessed on 10 December 2010].
- Bartley, T. (2007), 'Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions', *American Journal of Sociology*, 113 (2), pp. 297-351.
- Bavington, D. (2010), *Managed Annihilation: An Unnatural History of the Newfoundland Cod Collapse* (Vancouver: University of British Columbia Press).
- Biersteker, T.J. and Hall, R.B. (eds) (2002), *The Emergence of Private Authority in Global Governance* (Cambridge: Cambridge University Press).
- Boström, M. (2006), 'Regulatory Credibility and Authority through Inclusiveness: Standardization Organizations in Cases of Eco-labelling', *Organization*, 13 (3), pp. 345-67.
- Bouffard, N. (2008), 'Eco-certification of Fisheries in Canada', *Fisheries and Oceans Canada, Government of Canada*, Presentation at Gulf Snow Crab Workshop, Moncton, 15-16 January. Available from: [www.ccfi.ca/pdf/snowcrab/presentations/DFO.Bouffard.pdf](http://www.ccfi.ca/pdf/snowcrab/presentations/DFO.Bouffard.pdf) [accessed on 20 August 2010].
- Büthe, T. (2004), 'Governance through Private Authority? Non-State Actors in World Politics', *Journal of International Affairs*, 58 (1), pp. 281-90.
- Büthe, T. (2010), 'Global Private Politics: A Research Agenda', *Business and Politics*, 12 (3), pp. 1-24.
- Büthe, T. and Mattli, W. (2011), *The New Global Rulers: The Privatization of Regulation in the World Economy* (Princeton and Oxford: Princeton University Press).
- Clapp, J. (1998), 'The Privatization of Global Environmental Governance: ISO 1400 and the Developing World', *Global Governance*, 4 (3), pp. 295-316.
- Cashore, B. (2002), 'Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (NSMD) Governance Systems Gain Rule-Making Authority', *Governance: An International Journal of Policy, Administration, and Institutions*, 15 (4), pp. 503-29.
- Constance, D. and Bonanno, A. (2000), 'Regulating the Global Fisheries: The World Wildlife Fund, Unilever, and the Marine Stewardship Council', *Agriculture and Human Values*, 17 (2), pp. 125-39.
- Cummins, A. (2004), 'The Marine Stewardship Council: A Multi-Stakeholder Approach to Sustainable Fishing', *Corporate Social Responsibility and Environmental Management*, 11, pp. 85-94.
- Cutler, C. (2011), 'Private Transnational Governance and the Crisis of Global Leadership', in S. Gill (ed.), *Global Crises and the Crisis of Global Leadership* (Cambridge: Cambridge University Press), pp. 56-70.

- Cutler, C., Haufler, V. and Porter, T. (eds) (1999), *Private Authority and International Affairs* (Albany: SUNY Press).
- DFO (2007), 'Integrated Fisheries Management Plan: Northern Shrimp-Shrimp Fishing Areas (SFAs) 0-7 and the Flemish Cap', *Department of Fisheries and Oceans, Resource Management Operations – Atlantic*, Ottawa. Available from: <http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/ifmp-gmp/shrimp-crevette/shrimp-crevette-2007-eng.htm> [Accessed on 2 December 2010]
- DFO (2008), 'Canadian Fisheries Statistics 2008'. *Statistical Services: Economic Analysis and Statistics Strategic Policy Sector, Fisheries and Oceans Canada*, Ottawa, Ontario. Available from: [http://www.dfo-mpo.gc.ca/stats/commercial/cfs/2008/CFS2008\\_en.pdf](http://www.dfo-mpo.gc.ca/stats/commercial/cfs/2008/CFS2008_en.pdf) [Accessed on 15 June 2011].
- Eden, S. and Bear, C. (2010), 'Third-Sector Global Environmental Governance, Space and Science: Comparing Fishery and Forestry Certification', *Journal of Environmental Policy & Planning*, 12 (1), pp. 83-106.
- Foley, P. (2011), *The Commodification of Global Governance? Fisheries Certification in the Era of Market Civilization*. PhD dissertation, York University, Toronto.
- Foley, P. (2012 (forthcoming)), 'The Political Economy of Marine Stewardship Council Certification: Processors and Access in Newfoundland and Labrador's Inshore Shrimp Industry', *Journal of Agrarian Change*, 12 (2&3), pp. xx-xx.
- Fowler, P. and Heap, S. (2000), 'Bridging Troubled Waters: The Marine Stewardship Council', in J. Bendell (ed.), *Terms for Endearment: Business, NGOs and Sustainable Development* (Sheffield: Greenleaf), pp. 135-48.
- Gainsborough, M. (2009), 'Privatisation as State Advance: Private Indirect Government in Vietnam', *New Political Economy*, 14 (2), pp. 257-274.
- Gale, F. and Haward, M. (2011), *Global commodity governance: state responses to sustainable forest and fisheries certification* (Houndmills, Basingstoke, Hampshire: Palgrave Macmillan).
- Gardner Pinfold (2006), 'Profile of the Atlantic Shrimp Industry', *Report Submitted to the Atlantic Council of Fisheries and Aquaculture Ministers (ACFAM) Task Group on Northern Shrimp*, November, Halifax. Available from: [http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/reports-rapports/acfam-cmpaa/sr-rc\\_e.pdf](http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/reports-rapports/acfam-cmpaa/sr-rc_e.pdf) [Accessed on 16 June 2011].
- Gilmour, J. (2008). 'Case Study 3: MSC Certification of the Alaska Pollock Fishery', in T. Ward and B. Phillips (eds), *Seafood Ecolabelling: Principles and Practice* (Oxford, UK: Wiley-Blackwell), pp. 269-286.
- Gill, S. (2008), *Power and Resistance in the New World Order* (2<sup>nd</sup> Edition) (London and New York: Macmillan-Palgrave).
- Graney, J. (2011), 'Northern Peninsula Inshore Shrimp Fleet Hit Hard by Quota Cuts', *The Northern Pen*, 20 June. Available from: <http://www.northernpen.ca/News/2011-06-20/article-2593057/Northern-Peninsula-inshore-shrimp-fleet-hit-hard-by-quota-cuts/1> [Accessed on 10 July 2011].
- Graz, J. (2001), 'Beyond States and Markets: Comparative and Global Political Economy in the Age of Hybrids', *Review of International Political Economy*, 8 (4), pp. 739-48.
- Graz, J. and Nölke, A. (eds) (2008a), *Transnational Private Governance and its Limits* (London and New York: Routledge).
- Graz, J. and Nölke, A. (2008b), 'Introduction: Beyond the Fragmented Debate on Transnational Private Governance', in J. Graz and A. Nölke (eds), *Transnational Private Governance and its Limits* (London and New York: Routledge), pp. 1-26.

- Gulbrandsen, L. (2005), 'Mark of Sustainability? Challenges for Fishery and Forestry Eco-labeling', *Environment*, 47 (5), pp. 9-23.
- Gulbrandsen, L. (2009), 'The Emergence and Effectiveness of the Marine Stewardship Council', *Marine Policy*, 33, pp. 654-60.
- Gulbrandsen, L. (2010), *Transnational Environmental Governance: The Emergence and Effects of the Certification of Forests and Fisheries* (Cheltenham, England: Edward Elgar).
- Guðfinnsson, E.K, Sigurjónsson, J., Ásgeirsson, P. and Bjarnason, P. (2007), 'Statement on Responsible Fisheries in Iceland', *Icelandic Fisheries, Icelandic Ministry of Fisheries and Agriculture*, 7 August, Reykjavik. Available from: <http://www.fisheries.is/management/government-policy/responsible-fisheries/> [Accessed on 3 June 2011].
- Hall, D. (2010), 'Food with a Visible Face: Traceability and the Public Promotion of Private Governance in the Japanese Food System', *Geoforum*, 41, pp. 826-35.
- Hall, D. (2011), 'National Responses to global ecolabels: the Marine Stewardship Council and Marine Eco-Label Japan.' Paper presented at the 2011 *International Studies Association* annual conference. 16 March, Montreal.
- Hallström, T. and Boström, M. (2010), *Transnational Multi-Stakeholder Standardization: Organizing Fragile Non-State Authority* (Cheltenham: Edward Elgar).
- Hansen, H.K. and Salskov-Iversen, D. (eds) (2008), *Critical Perspectives on Private Authority in Global Politics* (London: Palgrave Macmillan).
- Haufler, V. (2001), *A Public Role for the Private Sector: Industry Self-Regulation in a Global Economy* (Washington, DC: Carnegie Endowment For International Peace).
- Haward, M. (2009), 'State, Market and Community: Managing Australian Fisheries', *Dialogue: Academy of the Social Sciences in Australia*, 28 (1), pp. 36-45.
- Hedlun, S. (2009), 'Iceland's New Seafood Eco-label on Display', *SeafoodSource.com*, 16 March. Available from: <http://www.seafoodsource.com/newsarticledetail.aspx?id=2854> [Accessed on 5 May 2010]
- Hernes, H. and Mikalsen, K.H. (2002), 'From Participation to Protest? Environmental Groups and the Management of Marine Fisheries', *Mobilization: An International Journal*, 7 (1), pp. 15-28.
- Higgott, R.A., Underhill, G.R. and Bieler, A. (eds), 2000, *Non-State Actors and Authority in the Global System* (London and New York: Routledge).
- Howes, R. (2008), 'The Marine Stewardship Council Programme', in T. Ward and B. Phillips (eds), *Seafood Ecolabelling: Principles and Practice* (Oxford: Wiley-Blackwell), pp. 81-105.
- Hysing, E. (2009), 'Governing Without Government? The Private Governance of Forest Certification in Sweden', *Public Administration*, 87 (2), pp. 312-326.
- Jacquet, J.L., Pauly, D., Ainley, D., Holt, S., Dayton, P. and Jackson, J., (2010), 'Seafood Stewardship in Crisis', *Nature*, 467, pp. 28-9.
- Knapman, P., Aschan, M., Powles, H. (2009), *Surveillance Report: Canadian Northern Prawn Trawl Fishery Shrimp Fishing Areas 5, 6, & 7*. Moody Marine Ltd, Derby, UK. Available from: [http://www.msc.org/track-a-fishery/certified/north-west-atlantic/Canada-northern-prawn/copy\\_of\\_assessment-downloads-1/assessment-downloads/08.12.2009-surveillance-report-sfa-5-6-7-v2.pdf](http://www.msc.org/track-a-fishery/certified/north-west-atlantic/Canada-northern-prawn/copy_of_assessment-downloads-1/assessment-downloads/08.12.2009-surveillance-report-sfa-5-6-7-v2.pdf) [Accessed on 3 December 2010].
- Knapman, P., Powles, H. and Bannister, C. (2010), *Surveillance Report: Canadian Northern Prawn Trawl Fishery Shrimp Fishing Areas 5, 6, & 7*. Moody Marine Ltd, Derby, UK. Available from: [37](http://www.msc.org/track-</a></p>
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a-fishery/certified/north-west-atlantic/Canada-northern-prawn/copy\_of\_assessment-downloads-1/assessment-downloads/Second\_Annual\_Surveillance\_Report\_SFA\_5\_6\_7.pdf [Accessed on 3 December 2010].

- Lister, J. (2011), *Corporate Social Responsibility and the State: International Approaches to Forest Co-Regulation* (Vancouver: University of British Columbia Press).
- Nölke, A. and Graz, J. (2008), 'Conclusion: The Limits of Transnational Private Governance', in J. Graz and A. Nölke (eds), *Transnational Private Governance and its Limits* (London and New York: Routledge), pp. 226-42.
- Ougaard, M. (2008), 'Private Institutions and Business Power in Global Governance', *Global Governance*, 14 (3), pp. 387-403.
- Parsons, D.G. and Frechette, J. (1989), 'Fisheries for Northern Shrimp (*Pandalus Borealis*) in the Northwest Atlantic from Greenland to the Gulf of Maine', in J.F. Caddy (ed.), *Marine Invertebrate Fisheries: Their Assessment and Management* (New York: Wiley), pp. 63-85.
- Pattberg, P.H. (2007), *Private Institutions and Global Governance: The New Politics of Environmental Sustainability* (Northampton: Edward Elgar).
- Perez-Ramirez, M., Philips, B., Lluch-Belda, D. and Lluch-Cota, S. (2012), 'Perspectives for Implementing Fisheries Certification in Developing Countries', *Marine Policy*, 36, pp. 297-302.
- Ponte, S., (2008), 'Greener than Thou: The Political Economy of Fish Ecolabeling and its Local Manifestation in South Africa', *World Development*, 36 (1), pp. 159-75.
- Ponte, S. (2012 (forthcoming)), 'The Marine Stewardship Council (MSC) and the Making of a Market for "Sustainable Fish"', *Journal of Agrarian Change*, 12 (2&3), pp. xx-xx.
- Porter, T. and Ronit, K. (2006), 'Self-Regulation as Policy Process: The Multiple and Criss-Crossing Stages of Private Rule-Making', *Policy Sciences*, 39 (1), pp. 41-72.
- MacLean, C. (2011), 'Feds Agree to Review How Northern Shrimp is Allocated', *The Telegram*, 22 June. Available from: <http://www.thetelegram.com/News/Local/2011-06-22/article-2603143/Feds-agree-to-review-how-northern-shrimp-is-allocated/1> [Accessed 10 July 2011].
- Mansfield, B. (2004), 'Rules of Privatization: Contradictions in Neoliberal Regulation of North Pacific Fisheries', *Annals of the Association of American Geographers*, 94 (3), pp. 565-84.
- Mathew, S. (2011), 'The Costs of Certification', SAMUDRA Report, March, No. 58, pp. 41-5. Available from: [http://www.icsf.net/icsf2006/uploads/publications/samudra/pdf/english/issue\\_58/art09.pdf](http://www.icsf.net/icsf2006/uploads/publications/samudra/pdf/english/issue_58/art09.pdf) [Accessed on 25 June 2011].
- May, B., Leadbitter, D., Sutton, M. and Weber, W. (2003), 'The Marine Stewardship Council (MSC)', in B. Phillips, T. Ward and C. Chaffee (eds), *Eco-labelling in Fisheries: What is it all About?* (Oxford: Blackwell Science).
- McDermott, C., Cashore, B. and Kanowski, P. (2009), 'Setting the Bar: An International Comparison of Public and Private Forest Policy Specifications and Implications for Explaining Trends', *Journal of Integrative Environmental Sciences*, 6 (3), pp. 217-37.
- Meidinger, E. (2008), 'Multi-Interest Self-Governance through Global product Certification Programmes', in O. Dilling, M. Herberg and G. Winter (eds), *Responsible Business: Self-Governance and Law in Transnational Economic Transactions* (Oxford and Portland: Hart Publishing), pp. 259-91.
- MSC (2009), 'Canada Northern Prawn/Gulf of St. Lawrence Northern Shrimp Trawl Esquiman Channel', *Marine Stewardship Council*. Available from: <http://www.msc.org/documents/fisheries-factsheets/net-benefits-report/Canada-northern-prawn-shrimp.pdf/view> [Accessed on 12 December 2010].

- MSC (2010a), 'MSC Fishery Standard: Principles and Criteria for Sustainable Fishing', *Marine Stewardship Council*. Available from: [http://www.msc.org/documents/scheme-documents/msc-standards/MSC\\_environmental\\_standard\\_for\\_sustainable\\_fishing.pdf](http://www.msc.org/documents/scheme-documents/msc-standards/MSC_environmental_standard_for_sustainable_fishing.pdf) [Accessed on 12 June 2011].
- MSC (2010b), 'MSC Chain of Custody Standard for Seafood Traceability', *Marine Stewardship Council*. Available from: <http://www.msc.org/about-us/standards/standards/chain-of-custody#what-does-it-assess> [Accessed on 10 May 2010].
- MSC (2010c), 'MSC Environmental Standard for Sustainable Fishing', *Marine Stewardship Council*. Available from: <http://www.msc.org/about-us/standards/standards/msc-environmental-standard#how-long-is-each> [Accessed on 20 May 2010].
- MSC (2010d), 'Trustees' Report and Accounts for the Year Ended 31<sup>st</sup> March 2010', *Marine Stewardship Council*. Available from: [http://www.msc.org/documents/institutional/finance/MSC\\_Statutory\\_Accounts\\_FY0910.pdf](http://www.msc.org/documents/institutional/finance/MSC_Statutory_Accounts_FY0910.pdf) [Accessed on 20 June 2011]
- MSC (2011), 'MSC in Numbers', *Marine Stewardship Council*. Available from: <http://www.msc.org/business-support/key-facts-about-msc> [Accessed on 11 March 2011]
- MSC Executive (2005), 'Guidance to Clients: The MSC Fishery Assessment & Certification Process: Information Sheet 5—Roles and Responsibilities Explained', *Marine Stewardship Council*. Available from: [http://www.scscertified.com/docs/Public\\_InfoSheet5Roles&Responsibilities.pdf](http://www.scscertified.com/docs/Public_InfoSheet5Roles&Responsibilities.pdf) [accessed on 2 June 2011].
- MSC (n.d.), 'Rock Lobster', *Marine Stewardship Council*. Available from: <http://www.msc.org/cook-eat-enjoy/fish-to-eat/rock-lobster> [Accessed 12 July 2010].
- OECD (2005), 'Private certification of a Fishery as Sustainable', in *Environmental Requirements and Market Access*. OECD Trade Policy Series (Paris: OECD Publishing).
- PEIFA (2007), 'Eco-Labeling Report: Report on Eco-Labeling Conference and Workshop', *The Prince Edward Island Fishermen's Association*. Available from: [http://www.peifa.org/news\\_item.php?news\\_id=14](http://www.peifa.org/news_item.php?news_id=14) [Accessed 5 December 2011].
- Peters, A., Förster, T. and Koechlin, L. (2009), 'Towards Non-state Actors as Effective, Legitimate, and Accountable Standard Setters', in A. Peters, L. Koechlin, T. Förster and G.F. Zinkernagel (eds) *Non-State Actors as Standard Setters* (Cambridge: Cambridge University Press), pp. 492-562.
- Seaman, T. (2007), 'No Eco-label, no sales', *IntraFish Media*, 1 September.
- Sinclair, P. (1983), 'Fishermen Divided: The Impact of Limited Entry Licensing in Northwest Newfoundland', *Human Organization* 42 (4), pp. 307-13.
- Stringer, K., M. Clemens, and D. Rivard (2009), 'The Changing Nature of Fisheries Management and Implications for Science', in R.J. Beamish and B.J. Rothschild (eds) *The Future of Fisheries Science in North America* (Netherlands: Springer), pp. 97-111.
- Sutton, M. (1998), 'New Hope for Marine Fisheries', in *Fish Stakes: The Pros and Cons of the Marine Stewardship Council Initiative: A Debate from the Pages of SAMUDRA Report* (Chennai, India: International Collective in Support of Fishworkers).
- Taylor, M. (2011), 'Race you to the Bottom...and Back Again? The Uneven Development of Labour Codes of Conduct', *New Political Economy*, 16 (4), pp. 445-62.
- The Government of Newfoundland and Labrador (2010), 'Provincial Government Supports Shrimp Fishery in Maintaining Stewardship Certification', *Department of Fisheries and Aquaculture, Government of Newfoundland and Labrador*, 28 October. Available from: <http://www.releases.gov.nl.ca/releases/2010/fishaq/1028n01.htm> [Accessed on 3 December 2010].

- Tutton, M. (2005), 'Canada Makes Progress in Solving Shrimp Dispute With Faroe Islands', *Canadian Press*, 1 June. Available from: <http://www.nafo.int/about/media/oth-news/2005/Canmakesprogress.html> [Accessed on 15 July 2011].
- Vanderveest, P. (2007), 'Certification and Communities: Alternatives for Regulating the Environmental and Social Impacts of Shrimp Farming', *World Development*, 35 (7), pp. 1152-71.
- Vogel, D. (2008), 'Private Global Business Regulation', *Annual Review of Political Science*, 11, pp. 261-82.
- Vogel, D. (2010), 'The Private Regulation of Global Corporate Conduct: Achievements and Limitations', *Business & Society*, 49 (1), pp. 68-87.