DERA Deutsche Rohstoffagentur

Bundesanstalt für Geowissenschaften und Rohstoffe

DERA Rohstoffinformationen

Certifying Natural Resources –
A Comparative Study on
Global Standards and Certification
Schemes for Sustainability

Part II – Empirical Assessment of Case Studies

9

DERA Rohstoffinformationen

**Certifying Natural Resources –
A Comparative Study on
Global Standards and Certification
Schemes for Sustainability**

Part II – Empirical Assessment of Case Studies

Hannover, March 2012

9

BACKGROUND

Mineral certification has been proposed as a lever to single out "clean" production from conflict-related minerals or unacceptable mining conditions.

Taking up the call for transparency in mineral production by the United Nations' Panel of Experts on the Illegal Exploitation of Natural Resources in the Democratic Republic of Congo (DRC), BGR elaborated a chain of custody assurance system, based on the establishment of transparent, traceable and ethical trading chains. This concept of Certified Trading Chains (CTC) found entry to the preparatory discussions for the G-8 summit in Heiligendamm in 2007 and has been further developed and implemented with partners in Rwanda and DRC.

Commissioned by the German government, the BGR continues to support efforts towards a regional certification system of the International Conference of the Great Lakes Region (ICGLR). In the context of further developing and putting into practice the certification system the BGR is intent to install structures most likely warranting its long-term effectiveness.

Therefore, the BGR has commissioned the Ludwig-Maximilians-Universität München (LMU Munich) with a research project which aims at identifying the institutional characteristics of successful Global Standards and Certification Schemes (GSCSs). By studying GSCSs such as the Forest Stewardship Council (FSC) or the Kimberley Process Certification Scheme (KPSC) the project seeks to single out the institutional characteristics that are associated with their success or failure.

In order to identify the institutional characteristics for success the research project 1) assesses the institutional setup of existing Global Standards and Certification Schemes engaging in social and environmental sustainability issues, 2) evaluates their performance in terms of success and finally 3) singles out the institutional types that are related to success respectively failure. This first report below provides a comprehensive empirical assessment of the institutional setup of seven GSCSs. In a next report the schemes will be evaluated with respect to their relative success. In the final report, institutional characteristics will be related to GSCS success.

The seven case studies assessed in the report at hand are the FSC for sustainable forestry, the Fairtrade Labeling Organizations International (FLO) in fair trade, the Global Reporting Initiative (GRI) for sustainability reporting, the Marine Stewardship Council (MSC) for sustainable ocean-caught fishing, the KPSC for trade regulation in the context of conflict diamonds, the Extractive Industries Transparency Initiative (EITI) for disclosure of financial flows in primarily oil and gas, and the International Standardization Organization's Standard 14001 for Environmental Management (ISO14). These Global Standards and Certification Schemes were chosen for study because they all engage in sustainability governance by means of standards and can therefore convey insights relevant for mineral certification schemes such as CTC. A further central criterion for the case selection is that the case studies have been active for some time enabling a sound assessment of their success or failure in the next project stage. The empirical assessment was carried out on the basis of an analytical framework prior developed for the cause (Part I: forthcoming). The framework encompasses a number of institutional features and patterns that can be designed differently in different schemes. They exceed mere organizational structures by far and concern also mechanisms of financing, procedures relating to developing the standard such as modes of decision-making, rules and procedures regarding members and members' representation, the nature of the system of conformity assessment, the scheme's financing and many more. The institutional approach was chosen for two reasons. One, only an institutional approach with the main focus on the GSCS itself can generate results potentially generalizable across sectors despite diversity in sector, resource or country characteristics. Two, as institutions are dynamic implying that they can change and be changed over time only an institutional approach makes sense in the wider context of the further development of a mineral certification scheme. Because, once we have arrived at significant correlations between distinct institutional types of GSCSs and their respective level of success in the final stage of the project, these insights can be converted to the institutional design of a mineral certification system.

The results thus can point out challenges and ways forward with regards to certification and due diligence efforts in the mineral sector currently under development.

ACRONYMS

AFP	Analytical Fingerprint
ASM	Artisanal and Small-scale Mining
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe (Federal Institute for Geosciences and Natural Resources)
CSR	Corporate Social Responsibility
CTC	Certified Trading Chains
EITI	Extractive Industries Transparency Initiative
FLO	Fairtrade Labeling Organizations International
FSC	Forest Stewardship Council
GRI	Global Reporting Initiative
GSCS	Global Standards and Certification Scheme
ICGLR	International Conference on the Great Lakes Region
ISO	International Standards Organization
ISO/TC 207	International Organization for Standardization's Technical Committee 207
KPCS	Kimberley Process Certification Scheme
MSC	Marine Stewardship Council
OECD	Organisation for Economic Cooperation and Development
UNEP	United Nations Environment Programme

CONTENTS

1 THE FOREST STEWARDSHIP COUNCIL (FSC)

Tropical deforestation and degradation of biological diversity in global forests nurtured public debate in the 1980s. Despite several attempts at introducing effective intergovernmental regulation to the problem, a binding solution among governments proved difficult to achieve. As a response, in the 1990s a purely private governance scheme, the Forest Stewardship Council (FSC) was launched by leading nongovernmental organizations such as the World Wildlife Fund for Nature in collaboration with private sector representatives. Following the example of the FSC, today, several schemes compete in standard setting and certification in forestry management. The FSC scheme has also served as a blueprint for the development of other GSCSs operating outside the forestry sector such as the Marine Stewardship Council for ocean-caught seafood. In turn, the FSC drew on the International Federation of Organic Agricultural Movements when designing its own scheme[1]. The FSC came into effect in 1993.

As the first of the existent private standard setting and certification schemes in forestry, the FSC has been subject to abundant scholarly research. On the one hand, it has been praised as "the most significant endeavor ever undertaken as a partnership between non-governmental organizations and private industry"[2]. On the other hand it is considered "only partially capable of resolving all the tension between actors concerned by forest issues"[3]. Academia has focused on an array of issues concerning the FSC – ranging from understanding conditions and circumstances for the emergence of the FSC[4] to gradually comprehending the impacts of its activities[5], as well as detecting its limitations[6]. Finally, the conceptualization of FSC as "*an experiment in democratically run private rule-making schemes*"[7] (emphasis added) has by far attracted the highest scholarly attention. Points of interest are e.g. questions regarding the legitimacy of Private Transnational Governance in general[8] or in specific, the potential for enhancing participation of southern actors in Global Governance inherent in FSC's complex three chamber governance system alongside with its multi-level organizational dimensions[9].

1.1 General aspects of the FSC

1.1.1 Actors involved in founding the FSC

Civil society actors and private businesses were involved in founding the FSC. Public authorities were excluded from the process.

In the 1980s concerns of tropical deforestation, forest degradation and the maintenance of biological diversity took foothold in public discourse[10]. A civil society campaign led by Friends of the Earth, the Rainforest Action Network, Greenpeace and the World Wildlife Fund for Nature engaged in raising awareness of the public for grievances in tropical deforestation. The campaign targeted timber producers and retailers directly and finally pressured them into engaging in the making of a standards and certification scheme in collaboration

---

1 Dingwerth et al. 2009: 723
2 Domask 2003: 158
3 Guenéau 2009: 403
4 Bartley 2003; 2007b; Dingwerth et al. 2009
5 Auld et al. 2008
6 Guenéau 2009; Klooster 2006; 2010
7 Overdevest 2010: 53
8 Bernstein et al. 2004; Dingwerth 2007; Schepers 2010
9 Dingwerth 2008a; 2008b; Pattberg 2006
10 Bartley 2003: 442; 2007a: 238 – 239

with civil society[11]. Before deciding on launching the FSC together with private business, nongovernmental organizations such as Friends of the Earth in the United Kingdom and the Rainforest Action Network in the United States had called for boycotting tropical timber. As a consequence, companies reacted to the boycott strategies by attesting self-proclaimed sustainable forestry management practices with unverifiable methods[12]. As boycotts failed to bring about the desired outcomes, the nongovernmental organization, Friends of the Earth, in turn tried to develop a tracking mechanism for timber on its own but "discovered that tracking wood products through complex supply chains was beyond their capacity[13]. Subsequently, civil society recognized the need to cooperate with timber traders and foresters in the creation of an adequate governance instrument for credible sustainable forestry management and began spawning partnerships with respective companies[14].

Civil society and private business decided not to include public authorities in the process due to disappointing outcomes of (inter-)governmental negotiations on sustainable forestry in the past. "[T]he WWF explicitly framed the emerging FSC as an alternative to failed intergovernmental programs[15]. This stance was backed e.g. by the failure of administering an inter-governmental certification system under the auspices of the International Tropical Timber Organization, a preexisting international trade organization, with governments as members[16]. Finally, the vague outcome of the United Nations Conference on Environment and Development, known as the Earth Summit in Rio de Janeiro 1992, in form of a "Non-legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests[17], also known as the Forest Principles[18], further supported the option of a private governance scheme for sustainable forestry rather than an (inter-)governmental agreement[19].

Once the decision for a private instrument had been made, the WWF actively engaged in launching the FSC in the aftermath of the United Nations Conference. "WWF was front and center for all effective purposes. It was the incubator and the surrogate mother[20]. The official founding assembly of the FSC took place in Toronto, Canada, October 1993 with 134 participants from 24 countries, including 56 people from countries with tropical forests[21]. Other key proponents besides the WWF were the Rainforest Alliance, the Woodworkers Alliance for Rainforest Protection, several U.S. foundations, and several forest product retailers including IKEA and Europe's largest do-it-yourself home furnishing chain B&Q[22].

Which actors were involved in founding the FSC?

  ✓ civil society actors
  ✓ private businesses
  – public authorities

---

11 Bartley 2003: 443 – 444
12 Bartley 2003: 443f
13 Bartley 2003: 444
14 Bartley 2003: 443 – 445
15 Bartley 2003: 452
16 Bartley 2003: 451f
17 Hens Nath 2005: 6
18 Bartley 2003: 452
19 Cashore et al. 2007: 158
20 Bartley 2003: 453
21 Conroy 2007: 63
22 Klooster 2006: 546

1.1.2   Membership structure of the FSC

Civil society and private business constitute the FSC membership structure.

Public authorities were explicitly excluded from membership at the outset of the FSC's operation and still are today. This restriction also applied to state companies operating in the forest sector but has been slightly repealed since the FSC opened its membership to government-owned and -led companies in the economic chamber in 2002[23]. In the context of its membership limitation regarding public authorities the FSC explains diplomatically "FSC is however a non-governmental organization and therefore welcomes governmental bodies to support FSC through other means[24]. Governments can only become members on a national level by participating in the FSC national initiatives and multi-stakeholder working groups[25]. The respective paragraph in the FSC statutes holds "[g]overnment owned legal entities or entities with governmental participation will not be admitted as members of the association except for government owned or controlled companies which can be admitted under specific conditions[26].

Membership is open to both organizations as well as individuals. As of August 2009, the FSC membership list counted 833 members[27]. The FSC scheme incorporates three levels of decision-making. The FSC general assembly of members convening every three years is situated on the highest level of decision-making followed by the FSC board of directors and the FSC director general. Together the three bodies constitute the basic governance structure of the FSC[28]. The overall FSC *Global Network* comprises the FSC Asociación Civil, which is the overarching membership association, with its three subsidiary companies, the FSC International Center GmbH, the FSC Global Development GmbH, and the ASI – Accreditation Services International GmbH. FSC regional and national offices and the FSC endorsed national initiatives are also constituent part of the FSC global network[29].

Which actors constitute the FSC membership?

✓ civil society actors
✓ private businesses
– public authorities

1.1.3   Members' representation in the FSC

Members in the FSC are represented in a corporatist and federal structure.

On the FSC's own account, the general assembly of FSC members constitutes the highest decision-making body in the scheme[30]. The FSC membership base is structured in three chambers – environmental, social and economic mirroring a corporatist structure. Each chamber is further divided into north and south sub-chambers

---

23   Auld et al. 2008: 190
24   http://www.fsc.org/membership.html January 24, 2011
25   Guéneau 2009: 400
26   FSC Statutes 2009: 3
27   FSC Membership List 2009
28   http://www.fsc.org/governance.html April 15, 2011
29   FSC Glossary of Terms 2009: 4
30   http://www.fsc.org/governance.html April 14, 2011

mirroring a federal structure. The vote of all six sub-chambers is equally weighted providing for equal representation irrespective of the number of members in the three issue chambers and northern or southern belonging[31].

However, FSC's definition of *south* encompassing low, middle and upper-middle income countries has the practical implication that European Union member countries such as Croatia, Estonia, Hungary and Poland are included in southern chambers falsifying actual geographies and diluting the southern vote. Thus, weighted voting effectively means that the voting power of the upper 15% of world population is equal to the voting power of the lower 85%[32]. The FSC also distinguishes between organizations and individuals within the respective six sub-chambers. The vote of the organization is weighted 90% and that of individuals 10%[33]. This provision further weakens southern representation in the FSC and constitutes an inequality in practice because southern members are generally represented by individuals rather than by institutions. Northern members, contrarily, are represented by organizations[34].

No provisions are in place for equal representation within the group *south* on a global level. Membership in the FSC varies strongly in this respect. In 2005, the geographical regions of Europe North America and Latin America dominated in terms of membership strength in the FSC. African and Asian countries only constituted roughly 6% and were thus comparatively low[35]. Today, members' representation in the FSC is more balanced along regional lines. In 2009, out of a total of 833 members, ca 30% represented Latin America whereas the percentage of African members in the FSC had risen to ca 20%. The imbalance persists in regards to Asian representation which grew slightly from 6% to about 8.5% in the respective time period[36]. On a sub-global level, the FSC operates national initiatives in more than 50 countries[37] and has established regional offices in Africa, Asia, Europe and Latin America[38].

How are member groups represented in the FSC?

- ✓ federal structure
- ✓ corporatist structure
- – no special interest representation

1.1.4   Congruence among rule-makers and rule-takers in the FSC

The group of rule-makers and rule-takers in the FSC is close to congruent.

As for the rule-takers, the FSC standard addresses foresters all over the world with no restrictions relating to geographies or belonging to a certain group. Public authorities are excluded from standard development processes since they are not allowed to become members in the FSC. But this does not affect the congruence among rule-makers and rule-takers in the FSC because public authorities while not being rule-makers are per se also not rule-takers. Contrarily, state companies can be among rule-takers and they have been allowed to become FSC members since 2002 thus representing the group making the FSC standard. The group of

---

31   http://www.fsc.org/membership_chambers.html September 22, 2010
32   Dingwerth 2008 b: 620f
33   http://www.fsc.org/fileadmin/web-data/public/document_center/membership_documents/FSC_weighting_of_chambers.pdf
     January 24, 2011
34   Guéneau 2009: 391
35   Dingwerth 2008 a: 62
36   FSC Membership List 2009
37   http://www.fsc.org/worldwide_locations.html January 10, 2011
38   Dingwerth 2007: 179; 2008 a: 65 – 66; Pattberg 2006: 584

rule-makers is slightly more comprehensive than the group of rule-takers due to the social and environmental advocacy groups represented in the scheme and not constituting rule-takers.

Are the groups of rule-makers and rule-takers congruent in the FSC?

- ✓ congruent
- – partial overlap
- – no overlap

1.1.5   Mode of installing the FSC board of directors

The FSC board of directors is elected by the chambers constituting the general assembly of FSC members.

The board of directors is elected by each of the three chambers for a three-year term mirroring the corporatist and federal mode of members' representation in the FSC. Subsequently the FSC board of directors has nine members in total. Six members represent respectively the sub-chambers; economic north, the economic south, social north, social south, environmental north and environmental south. Board members can serve two consecutive terms by re-election[39]. One of the board members holds the function of treasurer. Additionally, the board comprises a chair and two vice-chairpersons. Currently, the chair represents a Dutch foundation. One of the two vice-chairs represents the World Wildlife Fund for Nature Switzerland. The other does not belong to an organization but constitutes an individual from Chile. The board members representing southern chambers come from Brazil, Ecuador and China, those representing northern chambers from Sweden and the United States[40]. Neither northern nor southern members may account for more than five board members at any given time[41].

The board convenes three or four times a year and is responsible for overseeing organizational activities of the FSC, providing strategic guidance to the secretariat, and approving the accreditation of certification bodies and of approving national standards prepared by the FSC national initiatives[42].

The FSC board of directors appoints a director general for running day-to-day FSC operations and managing the FSC international center[43].

How is the FSC board of directors put in place?

- – self-appointment
- ✓ appointment by membership groups (corporatist/federal)
- – election by members

---

39   FSC Statutes 2009: 8
40   http://www.fsc.org/bod.html April 14, 2011
41   Dingwerth 2007: 150
42   Dingwerth 2007: 150
43   FSC Annual Report 2009: 20; http://www.fsc.org/fileadmin/web-data/public/website-images/International_center_org/Organigram.html April 15, 2011

1.1.6   The FSC secretariat

The FSC secretariat carries out substantive tasks for the scheme.

The FSC secretariat opened 1994 in Oaxaca, Mexico and moved to Bonn, Germany in 2003. 2005, the FSC secretariat comprised 25 employees. Today, the FSC *international center* has replaced the secretariat and is a subsidiary to the overall FSC membership association next to the FSC *global development* and the ASI – Accreditation Services International. The FSC international center is administered by the managing director supported by an executive assistant. In addition to a director's office with a staff of five, the center comprises four divisions on policy and standards, communications, network and respectively finance and administration. The staff of the international center totals 33 members[44]. Its tasks include setting international standards, approving national standards and ensuring the protection of the FSC *trademarks*. The international center is also responsible for approving national initiatives, coordinating the activities of the national and regional offices and ensuring consistent practices with regard to *policy* and standards development, network and *stakeholder* relations, and communication in the FSC[45].

Like the board of directors the FSC secretariat is entrusted with day-to-day business but also plays an important role when interpreting the FSC principles and criteria. The policy and standards unit of the FSC international center have also authored standards[46].

What is the capacity of the FSC secretariat?

   – no permanent secretariat
   – secretariat with administrative tasks
   ✓ secretariat with substantive tasks

1.1.7   The FSC's relation to other GSCSs

On the one hand, the FSC operates in open competition with other GSCSs within the sector of forestry management. On the other hand, in other sectors, the FSC cooperates closely with other GSCSs.

Since the foundation of FSC, competition over forestry management systems has led to the emergence of several initiatives certifying forestry practices[47]. Just to name the most widespread, the industry led certifier Program for the Endorsement for Forest Certification emerged in Europe, whereas in the USA the Sustainable Forestry Initiative was launched and in Canada the Canadian Standards Association[48]. The European Program claims to be the "world's largest forest certification organization"[49] whereas the FSC claims to be "widely regarded as one of the most important initiatives of the last decade to promote responsible forest management worldwide"[50]. Both statements are more than mere advertisement, since in terms of hectares PEFC certified areas are larger than FSC certified ones[51]. At the same time, the FSC standard is considered to be the most

44   http://www.fsc.org/fileadmin/web-data/public/website-images/International_center_org/Organigram.html April 15, 2011
45   http://www.fsc.org/910.html April 15, 2011
46   Dingwerth 2007: 150
47   Conroy, 2007: 244 – 250
48   Bartley 2007a: 234; Correia 2010: 66
49   http://www.pefc.org September 22, 2010
50   http://www.fsc.org/about-fsc.html September 22, 2010
51   Freer-Smith et al. 2008: 260

demanding, subsequently, it is regarded as the most desirable in terms of sustainability[52]. As a downside of stringency, FSC certification is regarded as highly costly and thus deterrent to small-scale foresters[53]. Although a number of schemes now compete over certifying forestry practices, the differences among them are declining[54], most of them gradually become more similar to the FSC standard[55].

Contrarily to open completion, several examples of close cooperation can also be observed in the context of the FSC's activities. E.g., in 2009, the FSC and the Fairtrade Labeling Organizations International collaborated in initiating a dual certification pilot project primarily addressing smallholder and community-based forest enterprises in developing countries[56]. To name another example, in June 2010, the FSC and the Lembaga Ekolabel Indonesia launched an 18-month collaboration to explore potential areas of cooperation regarding *certification* of sustainable forestry in Indonesia. Like the Fairtrade Labeling Organizations International or the Marine Stewardship Council, the FSC is a founding member of the ISEAL Alliance, an association offering guidance for GSCSs engaging in the field of social and environmental sustainability[57].

How does the FSC interrelate with other GSCSs?

 – no relations (monopoly)
 ✓ nested cooperation
 ✓ open competition

1.1.8   The FSC′s relation to (inter-)governmental bodies

FSC relations to (inter-)governmental bodies are characterised by orchestration.

Just a few years ago an expert on the FSC stated as "a societal response to the failures of international policy processes [...] the organization's ties to the latter are weak, if not entirely absent"[58]. Notwithstanding this, the past years have shown a few FSC projects carried out in partnership with (inter-)governmental bodies. Since 2006 the FSC, the German *Gesellschaft für Technische Zusammenarbeit*, now German *Gesellschaft für Internationale Zusammenarbeit* and IKEA are jointly executing a "Public and Private Partnership project to strengthen FSC National Initiatives"[59]. The FSC is also currently carrying out the project *Ecosystem Services* in partnership with the SNV Netherlands Development Organization, an organization similar to the German GIZ[60]. The *GEF project* currently executed in partnership between the FSC and the Global Environmental Facility through the United Nations Environment Program is a further example[61]. The European Ecolabel program managed by the European Commission also endorses the FSC[62].

Another form of partnership between FSC and governmental bodies constitute the incorporation of the FSC scheme in donor programs of developed countries. German development cooperation is e.g. supporting FSC

---

52   Freer-Smith et al. 2008: 257
53   Klooster 2006: 548
54   Bartley 2007: 235
55   Conroy 2007: 244 – 250
56   FSC Annual Report 2009: 15
57   http://www.isealalliance.org/content/about-us April 15, 2011
58   Dingwerth 2007: 153
59   FSC Annual Report 2009: 24
60   http://www.snvworld.org/en/aboutus/Pages/history.aspx April 15, 2011
61   http://www.fsc.org/gef.html April 15, 2011
62   http://www.fsc.org/chainofcustody.html April 16, 2011

certification of a multinational wood exploitation and timber processing company in the Congo basin of the Republic of Congo[63].

The FSC upholds relations to domestic governmental bodies through its national initiatives. As opposed to the FSC global scheme, membership in the FSC national initiatives is also open to public authorities. The Environmental Protection Agency Hamburg and the Ministry for Environment, and Forestry Schleswig-Holstein were the first public authorities to enter the FSC Germany in 1997[64].

How does the FSC interrelate with (inter-)governmental bodies?

  – no relations
  ✓ orchestration
  – delegated authority

1.1.9   Financing of the FSC's activities

Voluntary donations, regular contributions and marketing of activities have all constituted constant pillars in the FSC's financing structure.

Throughout its history, the balance among the three pillars has varied. Just recently, marketing of the FSC's activities, comprising evaluation fees paid by certification bodies to cover the costs of the accreditation process, accreditation fees charged to accredited certification bodies and fees for use of the FSC trademarks[65] began generating more income than the FSC donation program.

The FSC experienced a structural change in its funding base from 2008 to 2009. While voluntary donations contributed 33% to the FSC's overall funding base by the end of 2008, a year later this percentage had dropped to only 6%. At the same time, revenues generated by the FSC accreditation program, i.e. marketing of its activities, increased from 53 to 88%[66]. In this timeframe the FSC obviously made a substantive step towards reducing the scheme's dependence on governmental and foundational support as a main pillar of financing. The FSC had previously been criticized for still failing to achieve economic sustainability in pure market terms by 2007[67]. The large membership base in FSC of a total of 833 in 2009 grants a stable income generator through fees. Yet, currently, the membership program only constitutes 3% of the FSC's overall financing[68] although revenues from membership fees have been increasing continuously from 1996 to date[69]. Income through membership fees more than doubled within one year from 1995 – 1996 and from 2003 – 2004. Income through the FSC accreditation program has also been growing steadily to date and almost multiplied eightfold from 1996 – 1997[70]. Voluntary donations exceeded accreditation revenues from the outset and first fell back in 2007[71].

---

63   Thies et al. 2006: 173
64   http://www.fsc-deutschland.de/index.php?option=com_content&view=article&id=162&Itemid=113 April 15, 2011
65   FSC By-Laws 2009: 2
66   FSC Annual Report 2009: 28
67   Conroy 2007: 294
68   FSC Annual Report 2009: 28
69   FSC Financial Report 2003
70   FSC Financial Report 2004
71   FSC Annual Report 2007: 28

In the first two years of the FSC's existence governments were heavily involved in making the scheme work by contributing substantive initial funding[72]. The World Wildlife Fund for Nature also provided crucial funding in the early years of the FSC's activities[73].

How are the FSC's activities financed?

- ✓ voluntary donations
- ✓ regular contributions
- ✓ marketing of activities

1.1.10 FSC scheme evaluation

The core components of the FSC scheme are evaluated on a regular basis within the institution of the three year FSC general assembly.

"[R]eview the plans, workplans and the principles and criteria of the Association" is listed first among the matters to be dealt with in the meetings of the general assembly every three years[74]. Amendments to the statutes are also to be dealt with there. In case an amendment of the FSC by-laws is proposed the board of directors shall decide upon forwarding the proposal to a vote by the FSC general assembly.

2002 was a year of restructuration of the FSC system. A process of decentralizing the FSC governance structure began by creating national initiatives, regional offices, and the FSC international center. The FSC general assembly also initiated a review and revision of the FSC accreditation requirements. As a result, the FSC separated the entities of standard setting and conformity assessment in the FSC scheme by creating a separate, for-profit legal entity, the ASI – Accreditation Services International. The ASI began operating the FSC accreditation program in 2006[75].

Has the FSC institutionalized procedures for evaluating the scheme?

- – no institutionalized evaluation
- ✓ institutionalized scheme evaluation by management, members and/or stakeholders
- – institutionalized scheme evaluation by an autonomous body

---

72   Bartley 2003: 448
73   Dingwerth 2007: 148
74   FSC Statutes 2009: 6
75   FSC Annual Report 2005: 5

1.2   Characteristics of the FSC global standard

1.2.1   Subject of the FSC global standard

The FSC standard entails procedural requirements.

The FSC principles and criteria are the FSC global standard. They include managerial aspects as well as social and environmental requirements and form the basis for all FSC management standards[76].

FSC offers three types of certification; forest management certification, chain of custody certification, and controlled wood certification. All three types are management standards requiring procedural changes in forestry management[77]. In contrast to other certification schemes for forestry management such as the Program for the Endorsement for Forest Certification the FSC also specifies required *levels of performance* resulting from the changes in procedures. Whereas the requirements entailed in the Program for the Endorsement for Forest Certification only relate to procedures[78].

The origin of the wood product is disclosed in all three types of FSC certification. The FSC forest management and controlled wood certification specify the precise forest or plantation area. However, disclosure of origin can be considered as a byproduct of the FSC management standard secondary to managerial aspects. The primary objective relates to procedural changes in the forestry management followed by higher performance levels regarding sustainable forestry management. The same applies to FSC chain of custody certification. FSC chain of custody certification verifies that the wood product sold at the sales desk has been logged against sustainable forestry management practices and that the origin of the wood product can be traced throughout the trading chain to an FSC certified forest area. Disclosing the origin of the wood product is only significant in that respect that this information verifies if the wood product origins from a forest area certified against an FSC responsible forestry management standard.

What is subject to the FSC global standard?

✓ procedures (production/process management)
– results (product/performance)
– origin of product

1.2.2   Chain of custody certification in the FSC

The FSC chain of custody certification program makes the FSC system visible to end consumers. The FSC program is also incorporated in other sustainability certificates which are visible to end consumers.

Chain of custody certification constitutes a core element in the FSC scheme. Only the FSC chain of custody certification program can make FSC certified wood products visible to the end consumer. Foresters, traders and retailers are only allowed to use the FSC label on the wood products they sell if their wood products have been certified against the FSC chain of custody standard[79]. Chain of custody is defined by the FSC as "[t]

---

76   http://www.fsc.org/pc.html April 16, 2011
77   http://www.fsc.org/types-of-certification0.html April 16, 2011
78   Guéneau 2009: 397
79   http://www.fsc.org/chainofcustody.html April 16, 2011

he channel through which products are distributed from their origin in the forest to their end-use"[80]. Just to name a few prominent examples, in Germany, the FSC is visible to consumers buying train tickets issued by the *Deutsche Bahn* which has been using FSC certified paper for tickets since 2005[81]. Tetra Pak uses the FSC label on juice and milk cartons in the markets of the United Kingdom, Brazil and other countries. The Dutch newspaper "Het Financieele Dagblad" prints its daily newspapers on FSC certified paper and Telecom Italia uses FSC certified paper for its bills[82].

The FSC certificate is also included in the *U.S. Green Building Council's Leadership in Energy and Environmental Design* program which issues certification in the construction sector against environmental standards as the only scheme for wood certification integrated in the program[83]. The FSC label is also included in the European Eco-label scheme[84].

Not all types of FSC certification are visible to the end consumer. The FSC forestry management certification only applies to the individual forestry management operation and is not sufficient for selling FSC certified wood products carrying the FSC irrespective. In order to trade the products originating from the FSC certified forest management unit the forest owner or manager must obtain FSC chain of custody certification.

At which stage in the chain of custody does FSC certification apply?

- ✓ certificate visible for end consumer
- ✓ certificate included in other end consumer visible certificate
- – business to business certificate not visible to end consumer

1.2.3 Precision of the FSC global standard

The FSC standard incorporates several levels of precision from the most general exemplified in the ten FSC principles down to most precise in the form of the means of verification.

The FSC standard entails a hierarchy of requirements[85] beginning with means of verification at the most specific level equaling *measurable rules*. An example of a means of verification: "Annually updated lists of species of concern as presented in the plan or associated documents". Within the FSC standard hierarchy the indicators are slightly less specific than the means of verification, e.g. "[a] list of the species at risk, (as identified by federal, provincial, and regional legislation/lists) known or believed to exist within the forest is presented in the (management) plan or associated documents and is updated annually". The next level towards the top of the standard hierarchy hosts the 56 criteria which accompany the overarching ten principles in up to ten points, e.g. the second criterion 6.2 out of ten accompanying principle six states "[s]afeguards shall exist which protect rare, threatened and endangered species and their habitats (e.g. nesting and feeding areas). …". In terms of precision the criteria are like *specific norms*. The ten principles can be understood as *general principles* and lie at the very top of FSC's standard hierarchy, e.g. principle 6 "[f]orest management shall conserve biological diversity and its associated values, water resources, soils, and unique fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest"[86].

---

80   FSC Glossary of Terms 2009: 5
81   http://www.fsc-deutschland.de/newsletter/92/628 April 16, 2011
82   FSC Annual Report 2009: 16
83   FSC Annual Report 2007: 15
84   http://ec.europa.eu/environment/gpp/pdf/toolkit/module1_factsheet_ecolabels.pdf April 16, 2011
85   ISEAL Setting Standards 2007: 14
86   FSC Principles and Criteria 1996: 6

The FSC has also further rules, in FSC jargon *polices and standards*, which define and explain specific requirements on the basis of the FSC principles and criteria[87]. "During the 13 years of its existence, the FSC has developed detailed procedural rules for sustainable forestry"[88].

> *To which degree of precision is the FSC global standard formulated?*
>
> – only general principles
> – also specific norms
> ✓ also measurable rules

1.2.4   Context sensitivity of the FSC global standard

The FSC global standard serves as a framework for local, national or regional standards.

The national and regional FSC standards are developed on the basis of the FSC principles and criteria. "The FSC is organized in several operational layers"[89] comprising the FSC international center and the FSC global network as a whole, regional offices and national initiatives. National initiatives develop national FSC standards based on the global principles and criteria[90].

In 2009, national FSC standards were proposed or were under development in Australia, Bulgaria, Chile, China, Congo Basin Region (covering Cameroon, Democratic Republic of Congo, Gabon, and the Republic of Congo), Croatia, Estonia, Fiji, France, Germany, Ghana, Honduras, Italy, Ivory Coast, Kenya, Kosovo, Latvia, Madagascar, Mexico, New Zealand, Portugal, Slovakia, South Africa, Sweden, Switzerland, Ukraine and the United States[91]. Also in the context of a dispute, "[s]ome flexibility will be allowed to cope with local circumstances"[92].

> *Is the FSC global standard context sensitive?*
>
> – only global standard
> – global standard takes regional/national specifics into consideration
> ✓ global standard as framework for local/national/regional standard

1.2.5   Minimum or maximum standard in the FSC

Certification in the FSC scheme can take place against a progressively demanding standard reflected in the FSC mixed sources policy and against an FSC maximum, i.e. "gold" standard in forestry management.

The FSC standard is considered as the most stringent among certification schemes in forestry management[93]. The FSC offers products entailing varying percentages of FSC certified wood such as *FSC pure* or *FSC*

---

87   http://www.fsc.org/pc.html April 16, 2011
88   Pattberg 2006: 583
89   Patttberg 2006: 584
90   Freer-Smith et al. 2008: 259; Dingwerth 2007: 163
91   FSC Annual Report 2009: 11
92   FSC Principles and Criteria 1996: 3
93   Freer-Smith et al. 2008: 257

mixed[94]. FSC pure resembles wood products originating only from FSC-certified forests or plantations not mixed with material of another *material category* throughout the supply chain. *FSC mixed* products contain a percentage of FSC pure and a percentage of *FSC controlled and/or reclaimed sources*[95]. The non-FSC Pure parts are called *FSC controlled wood* and are also FSC certified, albeit against less demanding requirements than the general FSC forestry management standards. The FSC controlled wood standard still demands higher managerial quality in social and ecological respect than other certification schemes. The FSC mixed sources products encompass twofold certification of a different standard, the FSC forest management certification mirroring a *maximum "gold" standard* and the FSC controlled wood certificate functioning as a stepping stone or here, a *progressively demanding standard*, on the way to the maximum standard[96]. FSC controlled wood standard assures that the wood product has not been illegally harvested, nor has it been harvested in violation of traditional and civil rights, nor in forests where high conservation values are threatened by management activities, nor in forests being converted from natural and semi natural forest to plantations or non-forest use, nor from forests where genetically modified trees are planted[97]. FSC mixed sources can also entail *reclaimed sources* next to FSC certified wood and FSC controlled wood. Reclaimed material is used as input material in FSC mixed sources because it would otherwise have been disposed of as waste or used for energy recovery and thus does not require any other kind of certification[98].

How ambitious is the FSC global standard?

- – minimum standard
- ✓ progressively demanding standard
- ✓ maximum ("gold") standard

1.2.6   Incentives for client participation of the FSC global standard

Price premiums can serve as an incentive for attaining FSC certification. Reputational and legal incentives can also play a role for clients choosing FSC certification.

The FSC is a market-driven instrument relying on a market niche for certified wood products[99] which in turn are expected to attain price premiums enhancing profitability for the certified firm and subsequently providing it with the financial means to also stem the costs of certification. Cases in which firms gain price premiums for certified wood products are known, native tropical woods exported from Brazil carrying an FSC logo typically received 20 – 50% price premiums[100]. In an FSC survey, 59% of those surveyed agreed that FSC certification brings increased sales to existing clients, and 65% agreed or that FSC certification brings access to new markets[101]. Yet, in contrast to Fairtrade certification the FSC does not generally include a mandatory price premium in the standard. Cases which have not been able to profit from certification, and where certification itself is too costly even calculating potential market advantage, have also been demonstrated[102]. However, the FSC/FLO dual certification project, launched in 2009 specifically promotes the objective to "bring smallholders

---

94   FSC Standard for Chain of Custody Certification 2004: 6
95   FSC Standard for Chain of Custody Certification 2004: 9
96   http://www.fsc.org/cw.html April 16, 2011
97   FSC Glossary of Terms 2009: 8
98   FSC Glossary of Terms 2009: 12
99   Freer-Smith et al. 2008: 25
100 Auld et al. 2008: 194 – 195
101 FSC Annual Report 2008: 18
102 Klooster 2006: 548 – 549

and communities benefits including increased market access, minimum prices and guaranteed premiums"[103]. FSC certification includes fees for procedural aspects such as evaluations and audits, as well as requirements in improving actual performance of forest management conditional to achieving certification, and finally also the actual certification fees[104].

In addition to price premiums, economic incentives can also be detected in issues relating to trade. E.g., companies exporting to Europe felt FSC certification was becoming a criterion for market access[105]. The reason for tropical producers to obtain certification is essentially to maintain their access to American and Northern European Markets[106]. "Consequently, FSC certification is seen by some as an obstacle to market access for tropical wood"[107]. The balance between certified forests in the global north and the global south is unequal. As of January 2006, 82.3% of the FSC-certified area was in Europe and in North America while Africa, Asia, Oceania and Latin America accounted for only 17.7%[108] demonstrating that incentives for certification are significantly more embraced by highly industrialized regions than rural developing countries. Large timber retailers such as B&Q, IKEA or Home Depot can stem the costs of forestry certification without even having to increase prices on end products and thus further strengthening their market position in a twofold manner, one through reputational benefits through certification and two, through a competitive advantage[109]. For these enterprises, FSC certification is chosen for reputational reasons.

As to the legal dimension, some southern states require FSC certification by public authorities in exchange for long-term forest concessions. Cases in which FSC holders are granted exemptions from government inspections have also been identified[110]. A few southern governments accept FSC certification in the place of domestic forestry law[111]. Subsequently, signing up for FSC can also be motivated by a legal incentive.

What are clients' incentives to participate in certification against the FSC global standard?

✓ reputational incentive
✓ price premium
✓ legal incentive

1.2.7   Industry scale of the FSC global standard

The FSC global standard has been more attainable for large scale forest companies but has increasingly introduced programs specifically addressing small scale foresters.

Although the FSC standard does not explicitly address a certain scale of industry on paper, on the ground, FSC certification has been more attainable to large-scale forestry than small-scale forestry. Because large-scale industry in highly industrialized countries often already operates with high standards, it is often less of a challenge for large-scale industry to comply with the FSC scheme than small-scale industry in developing countries. "The broader the gap between a company's forestry practices and the practices needed to obtain

---

103   FSC Annual Report 2010: 19
104   Klooster 2006: 548
105   Auld et al. 1008: 195
106   Guéneau: 2009: 388
107   Dingwerth 2007: 154
108   Pattberg 2006: 585
109   Klooster 2006: 557
110   Dingwerth 2008 a: 59
111   Dingwerth 2007: 153

FSC certification, the lower the incentives to become certified"[112]. It has even been argued that "[c]ertification costs penalize small-scale operations"[113]. This is explained by fixed costs of certification disproportionate to the size of the forest operation in the total price of the certified product. Especially the most successful of community forestry enterprises can afford FSC certification compromising the basic designated effect of certification[114]. However, the FSC acknowledges this deficit and states in its annual report for 2010 "[m]aking certification more accessible, beneficial and credible for small and low-intensity managed forests (SLIMFs), communities, forest workers and indigenous people continues to be a priority for FSC"[115]. As a consequence, the FSC has introduced several programs addressing this problem. In 2004 e.g. the FSC adopted new standards for small and low-intensity managed forests for so called smallholders in order to make FSC certification better attainable for small-scale forestry[116]. As a further means to reduce per capita auditing and certification costs for smallholders, the FSC has promoted "group certification" through the intermediaries, e.g. forest co-operatives, companies or consultants[117]. Following the FSC/FLO dual certification pilot project, launched in 2009, the FSC continued to work together with the FLO in 2010 picking up on FLO's derivative objective of ameliorating the working conditions of small scale producers[118]. Furthermore, also in 2009, the FSC startet the project "Certification of Forest Contractors" (CeFCo) also in order "to facilitate certification of small private forests through [...] the certification of forestry contractors"[119]. By 2006, 3% of FSC certified forests were community-owned, 60% publicly owned and 35% privately owned[120].

Which scale of industry does the FSC address?

- ✓ large-scale (state) companies
- ✓ small-scale and artisanal producers
- – no specification in industry scale

1.3   Developing the FSC global standard

1.3.1   Procedures for evaluating the FSC global standard

In the FSC, evaluation of the FSC global standard is institutionalized and is carried out by a subunit of the FSC administrative management.

Generally, policy and standards unit, part of the FSC international center, is responsible for matters relating to the development of FSC standards and policies[121]. The FSC policy and standards program is also the main actor within the FSC in the context of reviewing and revising approved FSC standards. It "collates and reviews all comments on the standard, as well take into account external circumstances and the continued relevance of the standard, and prepare a report proposing what if any steps should be taken to revise the standard"[122]. This procedure is institutionalized for "no later than three years after the approval date of the most recently

112 Guenéau 2009: 395
113 Guénéau 2009: 389
114 Klooster 2006: 558
115 FSC Annual Report 2010: 16
116 http://www.fsc.org/smallholders.html April 19, 2011
117 Guénéau 2009:391
118 FSC Annual Report 2010: 18
119 FSC Annual Report 2010: 16
120 Klooster 2006:549
121 http://www.fsc.org/fileadmin/web-data/public/website-images/International_center_org/Organigram.html April 21, 2011
122 FSC Development and Approval of FSC Social and Environmental International Standards 2006: 18

approved version of the social and environmental international standard"[123]. In 2009, the FSC national standard in Germany, Sweden and the United States was undergoing revision[124].

The claim "FSC develops new and revises existing standards on a regular basis"[125] is generally valid for all FSC standards. Only the FSC principles and criteria, at the heart of the FSC global standard, had been widely excluded from this stipulation. The FSC principles and criteria had not remained entirely unchanged since their adoption at the FSC founding assembly 1993. But amendments and revision in their context had not been institutionalized on a regular basis and the documented examples of revisions didn't relate to the entire document but only to individual principles. In 1996, the FSC principles and standards were amended by principle number 10 on forest plantations. Revisions on individual FSC principles had been carried out once in the context of principle 9 on the maintenance of high conservation value forests in 1998 – 1999 and once in the context of principle 10 on forest plantations in 2005 – 2006[126]. In 2008 a full review of the FSC global standard was initiated and its revision is currently being carried out[127].

What are the evaluation procedures for the FSC global standard?

- – only "spontaneous" evaluation through management, members and stakeholders
- ✓ institutionalized evaluation through management, members and/or stakeholders
- – institutionalized evaluation through autonomous body

1.3.2   Actors responsible for initiating revision of the FSC global standard

The right to initiate revision of an FSC global standard is primarily but not exclusively reserved to scheme members and management. Stakeholders also have the opportunity to participate in the exercise.

The FSC board of directors, the FSC general assembly, FSC members, FSC accredited national initiatives, members of FSC staff, described here under *FSC secretariat*, or staff of the ASI – Accreditation Services International may propose a new standard for development in the FSC[128]. The FSC has a relatively broad membership base comprising 833 individuals and institutions providing for widespread representation of interested stakeholders. Other than by means of the FSC members or the FSC national and regional offices stakeholders cannot initiate the development of new standards in the FSC scheme. In the context of standard review, in line with the ISEAL code of good practice for setting social and environmental standards, stakeholders can provide comments or feedback to an FSC standard at any time not just during a formal revision process. At regular intervals of 3 – 5 years the comments are reviewed by the FSC standards and policy unit.

In the context of FSC national standards, prior to 2009, only FSC accredited national initiatives could develop and submit a national standard to FSC for approval. By passing the FSC document *Process requirements for the development and maintenance of Forest Stewardship Standards*, the FSC opened this process also to national and regional initiatives that are not accredited as an FSC national initiative[129].

---

123 FSC Development and Approval of FSC Social and Environmental International Standards 2006: 18
124 FSC Annual Report 2009: 11
125 http://www.fsc.org/development.html April 21, 2011
126 Dingwerth 2007: 148
127 http://www.fsc.org/pcreview.html April 21, 2011
128 FSC Development and Approval of FSC Social and Environmental International Standards: 5
129 FSC Annual Report 2009: 11

Who can initiate revisions of the FSC global standard?

    – only scheme management
    – also members
    ✓ also stakeholders

1.3.3   Actors responsible for preparing the FSC global standard

The working group responsible for preparing the FSC global standard is made up of only FSC members.

Once the revision or the development of a new FSC standard has been initiated a working group is installed for the cause led by a facilitator. The working group consists exclusively of FSC members balanced in terms of the six FSC sub-chambers. Scheme management or members of FSC staff are not allowed formal membership in the group[130]. Generally, the facilitator is a member of one of the FSC staff bodies and not of an FSC governing body, such as the board or general assembly. Additionally, a steering committee for supervising the process of standard development is put up by the FSC executive director and the newly appointed facilitator[131]. The facilitator is furthermore "responsible for setting up and supporting a Working Group for each FSC social and environmental international standard"[132]. The FSC board of directors is responsible for informing FSC members on the establishment of a working group giving them the opportunity to either participate as a member in the working group or to comment on the composition of the group within a period of at least 30 days. The FSC board of directors is also responsible for proposing and approving the working group membership, supported by the steering committee[133]. The working group members are selected on the basis of their expert knowledge or experience of the issue under consideration and of FSC's systems and procedures. They should also be representative of the respective sub-chamber they stem from and of the scale of industry affected by the standard in development. Further criteria for working group member selection are an understanding of standard impacts on stakeholders, of the FSC ideology and skills in the working language. In the FSC, expertise is broadly defined encompassing both scientific training as well as practical experience as expertise, drawing on experts from universities, nongovernmental organizations, business, social associations and regulators[134].

Who is preparing the content of the standard?

    – technical bodies of external experts
    – scheme management
    ✓ members (and stakeholders)

1.3.4   Stakeholder consultation on the FSC global standard

The process of stakeholder consultation is open to all interested stakeholders in the FSC.

In the preparatory stage of introducing a new FSC standard, a proposal is written identifying "the key stakeholder groups that will be affected by the new standard and the potential impacts upon them" among other

---

130   FSC Development and Approval of FSC Social and Environmental International Standards: 9
131   FSC Development and Approval of FSC Social and Environmental International Standards: 7
132   FSC Development and Approval of FSC Social and Environmental International Standards: 9
133   FSC Development and Approval of FSC Social and Environmental International Standards: 9
134   Eden et al. 2010: 98

points[135]. In parallel to the establishment of each working group for an FSC standard, a *consultative forum* is also established within the FSC standard development process. Membership in the consultative forum is neither limited by numbers nor by status and is open to all interested stakeholders irrespective of FSC membership. The consultative forum addresses "stakeholders who may be affected by the implementation of a specific FSC social and environmental international standard"[136].

Consultation procedures in the FSC standard development process include public consultation and technical consultation. FSC standard drafts for public consultation are officially announced in e.g. the FSC newsletter and are also published on the FSC website. All steps constituting current revision of e.g. the FSC principles and criteria are documented on the FSC homepage in English and Spanish[137]. The FSC website also offers a formal comment form for free download. The draft shall be circulated to the FSC board of directors, all members of the working group, all members of the consultative forum, all FSC national initiatives and national and regional offices, all FSC-accredited certification bodies, all key stakeholder groups identified for the cause and all supervisors of FSC core programs[138].

In line with the ISEAL Code of Good Practice for Setting Social and Environmental Standards, public review of a standard shall include at least two rounds of comment submissions by interested parties. Each round shall include a period of at least 60 days for the submission of comments[139]. The FSC Bylaws include further provisions for enabling wide stakeholder inclusion in consultation processes such as funding to hold technical working group meetings in southern countries where appropriate, opportunities to meet with southern stakeholders in association with other meetings, pilot testing/field testing in at least some southern countries, including southern, and in particular regional representation in technical working groups, working with national initiatives in southern countries to hold telephone conferences with southern stakeholders; and funding to facilitate consultation by southern national initiatives[140].

> *How is the process of stakeholder consultation organized?*
>
> – ad hoc; not institutionalized
> – institutionalized, open to selected stakeholders
> ✓ institutionalized, open to all interested stakeholders

1.3.5   Final decision-making on the FSC global standard

Final decisions on the FSC global standard are made by voting in the FSC general assembly of members.

Procedures of final decision-making differ depending on the issue to be decided upon. Changes on the FSC global standard, i.e. the FSC principles and criteria and on the FSC statutes are reserved to decision by the FSC general assembly of members, "at least on paper, the supreme authority of the Association"[141]. "In the special case of the FSC Principles and Criteria for Forest Stewardship (published as FSC-STD-01-001) a duly proposed and approved motion of the FSC General Assembly is a requirement in order to approve any modification of

---

135 FSC Development and Approval of FSC Social and Environmental International Standards: 6
136 FSC Development and Approval of FSC Social and Environmental International Standards: 10
137 http://www.fsc.org/pcreview.html April 21, 2011
138 FSC Development and Approval of FSC Social and Environmental International Standards: 11
139 ISEAL Engaging Stakeholders 2007: 20
140 ISEAL Engaging Stakeholders 2007: 19
141 Dingwerth 2007: 150

the standard"[142]. Valid decisions at the general assembly require the quorum of at least 50% and are taken by a weighted majority. Each of the six chambers has equal weight and must approve by a simple majority, in addition to an overall approval of 66%[143]. The FSC board of directors makes all formal decisions not reserved for the FSC general assembly. The FSC board is e.g. responsible for approving national standards developed by the FSC national initiatives but not for the global standard[144]. Board decisions aim to achieve consensus but in the case of a vote, decisions are required to achieve support from six out of nine board members[145].

In the context of developing a new FSC standard the FSC executive director, head of the FSC international center, makes the formal decision after consulting "approved strategic planning documentation, work plans and other instructions of the FSC board of directors"[146]. After development of a new standard has been decided upon and the respective standard has been designed, the board of directors gives its final approval on the draft standard with the exception of standards relating to the FSC principles and criteria, i.e. the FSC global standard. The FSC board of director may also delegate the task of approving an FSC draft standard to a formal committee[147].

How are final decisions on the FSC global standard made?

- – near consensus among members
- ✓ voting among members
- – decision by scheme management (board decision)

1.4   Conformity assessment in the FSC

1.4.1   Auditing in the FSC

FSC certification and respectively auditing is carried out by independent third party certification bodies.

The FSC has developed a series of mandatory standards for its accredited certification bodies based on the framework standard *General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65:1996*. In the document the FSC defines certification as "third-party attestation related to products, processes, […]"[148]. Almost all provisions relating to the certification body as an organization provide for assuring the certification body's third party independence. E.g. 3.1 "[t]he certification body shall comply with FSC requirements for the avoidance of specific and institutional conflicts of interest" or [t]he certification body shall record any real, perceived and potential conflicts of interest and the actions taken to neutralize or avoid them"[149]. In line with ISEAL recommendations, both the FSC and the Fairtrade International lean on the ISO Guide 65 in their conformity assessment schemes. The ISO 65 standard entails general criteria which "may have to be amplified when specific industrial or other sectors make use of them"[150]. "[I]n order to address the technical challenges of assessing large areas of land which may provide homes and livelihoods for a wide variety of people, habitat for rare and endangered plants and animals, and basic environmental services in the

142 FSC Development and Approval of FSC Social and Environmental International Standards: 18
143 ISEAL Setting Standards 2007: 28
144 Dingwerth 2007: 150
145 ISEAL Setting Standards 2007: 28; ISEAL Models of Governance: 11
146 FSC Development and Approval of FSC Social and Environmental International Standards 2006: 5
147 FSC Development and Approval of FSC Social and Environmental International Standards 2006: 5
148 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 6
149 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 10 – 11
150 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 3

surrounding area" and for assuring "the credibility of the scheme and consumer confidence" in the context of the FSC chain of custody certification the FSC has developed additional FSC standards covering the details of evaluation, monitoring, report writing, the publication of public certification summaries etc.[151]. The FSC standard on general requirements addresses all bodies issuing FSC certification and has the objective of ensuring consistency and credibility in their operations[152].

Which actor carries out the auditing in the FSC?

  – standard setting body on global level (centralized structure)
  – standard setting body on regional or national level (federal structure)
  – independent third party

1.4.2   Monitoring actors in the FSC

Monitoring in the FSC is also carried out by an independent third party.

Following certification, again an independent third party, i.e. the FSC accredited certification body, conducts annual surveillance audits to verify continued compliance with the certification requirements[153]. Surveillance equals monitoring as understood here and is defined as "systematic iteration of conformity assessment activities as a basis for maintaining the validity of FSC certification"[154]. The same provisions relating to the third party independence of the body carrying out FSC certification also apply to the body responsible for monitoring in the FSC.

Which actor monitors compliance with the FSC global standard?

  – standard setting body on global level (centralized structure)
  – standard setting body on regional or national level (federal structure)
  ✓ independent third party

1.4.3   Modes of monitoring in the FSC

The annual surveillance audits by the FSC accredited certification body equal police patrol.

An FSC certificate is valid for no longer than five years. Certificates are issued or reissued when the FSC client has undergone annual surveillance audits including "the certification body's right to carry out unannounced or short notice surveillance evaluations"[155]. The same applies to certificate holders wishing to maintain their FSC certificate. Reporting is also a central feature of FSC certification but is also carried out by the certification body, thus part of *police patrol*.

---

151 ISEAL Models of Verification 2007: 12
152 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 3
153 http://www.fsc.org/5-steps-certification.html January 24, 2011
154 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 7
155 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 14

Which mode of monitoring is institutionalized in the FSC?

- – fire alarm
- ✓ police patrol
- – company reporting

1.4.4 Accreditation in the FSC

Certification bodies in the FSC are accredited by an independent third party body closely affiliated with the FSC.

The FSC accreditation program is operated and managed by the FSC subsidiary, the ASI – Accreditation Services International. ASI is an independent accreditation body legally separate from FSC. ASI delivers accreditation and other services to FSC and other certification schemes, such as the Marine Stewardship Council. ASI is a limited liability company (GmbH) registered under German law, with FSC as its sole shareholder. The director of ASI makes recommendations on accreditation to an ASI Accreditation and Appeals Committee which is responsible for the decisions on accreditations[156]. Although the FSC has outsourced its accreditation to an independent agency, due to its near affiliation with ASI, the FSC is still criticized for a lack of credibility because it is "itself responsible for accrediting independent certification bodies"[157]. The entity responsible for auditing functions within the conformity assessment process has been organizationally separated from the entity of the standard setting body since 2002 "to preclude conflict-of-interest challenges"[158]. The ASI began operating for the FSC and other GSCSs in 2006. All FSC certification bodies are accredited at the ASI – Accreditation Services International in order to ensure that they maintain consistent standards of implementation as developed by FSC[159]. Certification of the certification bodies against the ISO Guide 65: 1996 is also meant to ensure impartiality in the FSC certification bodies' operations and also resembles independent third party accreditation.

Who is responsible for accreditation in the FSC?

- – standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- ✓ independent third party

1.4.5 Dispute-settlement in the FSC

Binding arbitration, i.e. adjudication by an independent judicial body is envisaged as a final step in a dispute in the FSC.

As a principle, FSC encourages stakeholders to take a stepwise approach, first addressing the dispute at the lowest level possible, i.e. among the disputants. First after discussion and negotiation among disputants at the lowest level have failed, formal procedures should be adopted. The elements of "an appeals body made of relevant technical expertise, including expertise in dispute resolution" as well as "binding arbitration accor-

---

156 ISEAL Models of Governance: 12 – 13
157 Guéneau 2009: 398
158 FSC Annual Report 2005: 5
159 ISEAL Models of Verification 2007: 15

ding to internationally accepted rules as a final step"[160] are designated in the advanced stages of a dispute yet to be resolved. "The FSC Dispute Resolution System is not intended to substitute or override the legal rights of any party to use the appropriate judicial system"[161]. Furthermore, stated among the basic principles, the person making the decision cannot be one of the parties or have an interest in the outcome indicating some kind of mediation[162]. "Disputes arising from FSC certification or accreditation decisions shall be resolved by the Secretariat under guidelines developed by the Board"[163].

The term dispute in the FSC comprises appeals and complaints. The FSC distinguishes between informal and formal complaints[164]. A dispute in the FSC can relate to informal complaints, formal complaints and appeals within the FSC Certification Scheme, including the FSC Accreditation Program[165].

Late 2009, the FSC issued its first comprehensive *Dispute Resolution System* replacing the *Interim Disputes Resolution Protocol* published in 1998. "The new system will enable a consistent and timely evaluation of complaints and appeals raised by stakeholders against decisions, performances or any other issues within the FSC scheme[166]. An *online dispute resolution center* is also installed for facilitating submission and tracking of complaints and appeals in the context of the FSC dispute resolution system[167]. The website provides five FSC documents relevant for an FSC dispute[168], a form for submitting complaints[169], and an overview of all submissions currently being addressed within the FSC dispute resolution system.

How is dispute-settlement organized in the FSC?

- – only bargaining between disputants
- – also mediation by "political" body
- ✓ also adjudication by independent judicial body

1.4.6   Means of enforcement in the FSC

The FSC encounters non-compliance among FSC clients with withdrawal of privileges.

In the case of non-compliance of FSC clients, the FSC system envisages three kinds of means of enforcement all resembling *withdrawal of privilege*s; suspension defined as the "temporary invalidation of the FSC certification for all or part of the specified scope of attestation", termination defined as the "revocation or cancellation of the certification contract by the certification body or the client according to contractual agreements", and withdrawal simply defined as "the revocation or cancellation of the FSC certification"[170]. Sanctions are not envisaged.

---

160 FSC Statutes 2009: 14
161 FSC Dispute Resolution System 2009: 4
162 FSC Dispute Resolution System 2009: 8
163 FSC Statutes 2009: 14
164 FSC Glossary of Terms 2009: 6
165 FSC Dispute Resolution System 2009: 5; Additional documents on the FSC Dispute Resolution System are ISO/PAS 17003:2004 Conformity assessment – Complaints and appeals – Principles and requirements; FSC Processing Appeals 2009; FSC Processing Complaints 2009; FSC Processing Formal Complaints 2009; and ASI Appeals Procedure 2010
166 FSC Annual Report 2009: 6
167 http://www.fsc.org/dispute-resolution.html April 22, 2011
168 http://www.fsc.org/706.html April 22, 2011
169 http://www.fsc.org/dispute-resolution-form.html April 22, 2011
170 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 7

Generally, five steps are described in order to achieve certification against the FSC standards. In the final step, the eventuality of having entered the certification process but not fulfilling all requirements necessary for certification is outlined. In this case, the forestry manager must fulfill the requirements entailed in the audit report and then undergo further audits in order to acquire certification[171]. FSC differentiates between major and minor non-compliances, where a major non-compliance represents systemic or long-term failure to meet one or more of the requirements of the standard, while a minor non-compliance mirrors failure that is limited in scope and time. Enterprises which have no major non-compliances are considered compliant and a short-term action plan is in place to address all minor non-compliances[172]. The absence of a valid *License Agreement for the FSC Certification Scheme* is an example of formal major nonconformity in the FSC leading to the suspension of the FSC certificate[173].

> *How is non-compliance dealt with in the FSC?*
>
> – no means of enforcement
> ✓ withdrawal of privileges
> – sanctions

---

171 http://www.fsc.org/5-steps-certification.html January 21, 2011
172 ISEAL Setting Standards 2007: 18
173 FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996: 15

2   THE FAIRTRADE LABELING ORGANIZATIONS INTERNATIONAL (FLO)

2.1   General aspects of the FLO

The Fairtrade label is probably the best-known social label on the market. The leading organization in the field is the international consortium, the Fairtrade Labeling Organizations International (FLO)[174]. Established 1997 in Bonn, Germany, today FLO combines 19 fair trade certification programs under one umbrella and one common label[175]. The Fairtrade International is solely responsible for processes related to standard development and commissions the FLO subsidiary FLO-Cert with certification on the basis of their Fairtrade standard. FLO markets products across an array of sectors, mainly agricultural commodities such as bananas, cocoa, coffee, cotton or tea, but also the mineral gold[176]. Fair trade labeling in general has had its main focus on coffee[177]. Yet, the notion of "fair trade" emerged long before the label. In Europe fair trade movements date back to activities of the British nongovernmental organization Oxfam in the 1950s. Kindred developments in the Netherlands and in Germany in the 1960s and 1970s resulted in the creation of the Dutch organization Fair trade Organisatie importing the first "fairly traded" coffee 1973 and Germany's Gepa, founded 1975 by five Catholic and Protestant missionary groups. From a historical perspective the charitable activities of the Christian churches were the most notable for developing the concept of fair trade[178]. The first labeling of a fair trade commodity related to coffee and was introduced within a Dutch development cooperation program with Guatemala, 1988.

Due to the project's interest on certification in mining, the FLO characteristics will primarily be exemplified on the model of the Fairtrade gold standard.

2.1.1   Actors involved in founding the FLO

National Fairtrade labeling organizations representing civil society created the Fairtrade Labeling Organizations International.

1997, 17 existing national labeling initiatives from Europe, North America and Japan created an umbrella organization for national certification programs, the Fairtrade Labeling Organizations International – FLO – headquartered in Bonn[179]. Many of the 19 current members in FLO were among the founding actors. They were Fairtrade initiatives emerging in domestic markets. Early examples are the Netherlands' Max Havelaar which had been issuing a seal for Mexican coffee sold on European markets since 1988[180] and the TransFair certification programs of Germany, Austria, Switzerland and the Fairtrade Foundation of the United Kingdom, all established 1992[181]. National Fairtrade labeling initiatives have always been private non-profit organiza-

---

174   Vogel 2005: 103
175   http://www.Fairtrade.net/about_us.0.html March 21, 2011
176   http://www.Fairtrade.net/products.0.html March 21, 2011
177   Vogel 2005: 103
178   Conroy 2007: 99
179   Vogel 2005: 103
180   Conroy 2007: 101
181   http://www.transfair.org/ueber-Fairtrade/was-ist-Fairtrade/chronik-des-fairen-handels.html;
      http://www.fairtrade.org.uk/what_is_fairtrade/fairtrade_foundation.aspx March 21, 2011

tions representing civil society actors. The historical importance of the churches is now balanced by political foundations and other social advocacy groups.

> *Which actors were involved in founding the FLO?*
>
> ✓ civil society actors
> – private businesses
> – public authorities

2.1.2   Membership structure of the FLO

FLO's membership consists first and foremost of not-for-profit private organizations representing civil society groups. Private businesses from the south are also represented in the producer networks.

FLO is an umbrella organization with membership roughly structured among the two main groups, national labeling organizations and producer networks. In total, FLO has 24 members, 19 are national labeling initiatives from the global north, three are producer networks from the global south and two are associate members[182].

On its own account, "Fairtrade [FLO] is one of the largest and most diverse multi-stakeholder initiatives in the world"[183]. This multi-stakeholder structure is far from evident in the members of the national labelling initiatives although the multi-stakeholder base has been widened with the formal incorporation of the producer networks as full members representing small-scale private business organizations, 2007[184]. Till then, in terms of full membership, the FLO solely consisted of national certification schemes representing highly industrialized states across Europe, Japan and North America traditionally comprising civil society actors. The German member in FLO e.g., TransFair Germany consists of 36 members all representing nongovernmental organizations, such as Brot für die Welt or Misereor. Party political foundations such as the Friedrich-Ebert-Stiftung and the Konrad Adenauer Stiftung are also members in FLO[185]. Public authorities are not represented through membership.

The difference between the first two is that only the national labelling initiatives license certification in their countries. The Fairtrade marketing organizations only promote Fairtrade certification in their countries, while licensing for certification is carried out by the international body, FLO itself. The bulk of the national labeling initiatives are based in Europe, two come from North America and one represents both Australia and New Zealand and one Japan. The two fair trade marketing organizations are from South Africa and respectively from the Czech Republic. The South African fair trade marketing organization, Fairtrade Label South Africa is also listed as one of two associate members. The other associate member is Comercio Justo Mexico[186].

The second group of membership comprises the three producer networks, Fairtrade Africa, Coordinator of Fairtrade Latin America and the Caribbean, and the network of Asian Producers. The producer networks are regional associations covering Africa, Latin America and the Caribbean, and Asia respectively. In turn, Fairtrade certified producer organizations constitute the membership of the producer networks representing small

---

182 http://www.transfair.org/ueber-Fairtrade/was-ist-Fairtrade/struktur-und-organisationen.html March 21, 2011
183 FLO Annual Report 2009/2010: 6
184 FLO Annual Report 2006/2007
185 http://www.transfair.org/ueber-Fairtrade/was-macht-transfair/mitgliedsorganisationen.html March 21, 2011
186 http://www.Fairtrade.net/labeling_initiatives1.0.html March 21, 2011

scale producers, workers and other producer stakeholders[187]. The individual producer stakeholders are private businesses and are subsequently marked as such here. Yet, it could be subject to debate if the cooperative structure of the producer networks qualify them as civil society.

Which actors constitute the FLO membership?

- ✓ civil society actors
- ✓ private businesses
- – public authorities

2.1.3 Members' representation in the FLO

Member groups in FLO are represented in a corporatist structure.

The national Fairtrade labeling initiatives and the producer networks are full members of FLO and have the right to vote at the annual general assembly. There are also two associate members, Fairtrade Label South Africa and Comercio Justo México. All members and certified producer organizations participate in FLO's decision-making through the general assembly and their respective assemblies: the labeling initiatives' assembly or relevant producer network assemblies[188]. The twofold division between national certification programs from the North and producer networks representing the south mirrors a corporatist structure of representation.

How are member groups represented in the FLO?

- – federal structure
- ✓ corporatist structure
- – no special interest representation

2.1.4 Congruence among rule-makers and rule-takers in the FLO

There is a partial overlap among members as rule-makers and clients as rule-takers in the FLO.

In the first ten years of FLO's existence there was no overlap among rule-makers and rule-takers whatsoever. Rule-makers were solely national labeling organizations representing highly industrialized states from Europe, North America or Japan. And rule-takers were solely producers in developing countries. This situation changed when the FLO integrated the three producer networks as full members, 2007. Since then, there is a partial overlap among the two main member groups, national labeling organizations and producers. Both groups can now engage in the process of rule-making, i.e. standard setting, as full members. As for the rule-takers, the standard's application remains limited to producers and traders operating in Africa, Asia, Latin America and the Caribbean, and Oceania[189].

---

187 http://www.Fairtrade.net/producer_networks.0.html March 21, 2011
188 http://www.Fairtrade.net/how_we_are_run.0.html March 21, 2011
189 FLO Geographical Scope 2009

Given the process of stakeholder consultation has been as open for all interested stakeholders throughout the history of the Faitrade International, producers and traders could also contribute to the process of rule-making in the respective institutionalized channels in the past, albeit from a less prominent stance. Looking at the history of Fairtrade, offers an explanation for this phenomenon, as it started as an activity motivated by charity organizations, first and foremost the churches[190]. The adoption of a label accompanied by the rise of inclusive participation as a global norm brought with it the necessity for including the targets of the standard in the standard-setting process. Yet, the original underlying concept of Fairtrade somewhat counteracts the possibility for complete congruence among the groups of rule-makers and rule-takers in the FLO because producers in highly industrialized countries arguably already attain *fair* prices for their labor.

Are the groups of rule-makers and rule-takers congruent in the FLO?

- – congruent
- ✓ partial overlap
- – no overap

2.1.5   Mode of installing the FLO board of directors

The majority of the FLO board members are appointed by the membership groups of the organization. Other board members are recommended by the FLO nominations committee.

In total, the FLO board consists of 14 members. In order to ensure equal representation among the two main member groups, the national Fairtrade labeling initiatives elect five representatives and the Fairtrade certified producer organizations elect four representatives, at least one from each of the three regional producer networks for the FLO Board. The remaining five board members are installed on recommendations from the nominations committee responsible for reviewing appointments to the board and the committees[191]. Of these five, nominees from Fairtrade certified traders make up two and external independent experts make up three board members[192]. The board is ratified at the annual general assemblies[193].

The board is responsible for the organization's long term strategic direction, financial and risk management, and employment of the executive chief of the association[194]. The board also appoints three sub-committees on standards, finances and nominations.

In addition to the board, the FLO has a leadership team which provides operational services and Fairtrade's strategic direction. FLO is led by a chief executive officer, a chief operating officer and FLO's Unit Directors and Heads from: Finance and Central Services, Producer Services and Relations, Strategy and Policy, Standards, Global Account Management, Global Product Management, Market Development, Communications and Human Resources[195].

---

190 Conroy 2007: 99 – 101
191 http://www.fairtrade.net/how_we_are_run.0.html March 23, 2011
192 FLO Annual Report 2009/2010: 7
193 http://www.fairtrade.net/how_we_are_run.0.html March 21, 2011
194 FLO Annual Report 2006/2007: 7
195 FLO Annual Report 2009/2010: 7

How is the FLO board of directors put in place?

- – self-appointment
- ✓ appointment by membership groups (federal/corporatist)
- – election by members

2.1.6 The FLO secretariat

The FLO secretariat carries out substantive tasks for the scheme.

Similar to the context of the Forest Stewardship Council's *experts and staff* and the Marine Stewardship Council's *offices and staff* a secretary per se is not mentioned as part of the FLO governance structure. The FLO headquarters are located in offices in Bonn, Germany with a staff of ca 70 members. In addition to the offices in Germany, the FLO engages liaison officers via its *producer services and relations unit* in the regions represented by the producer networks in order to support producers locally[196]. Other departments of the FLO are the standards unit, the strategy and policy unit, global resources unit, global product management unit, global account management unit and the communications unit[197]. These manifold units resemble a secretariat with substantive tasks crucial to the functioning of the overall scheme as outlined in their titles.

What is the capacity of the FLO secretariat?

- – no permanent secretariat
- – secretariat with administrative tasks
- ✓ secretariat with substantive tasks

2.1.7 The FLO's relation to other GSCSs

FLO operates in nested cooperation with several other GSCSs engaging in Fairtrade.

2009, FLO launched two dual-certification partnerships, one, in artisanal and small-scale gold mining together with the Alliance for Responsible Mining and two, a pilot project for jointly labeled FSC/FLO timber products focusing on small-scale community-based foresters[198]. Collaboration in general is also brought up in conjunction with the Fair Trade Advocacy Office, the World Fair Trade Organization, the European Fair Trade Association, the International Social and Environmental Accreditation and Labeling Alliance (ISEAL) and the International Federation of Organic Agricultural Movements[199].

The most evident example of nested cooperation lies in the structure of the FLO per se. As an umbrella organization the FLO comprises national certification programs that in turn use the Fairtrade International standard and label in their national schemes.

---

196 http://www.fairtrade.net/how_we_are_run.0.html March 23, 2011
197 http://www.fairtrade.net/how_we_are_run.0.html March 23, 2011
198 FLO Annual Report 2009/2010: 5
199 FLO Annual Report 2009/2010: 26

How does the FLO interrelate with other GSCSs?

    – no relations (monopoly)
    ✓ nested cooperation
    – open competition

2.1.8   The FLO's relation to (inter-)governmental organizations

Governmental bodies are supportive of the Fairtrade International activities.

The FLO is partnering with the German KfW Development Bank. As part of the KfW Africa Trade Enhancement Programme to improve access to finance for Fairtrade certified producers in Africa the FLO is compiling a comprehensive survey of the financing needs of Fairtrade-certified producers in Africa with the focus on core products and developing appropriate data management systems to facilitate producer access to financial services[200].

The Fairtrade International is also currently involved in the *Certification Capacity Enhancement program* in partnership with the Rainforest Alliance and Utz Certified, as well as private sector representatives, and development agencies such as the German governmental organization *Gesellschaft für Internationale Zusammenarbeit* and cocoa stakeholders. The program is a joint pilot program with the objective to increase sustainability in West African cocoa producing countries[201].

No intergovernmental organizations are mentioned amongst FLO's list of partners[202].

How does the FLO interrelate with international organizations?

    – no relations
    ✓ orchestration
    – delegated authority

2.1.9   Financing of the FLO's activities

FLO recruits its financing by regular contributions in the form of membership fees, voluntary donations and marketing of its activities.

One result of the 2007 strategic review was the instalment of the *Strategic Fairtrade Funding Programme*. Within this program strategic partnerships for funding Fairtrade activities have been created in collaboration with governmental ministries responsible for development cooperation such as the United Kingdom Department for International Development or the Norwegian Agency for Development Cooperation. Additionally, partnerships with organizations such as the German Friedrich-Ebert-Stiftung or Misereor for the funding of specific projects are part of the program[203].

---

200 http://www.fairtrade.net/885.0.html April 17, 2011
201 http://www.fairtrade.net/885.0.html April 17, 2011
202 FLO Annual Report 2009/2010: 26
203 FLO Annual Report 2009/2010: 8

In 2009, voluntary donations through grants surpassed the amount of financing generated through membership fees by the national labelling initiatives. The membership fees are calculated as a percentage of the licence fee income of the labelling initiative[204]. Subsequently, the licence fee must be categorized as *marketing of activities* although the Fairtrade International neither lists it among the pillars of FLO's financial income nor elsewhere. Financial support has been provided by Belgium, Denmark, France, the Netherlands, Switzerland, and more recently the EU[205].

How are the FLO's activities financed?

✓ voluntary donations
✓ regular contributions
✓ marketing of the GSCS's activities

2.1.10 FLO scheme evaluation

The GSCS FLO does not have institutionalized procedures for evaluating the scheme.

The role of the general assembly "is to maintain the constitution and membership systems of the association and to approve the annual accounts" implying also eventual evaluation of the scheme[206]. A strategic review of FLO as an organization was carried out 2007 and first implemented as a new strategy in 2009 after approval by the general assembly, December 2008[207]. Despite the procedure for evaluation of the overall scheme not being institutionalized in the FLO, the organization has undergone structural changes since its making. One of the major structural changes in FLO's history was the formal incorporation of producer networks as full members, 2007, constituting a new governance structure of the scheme. This change required a revision of FLO's constitution approved by FLO's meeting of members, 2006[208].

Has the FLO institutionalized procedures for evaluating the scheme?

✓ no institutionalized evaluation
– institutionalized scheme evaluation by management, members and/or stakeholders
– institutionalized scheme evaluation by an autonomous body

2.2   Characteristics of the FLO global standard

2.2.1   Subject of the FLO global standard

The FLO standard entails procedural requirements as well as requirements on product characteristics.

The Fairtrade International's standards are classified in the three groups; generic standards, product standards, and the group of standards comprising Fairtrade minimum prices and Fairtrade premiums. Generic standards

---

204 FLO Annual Report 2009/2010: 25
205 Vogel 2005: 104
206 FLO Annual Report 2009/2010: 7
207 FLO Annual Report 2009 – 2010: 3, FLO Annual Report 2008/2009: 5
208 FLO Annual Report 2006/2007: 7

entail requirements on procedures by prescribing conditions of production and terms of trade respectively addressing all producers and traders[209]. Additionally, the product standards take product specifics into account[210]. Currently, five generic standards apply respectively to small producers' organizations, hired labor situations, contract production, trade standards, and FLO prohibited materials list. The lion part of products dealt with in the Fairtrade product standards apply to agricultural food products. The most prominent agricultural Fairtrade product is coffee. Other Fairtrade products are tea, cocoa, fruits, vegetables, soybeans and others, adding up to a total of 16 product categories. Each product specific standard is accompanied by the scope of certification which relates back to the generic standards. In the sectors bananas, fresh fruit, fresh vegetables, fruit juices, tea and wine grapes e.g., the scope of certification applies to small producers' organizations and hired labor. Besides foods, Fairtrade product standards also apply to non-food commodities such as gold, cotton, flowers and timber. Sport balls comprise the only Fairtrade product standard for a manufactured product[211].

Taking an example of the Fairtrade gold standard, one procedural requirement states 1.1.3 "The ASMO [Artisanal and Small-Scale Miners' Organization] has membership criteria as defined in its own stated rules and regulations"[212]. Requirements relating to the product composition also constitute a chapter in the Fairtrade gold standard, e.g. 8.1.4 "The minimum caratage of gold (Au) in labeled consumer products is 9 carats"[213].

All Fairtrade standards comprise a chapter *traceability* with the objective of disclosing the origin of the Fairtrade certified product. In the Fairtrade gold standard, chapter 7 is dedicated to traceability and opens under *intent*: "The objective is to trace the gold back to the producer by check of documentation, as well as ensuring that the product is also physically separate and identifiable from non-Fairtrade products"[214]. Nevertheless, this does not justify for also marking the category *origin* here because origin is secondary to procedures and product characteristics. Similar to the case of the Forest Stewardship Council, the FLO certificate discloses origin indeed but this aspect of certification is merely a byproduct of the main objective of Fairtrade certification, which is production and product quality, here.

What is subject to the FLO global standard?

    ✓ procedures (production/process management)
    ✓ results (product/performance)
    – origin of product

2.2.2   Chain of custody certification in the FLO

The Fairtrade is highly visible to end consumers.

The Fairtrade label is one of the most visible social labels globally. The visibility of the Fairtrade mark is underscored by the nature of its products. Besides the one exception of sport balls, Fairtrade products are all not further manufactured and appear at the sales counter in the same form as they are extracted or harvested in the first place like coffee, tea or flowers. Fairtrade gold is generally manufactured to jewelry still allowing for

---

209 http://www.fairtrade.net/generic_standards.0.html March 24, 2011
210 http://www.fairtrade.net/standards.0.html?&L=title March 24, 2011
211 FLO List of all FLO Standards 2011
212 FLO Fairtrade and Fairmined Standard for Gold 2010: 17
213 FLO Fairtrade and Fairmined Standard for Gold 2010: 41
214 FLO Fairtrade and Fairmined Standard for Gold 2010: 39

recognition of the primary commodity[215]. FLO issues different seals for the European market and respectively the Northern European market, both conspicuous on the packaging[216].

At which stage in the chain of custody does certification apply?

- ✓ certificate visible for end consumer
- – certificate included in other end consumer visible certificate
- – business to business certificate not visible to end consumer

2.2.3   Precision of the FLO global standard

The Fairtrade standards consist of general principles as well as specific norms. Measurable rules are developed by the Fairtrade certification body, FLO-Cert on the basis of the Fairtrade standard.

The Fairtrade gold standard is structured in two sections. Section a) entails the standard for artisanal and small-scale gold mining and is sub-structured in six chapters. Section b) outlines standards for trading and processing. The standard for artisanal and small-scale gold mining opens with general requirements and guidance also comprising nine general principles. The principles deal with issues such as legality, human rights, decent work, environmental stewardship or gender equity[217]. The further parts of the standard are social development, economic development, environmental development, standards for labor conditions, and concluding with a supplement for small-scale mining organizations. Each part has 2 – 8 paragraphs, in part 1 social development, the paragraphs relate in turn to 1.1 "members of the organization are community based artisanal and small-scale miners", 1.2 "Fairtrade adds to development", 1.3 "democracy, participation and transparency", and 1.4 "non-discrimination". These paragraphs are further sub-divided in minimum and progress requirements. Minimum requirement 1.1.1 e.g. holds, "artisanal miners can participate in Fairtrade if an ASMO (Artisanal and Small-scale Miners' Organization) is in place" or 1.1.2 "[t]he majority of the miners working under the umbrella of an ASMO is comprised by community based artisanal or small-scale miners including artisanal mining entrepreneurs with contracted workers"[218].

Another illustrative example in regards to the standard's precision relates to the Fairtrade gold standard requirement concerning a grievance procedure for human rights and environment. Within this procedure the management of the miners' organization must nominate one responsible person. The grievances as well as corrective measures are to be documented. First, bargaining among the disputes sets in. In case, the dispute cannot be settled between the miners' organization and the disputant, a competent environment respectively human rights body, recognized by the national federation of the affected producers, steps in to investigate the issue. If no agreement on such a body can be achieved, the FLO and Alliance for Responsible Mining reserve the right of decision within 30 days. The gold standard stipulates that the investigation and decision on the grievance is to be taken within 90 days after the receipt of the grievance. Further terms of references of the investigation must be approved by the certification body. The miners' organization must then take measures following the decision by the environment respectively human rights body[219].

---

215 http://www.fairtrade.org.uk/gold/about-us/where-to-buy.html April 19, 2011
216 Conroy 2007: 102 – 103
217 FLO Fairtrade and Fairmined Standard for Gold 2010: 8 – 9
218 FLO Fairtrade and Fairmined Standard for Gold 2010: 17
219 FLO Fairtrade and Fairmined Standard for Gold 2010: 11

Despite these extensive and detailed procedures, technical compliance criteria, i.e. measurable rules are explicitly not part of the Fairtrade gold standard but developed by the Fairtrade International's certifying body. The FLO-Cert is delegated the task "to translate Fairtrade standard requirements and FLO-CERT certification policies into verifiable control points that are evaluated during the certification process to determine compliance with the Fairtrade standard"[220].

To which degree of precision is the FLO global standard formulated?

- – also measurable rules
- ✓ also specific norms
- – only general principles

2.2.4 Context sensitivity of the FLO global standard

Fairtrade standards are context sensitive and take regional, national and local specifics into consideration.

In philosophy, the underlying ideology of the notion of fair trade is the global framework for the development of the individual context specific Fairtrade standards. The Fairtrade standards are drafted for certain countries or regions, acknowledging local and national specifics. The standard is only applicable to producers respectively traders operating in the countries it was made for[221]. The Fairtrade gold standard e.g. is applicable only to gold mining activities in Latin America. In the case of the Fairtrade gold standard the region of Latin America serves as a pilot for testing the young standard and then further developing it for specific application in Africa and Asia[222]. In the context of universality of the Fairtrade gold standard Fairtrade International states "[t]he STANDARD needs to be internationally accepted, but must have local, regional or national application, to ensure it is applicable at all levels"[223]. Due to the gold standard's exclusive application to the mining areas of artisanal and small-scale miners' organizations, it is by far more context specific than applying to a continent, i.e. Latin America. The gold standard only applies to the mining areas operated by the respective mining groups[224].

Is the FLO global standard context sensitive?

- – only global standard
- ✓ global standard takes regional/national specifics into consideration
- – global standard as framework for local/national/regional standard

2.2.5 Minimum or maximum standard in the FLO

The FLO standards comprise both minimum standards and progress requirements.

220 FLO-Cert Certification 2011: 4
221 http://www.fairtrade.net/all_standards.0.html March 24, 2011
222 FLO Fairtrade and Fairmined Standard for Gold 2010: 7 – 8
223 FLO Fairtrade and Fairmined Standard for Gold 2010: 8
224 FLO Fairtrade and Fairmined Standard for Gold 2010: 4

The Fairtrade standards for producers have both minimum requirements as well as progress requirements. In the context of the Fairtrade gold standard e.g., chapter 1.3 democracy, participation and transparency e.g., one minimum requirement 1.3.2 stipulates "[the] ASMO [Artisanal and Small-scale Miners' Organization] holds a General Assembly at least once a year". In the respective chapter, four progress requirements complement four minimum requirements.– Example of progress requirements are 1.3.5 "[t]he ASMO [Artisanal and Small-scale Miners' Organization] works towards transparent planning of the business" or "[t]he ASMO [Artisanal and Small-scale Miners' Organization] establishes or improves internal mechanisms for members' control over the administration"[225]. Fairtrade standards for producers include only minimum requirements because no development is expected of the Fairtrade trader[226].

Additionally, the Fairtrade certification body, FLO-Cert develops compliance criteria each assigned to a specific timeframe. They can be valid from the start or after a time period of three respectively six years. Conformity with the compliance criteria is required within the stipulated timeframe for each criterion for issuance or renewal of a certificate. During regular inspections, FLO-Cert provides a gap analysis in order to identify the areas with potential compliance problems at an early stage before the relevant compliance criteria become valid[227].

How ambitious is the FLO global standard?

- ✓ minimum standard
- ✓ progressively demanding standard
- – maximum ("gold") standard

2.2.6   Incentives for client participation of the FLO global standard

FLO's pivotal incentive for attracting clients, i.e. producers to certify their products on the basis of a Fairtrade standard is the fair price respectively price premium. In regards to Northern retailers, the reputational incentive is decisive for engaging in Fairtrade.

The *Fairtrade minimum prices* and *Fairtrade premiums* constitute their own group of standards among the FLO's Fairtrade standards portfolio[228]. "Increasing the income of small [coffee] farmers is the primary purpose of Fairtrade"[229]. For small scale producers, the price premium offered by Fair Trade "can represent the difference between destitution and survival"[230]. On principle, the fair trade label certifies that products have been paid above world market prices for their products[231]. In the case of coffee, in addition to the requirement of a "floor price", the commodity must be purchased directly from farm co-operatives which must be offered credit by importers[232]. In parallel, gold must be purchased by the Artisanal and Small-scale Miners' Organization[233]. Fairtrade certified products should also be less environmentally damaging because environmental aspects such as shade growth in the case of coffee or detoxification of cyanide solutions in the case of gold are included in the standard[234].

---

225 FLO Fairtrade and Fairmined Standard for Gold 2010: 18
226 FLO-Cert Certification 2011: 4
227 FLO-Cert Certification 2011: 4, 6
228 FLO Development of Fairtrade Standards 2011: 3
229 Vogel 2005: 103
230 Vogel 2005: 105
231 Vogel 2005: 49
232 Vogel 2005: 103
233 FLO Fairtrade and Fairmined Standard for Gold 2010: 4
234 Vogel 2005: 105; FLO Fairtrade and Fairmined Standard for Gold 2010: 22

For major retailers like Starbucks the rationale behind entering the fair trade market for coffee was first and foremost grounded on a reputational incentive[235]. Paying the price premium required by FLO standards constitutes an additional cost for retailers although this price difference can be next to insignificant. Starbucks for example paid only six cent less for high quality coffee by conventional producers than the Fairtrade International demanded[236]. For retailers – often located in the global north – to choose Fairtrade certified suppliers when purchasing commodities the reputational incentive is prevalent.

What are clients' incentives to participate in certification against the FLO global standard?

- ✓ reputational incentive
- ✓ price premium
- – legal incentive

2.2.7   Industry scale of the FLO global standard

The FLO global standard addresses solely small producers and farmers working primarily in developing countries.

The Fairtrade gold standard, e.g. only applies to artisanal and small-scale miners' organizations defined as a "member organization comprised of self-employed miners who are members or shareholders"[237]. The *FLO producer services and relations unit* manages a producer certification fund with the objective of assisting small scale farmers to stem the costs of Fairtrade certification[238].

The historical roots of *fair trade* dating back to the 1950s in Europe and North America only addressed small-scale producers in the developing world. The foundation of the FLO in 1997 reflects a new development in the fair trade movement opening its scheme to major retailers. Some large scale industry, such as large coffee suppliers are precluded from Fair Trade certification because they are not cooperatives[239]. But other transnational corporations such as Starbucks, Procter and Gamble, Green Mountain and Dunkin' Donuts have also used the Fairtrade label on their products.

Which scale of industry does the FLO global standard address?

- – large-scale state companies
- ✓ small-scale and artisanal producers
- – no specification in industry scale

---

235 Vogel 2005: 104
236 Vogel 2005: 104
237 FLO Fairtrade and Fairmined Standard for Gold 2010: 10
238 http://www.fairtrade.net/producer_certification_fund.0.html March 23, 2011
239 Vogel 2005: 105

2.3　Developing the FLO global standard

2.3.1　Procedures for evaluating the FLO global standard

Fairtrade International has institutionalized procedures for evaluation of the global standard by management, members and stakeholders.

In FLO, first and foremost, comments by internal and external stakeholders constitute the main pillars in the evaluation process of a standard. All comments submitted to the FLO contact point for a certain standard or to the Fairtrade International as a whole via its homepage are recorded in a *standard logbook* and taken into account during a process formally established for the cause. Once a critical mass of comments has been collected on one standard, a project to review the standard is initiated[240].

Besides evaluation through stakeholder comments, a regular review of the Fairtrade standards is carried out by the standards unit every three years including a formal comment period of stakeholder consultation[241]. The provisions for the formal comment period are in line with the ISEAL Alliance Code of Good Practice for Setting Social and Environmental Standards[242]. Evaluation can also follow complaints as described below in the point on dispute settlement[243].

> *What are the FLO evaluation procedures for the global standard?*
>
>   – only "spontaneous" evaluation through management, members and stakeholders
>   ✓ institutionalized evaluation through management, members and/or stakeholders
>   – institutionalized evaluation through autonomous body

2.3.2　Actors responsible for initiating revision of the FLO global standard

In the Fairtrade International, any interested stakeholder can propose revision of a standard. Approval of the standards unit is necessary for kicking off a process of revision.

Fairtrade International provides the form *standards project requests* on its homepage for initiating the development of a new standard and/or revising an existing standard. Another form, the *price request form* is accessible for recommending the introduction of a new product for certification. Any stakeholder can voice its proposal for e.g. revision of a standard by filling in the respective form and then submitting it to the standards unit. Submitting proposals for new standards is not limited to the numerous bodies of FLO; the FLO board, the FLO standards committee, the national labeling initiatives, the producer and trader networks, the producer services and relations unit and the Fairtrade International's certification body, FLO-Cert[244]. The requests are assessed by the standards unit and will first be included in the work plan once the director of the standards unit or the head of standards approves the proposal.

---

240 FLO Development of Fairtrade Standards 2011: 10
241 FLO Development of Fairtrade Standards 2011: 3
242 ISEAL Standard-Setting Code 2010
243 FLO Development of Fairtrade Standards 2011: 10 – 11
244 FLO Development of Fairtrade Standards 2011: 4

Who can initiate revisions of the FLO global standard?

   – only scheme management
   – also members
   ✓ also stakeholders

2.3.3   Actors responsible for preparing the FLO global standard

In the Fairtrade International, the standards unit is primarily responsible for preparing the Fairtrade standards and resembles a technical body of external experts.

The FLO standards unit manages the standard-setting process in its details. It "is responsible for developing (i.e. preparing, amending, adapting) and revising Fairtrade standards"[245]. The standards unit encompasses the subdivisions standards subunit and pricing subunit responsible for developing the standards on prices. The standards subunit develops and revises generic standards as well as product standards[246]. The standards committee rather supervises the standard development process by providing guidance and is also involved in decisions relating to the FLO standards[247].

In the context of the Fairtrade gold standard, the right to amend the standard is reserved to the joint gold standards sub-committee comprising members of the technical committee of the partnering GSCS, the Alliance for Responsible Mining, and delegates of the FLO standards committee[248]. In the context of the generic Fairtrade trade standard e.g. it is the FLO in general who has the reserved right to amend the standard[249].

Who is preparing the content of the FLO global standard?

   ✓ technical bodies of external experts
   – scheme management
   – members and stakeholders

2.3.4   Stakeholder consultation on the FLO global standard

Stakeholder consultation in the Fairtrade International is open to all interested stakeholders.

In the FLO, stakeholders can issue comments at any stage in the standard-setting process. The standard-setting process begins with a description of the proposed project with background information on the scope and objective of the new or revised standard. The next stage in the process relates to the draft period when comments can be made on specific questions and proposed content. Finally, the standard-setting process concludes with an official comment period setting in after publication of the standard. The time frame for the comment period is set in line with the ISEAL Alliance code of good practice on standard-setting[250]. Accordingly, the ISEAL code recommends a public comment period of at least two rounds, each round allowing for feedback

---

245 FLO Development of Fairtrade Standards 2011: 3
246 FLO Development of Fairtrade Standards 2011: 3
247 FLO Development of Fairtrade Standards 2011: 4
248 FLO Fairtrade and Fairmined Standard for Gold 2010: 15
249 FLO Development of Fairtrade Standards 2011: 4
250 http://www.isealalliance.org/content/standard-setting-code March 23, 2011

for at least 60 days. These recommendations may be adjusted following written justification. The minimum time frame for formal consultation after publication of a draft standard is 30 days[251]. FLO normally applies approximately 60 days for each round. In case the revision merely relates to administrative corrections like mistakes in spelling and the like, the standards unit can decide not to open the process for formal stakeholder consultation[252]. After the end of the formal comment period, stakeholders can still submit their comments at any time to the standards unit via the forms permanently accessible on the FLO homepage[253].

The FLO producer services and relations unit is also involved in the process of stakeholder consultation through its task of identifying the needs of respective stakeholders and furthering them to the standard unit. When developing a new standard or revising an approved standard the standard unit appoints one prominent contact person[254]. The degree of stakeholder inclusion in the standard-setting process is determined by the standards unit by carrying out the task of identifying the relevant stakeholders. Stakeholders identified as key to the development of the standard in question are contacted directly and encouraged to give feedback on the draft standard. Stakeholders can be both internal and external stakeholders to the FLO[255]. The draft standard is also posted on the FLO homepage for public comments. In certain cases, the standards unit specifies its request for comments by stressing certain aspects of the standard or pose open questions for determining the opinions of the key stakeholders. Additionally, the standards unit may also arrange workshops with the relevant stakeholders[256].The process of stakeholder consultation, in specific the formal comment period, is published on the FLO homepage under the *consultation results synopsis*.

Annual assemblies provide an institutionalized forum for stakeholder consultation on general topics. This is the case both for the general assemblies for the FLO as a whole and for the member assemblies of the national Fairtrade labeling organizations and respectively the producer networks, also convening on an annual basis[257].

How is the process of stakeholder consultation organized?

- – ad hoc; not institutionalized
- – institutionalized, open to selected stakeholders
- ✓ institutionalized, open to all interested stakeholders

2.3.5   Final decision-making on the FLO global standard

In the final decision-making on a draft standard near consensus among the members of the standards committee is pursued.

For finally issuing an official Fairtrade standard the draft standard requires formal approval. The process of formal approval of a draft standard in FLO depends on the priority status given to the standard. For major projects the standards unit passes the draft standard on to the FLO standards committee for making the final decision. The standards committee strives for a consensual decision. In case consensus cannot be achieved procedures set in as outlined in the standards committee's terms of references[258]. The standards committee is

251 ISEAL Standard-Setting Code 2010: 9
252 FLO Development of Fairtrade Standards 2011: 8
253 http://www.fairtrade.net/setting_the_standards.0.html March 23, 2011
254 FLO Development of Fairtrade Standards 2011: 6
255 FLO Development of Fairtrade Standards 2011: 6 – 7
256 FLO Development of Fairtrade Standards 2011: 8
257 http://www.fairtrade.net/how_we_are_run.0.html March 23, 2011
258 FLO Development of Fairtrade Standards 2011: 9

made up of representatives of FLO's major stakeholder groups, producers, national Fairtrade labeling organizations and traders also including external experts[259]. If a standard is defined as of minor priority the director of the standards unit makes the final decision on the standard within 30 days after submission of the draft. The standard enters into force after publication[260].

How are final decisions on the FLO global standard made?

    ✓ near consensus among members
    – voting among members
    – decision by scheme management (board decision)

2.4   Conformity assessment in the FLO

2.4.1   Auditing in the FLO

In the Fairtrade International, the independent third party FLO-Cert is responsible for the audits, for issuing certification and for monitoring.

2002, the Fairtrade International introduced the Fairtrade mark, i.e. certification. Two years later, the FLO delegated the responsibility of the entire process of conformity assessment to an external organization, FLO-Cert[261]. The Fairtrade International's responsibility is now limited to standard-setting activities and producer services. FLO-Cert is a separate company owned by FLO. The FLO-Cert operates a "group certification" model in order to stem the challenge of certifying large cooperatives with hundreds or even thousands of producer members. This model includes an audit of the organization itself and random on-sight checks of individual farms. On the basis of the inspection the auditor issues a report to FLO-Cert for evaluation. The decision on certification is furthered to "a specialized certifier, who is supervised by an independent certification committee"[262].

Which actor carries out the auditing against the FLO global standard?

    – standard setting body on global level (centralized structure)
    – standard setting body on regional or national level (federal structure)
    ✓ independent third party

2.4.2   Monitoring actors in the FLO

The independent third party FLO-Cert is also responsible for monitoring in the FLO.

After initial certification further compliance with the Fairtrade International standard is monitored also by FLO-Cert. The conformity assessment process carried out by the FLO subsidiary FLO-Cert is itself subject to monitoring. A management review is institutionalized for annual evaluation of the FLO-Cert certification system.

---

259 http://www.fairtrade.net/how_we_are_run.0.html March 23, 2011
260 FLO Development of Fairtrade Standards 2011: 10
261 http://www.fairtrade.net/history_of_fairtrade.0.html March 25, 2011
262 http://www.fairtrade.net/certifying_fairtrade.0.html March 25, 2011

> *Which actor monitors compliance with the FLO global standard?*
>
> – standard setting body on global level (centralized structure)
> – standard setting body on regional or national level (federal structure)
> ✓ independent third party

2.4.3 Modes of monitoring in the FLO

The Fairtrade International employs an institutionalized mode of monitoring on a regular basis equal to police patrol. A system of fire alarm is equally institutionalized in the FLO.

After initial certification, the FLO conducts monitoring on an annual basis. In general, certification of the Fairtrade standards is not on point but constitutes two three year certification cycles with progressive requirements by year. *Renewal audits* are required for renewing certification after three years of initial certification, carried out at least five months before expiry of the certification[263]. In individual cases of companies that have been Fairtrade certified for several years and inspections never have detected signs of non-compliance, monitoring can be conducted first every three years and not annually[264].

The mode of monitoring traders differs somewhat from the described mode regarding primarily producers. Depending on the trader's classification in the FLO-Cert audit categories, the trader can be subject to either *onsite surveillance* as described here or also offsite implying a desktop review based on reports[265]. Yet, the element of police patrol outweighs reporting in the conformity assessment process.

Fire alarm by a third party can be sounded within the FLO-Cert quality management *allegation* procedure. FLO-Cert tries to forestall allegations by e.g. encouraging workers of Fairtrade certified operations to approach FLO-Cert before issuing a complaint in order for the complaint to be dealt with within the normal audit routine[266]. Thus, a system of fire alarm is institutionalized in the FLO scheme through the FLO allegation procedure.

> *Which mode of monitoring is institutionalized in the FLO?*
>
> ✓ fire alarm
> ✓ police patrol
> – company reporting

2.4.4 Accreditation in the FLO

The FLO-Cert itself is certified against the ISO Guide 65 accreditation and is thus accredited by an independent third party.

The International Organic Accreditation Service offers ISO Guide 65 accreditation "for those certification bodies who require to demonstrate their competence to certain regulatory authorities". The ISO Guide 65 is known as EN45011 in its European version. It is the ISO's guideline "General requirements for bodies

---

263 FLO-Cert Certification 2011: 6
264 http://www.fairtrade.net/certifying_fairtrade.0.html March 25, 2011
265 FLO-Cert Certification 2011: 5
266 FLO-Cert Certification 2011: 3

operating product certification systems" and "has been referenced or used as a base for most organic norms and regulations"[267].

The FLO-Cert is ISO 65 certified asserting a system of quality management, transparency and full independence in operations[268]. As a subsidiary and contractor to FLO, FLO-Cert naturally carries out certification, in the form of auditing and monitoring against the Faitrade standard as developed by FLO. In terms of content FLO-Cert must adhere to the standard as developed by FLO but in terms of procedures it operates in adherence to the ISO Guide 65.

Who is responsible for accreditation?

 – standard setting body on global level (centralized structure)
 – standard setting body on regional or national level (federal structure)
 ✓ independent third party

2.4.5   Dispute-settlement in the FLO

The Fairtrade International involves a political body for mediation in its procedures of dispute-settlement.

The FLO distinguishes dispute-settlement in *complaints* and *appeal and review*. Two sets of terms of references, here *standard operating procedures* are in place respectively.

Any stakeholder has the right to make a complaint on a FLO-Cert activity. The complaint must be directed to the FLO-Cert quality management team in writing. A quality management officer is responsible for dealing with and responding to the complaint within 30 days. In case the complaint concerns a quality management officer or representative the technical services director respectively the managing director steps in as a quasi political body to manage the complaint[269].

FLO operators can appeal against any FLO-Cert certification or evaluation decision and request a review of the decision upon good cause shown within 30 days after receipt of the respective decision by submitting the completed form to FLO-Cert's quality management representative. The quality management representative undertakes an initial evaluation of the complaint. If the initial evaluation results in a demand further handling of the appeal, the appeals and review committee is drawn upon. The appeals committee consists of internal members of the organization and the review committee consists of four regional managers[270].

How is dispute-settlement organized in the FLO?

 – only bargaining between disputants
 ✓ also mediation by "political" body
 – also adjudication by independent judicial body

267 http://www.ioas.org/iso65.htm April 21, 2011
268 http://www.fairtrade.net/certifying_fairtrade.0.html March 25, 2011
269 FLO-Cert Complaints 2010: 3
270 FLO-Cert Appeal and Review 2010: 3 – 4

2.4.6   Means of enforcement in the FLO

Earnest non-compliance with the FLO standard is met with the withdrawal of privileges.

Means of enforcement in the framework of the FLO differ depending on the classification of the compliance criteria as major or regular. Non-compliance with major compliance criteria is considered a threat to the integrity of the Fairtrade mark and can lead to the suspension of the certificate and subsequently decertification. Non-compliance with a regular compliance criterion is considered as a less severe offence and does not invoke means of enforcement but rather suggestions for corrective measures[271]. In the case of suspension, the suspension period is no longer than five months. A consequence of suspension for the operators is that they are no longer allowed to sign new Fairtrade contracts. They may continue to trade within existing contracts for a period of six months from the date of suspension. If the operator fails to introduce respective corrective measures for gradually achieving compliance, decertification sets in. In this case, the withdrawal of privileges resembles sanctions because the operator can neither sign new Fairtrade contracts nor fulfill existing contracts[272].

The FLO means of enforcement only equal sanctions in the case that the Fairtrade producer's livelihood or at least his business operations are fully dependent on the contracts it has with Fairtrade International. The Fairtrade producer is free to agree contracts with any other buyer outside of the framework of the Fairtrade International. Yet, buyers not adhering to Fairtrade principles may not be willing to pay the same price as stipulated by the Faitrade price premium.

> *How is non-compliance dealt with in the FLO?*
>
> – no means of enforcement
> ✓ withdrawal of privileges
> – sanctions

---

271 FLO-Cert Certification 2011: 4
272 FLO-Cert Certification 2011: 7 – 8

3   THE GLOBAL REPORTING INITIATIVE (GRI)

The Global Reporting Initiative grew out of the Coalition of Environmentally Responsible Economies, founded 1989 and based in Boston, United States. In 1992 the United Nations Conference on Environment and Development uttered the appeal, "business and industry should be encouraged to report annually on their environmental records, as well as on their use of energy and natural resources"[273]. Together with the Tellus Institute, the Coalition of Environmentally Responsible Economies picked up on the appeal by launching the Global Reporting Initiative as an internal project division in 1997[274]. The Global Reporting Initiative was designed after the model of "the system of standardized financial accounting that emerged in collaboration between public and private actors in the United States and is controlled and monitored by the Financial Accounting Standards Board". The objective behind the GRI was and still is to provide a global framework for existing non-financial reporting schemes[275] as "a response to the *proliferation* of different reporting standards that inhibited a comparison between sustainability reports of individual companies[276]. GRI finally replaced its founding organization and expanded the scope of disclosure requirement from purely environmental issues to the wider concept of sustainability reporting. In parallel the GRI evolved from a US-centered to a global organization.

The GRI is the only non-state policy process explicitly referenced in a formal document at the Johannesburg World Summit on Sustainable Development in 2002. Partnering with the United Nations' Global Compact as well as with the United Nations Environment Program (UNEP) further enhance the GRI's global prominence[277]. The GRI has been the most successful among efforts proliferating sustainability reporting[278].

3.1   General aspects of the GRI

3.1.1   Actors involved in founding the GRI

Civil society actors and private businesses were involved in founding the GRI. Public authorities have been widely absent in the GRI from its founding to date.

The Global Reporting Initiative evolved out of the Coalition of Environmentally Responsible Economies in 1997 – 1998 in a joint project with the Tellus Institute, a major North American think tank in the field of sustainability. The Coalition of Environmentally Responsible Economies comprised members of "socially responsible investors", large and medium-sized corporations and environmental groups such as the Sierra Club or the Natural Resources Defense Council. Renowned brands such as Coca-Cola or General Motors supported the GRI. The *Green Metrics* study by the Tellus researchers drafted a design model for the GRI on the basis of a comparative study of existing reporting schemes[279]. Public authorities are not mentioned in the context of founding the GRI.

---

273 Dingwerth 2007: 100
274 Dingwerth 2007: 102
275 Dingwerth et al. 2009: 723 – 5
276 Dingwerth 2008 b: 615
277 Dingwerth 2007: 99
278 Dingwerth 2007: 102
279 Dingwerth 2007: 102 – 3

Which actors were involved in founding the GRI?

- ✓ civil society actors
- ✓ private businesses
- – public authorities

3.1.2   Membership structure of the GRI

Membership in the GRI stakeholder council is open to civil society, private businesses and public authorities. Public authorities' representatives are in the minority compared to civil society and private business representatives.

In opposition to the Forest Stewardship Council and the Extractive Industries Transparency Initiative organized as *members associations* with a formal membership base, members and stakeholders are not clearly distinguished in the GRI. Rather like the Marine Stewardship Council, the GRI also operates a stakeholder council which represents "GRI's formal stakeholder policy forum (similar to a parliament)"[280]. The GRI stakeholder council in its current form was introduced in 2003 and resembles a body of formal members. Before the stakeholder council was established the GRI was governed only by a Steering Committee. Today, a board of directors, the stakeholder council and a technical advisory committee make up the three GRI governance bodies[281].

The stakeholder council consists of up to 60 members and is structured in four constituent categories. Civil society groups and private businesses constitute their own categories in the GRI[282]. The other two constituent categories are *mediating institutions* and labour[283]. Public authorities are not accrued an own constituency. However, the GRI stakeholder council is open to public authorities, as well. Currently, a GTZ representative from the German *Gesellschaft für Internationale Zusammenarbeit* represents a public authority in the GRI stakeholder council[284].

In addition to the stakeholder council the GRI also employs a body of *organizational stakeholders*, "a mechanism through which any organization can identify itself as supportive of the GRI mission"[285]. There are no limits to the number of organizational stakeholders. Organizational stakeholders also play a role in GRI governance matters by their right to annually elect 60% of the stakeholder council, of which one third of the seats rotate each year.

Which actors constitute the GRI membership?

- ✓ civil society actors
- ✓ private businesses
- ✓ public authorities

280 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/StakeholderCouncil April 17, 2011
281 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies April 4, 2011
282 http://www.globalreporting.org/AboutGRI/WhatIsGRI/History/OurHistory.htm March 31, 2011
283 GRI Rules and Procedures for the GRI Stakeholder Council 2009: 1
284 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/StakeholderCouncil April 18, 2011
285 GRI Sustainability Report 2008/2009: 22

3.1.3   Members' representation in the GRI

Members' representation in the GRI reflects both a federal as well as a corporatist structure.

The GRI stakeholder council seats are "allocated in a way intended to ensure balance between geographical regions and stakeholder groups"[286]. GRI membership in the stakeholder council is organized along five regional groups based on the United Nations system of geographic distribution; Africa, Asia Pacific/Oceania, Latin America/Caribbean, North America/Europe/Commonwealth of Independent States and West Asia. In total, the stakeholder council encompasses 60 seats. Currently, 50 are taken[287]. Membership in the respective regional groups currently differs in terms of numbers and range from four members representing Africa to 17 members representing the geographically dispersed region encompassing North America, Europe and the Commonwealth of Independent States. The GRI also seeks to maintain balance among different stakeholder groups and thus allocates seats also according to the four constituencies. The most comprehensive GRI stakeholder constituency relates to business with up to 22 seats. Up to 16 seats are ascribed to each of the constituency categories civil society advocacy organizations and respectively mediating institutions. The remaining six seats are attributed to the constituency *labor*[288]. The mandatory mode of representation in the GRI stakeholder council is at minimum one representative from each geographic region from within each constituent category[289]. In practice, only the constituent category Africa currently fails to fully meet this requirement because it has no private business representatives. West Asia e.g. is represented by four representatives from business, one from a civil society advocacy organization and two from mediating institutions. The constituency labor is not structured along the geographical categories[290].

> *How are member groups represented in the GRI?*
>
> ✓ federal structure
> ✓ corporatist structure
> – no special interest representation

3.1.4   Congruence among rule-makers and rule-takers in the GRI

The groups of rule-makers and rule-takers are congruent in the GRI.

In the GRI, the rule-takers can be any organization interested in reporting against sustainability guidelines. The GRI addresses likewise private businesses operating e.g. in the extractive industries, public agencies and nongovernmental organizations. The broad scope of the GRI in terms of its potential clients is also reflected in its numerous sector supplements. On the one hand, some sector supplements may have been developed for sectors primarily dominated by private businesses like financial services, food processing or construction and real estate. On the other hand, many GRI supplements deal with sectors traditionally characterized by relatively high degrees of state involvement such as oil and gas, mining and metals, airport operations or telecommunications. Additionally, the GRI has developed an own sector supplement for public agencies only as well as one for nongovernmental organizations only[291]. All of these actor groups are also represented in

286 Dingwerth 2007: 106
287 GRI Rotation of Stakeholder Council Members 2011: 2
288 GRI Rules and Procedures for the GRI Stakeholder Council 2009: 1
289 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/StakeholderCouncil April 1, 2011
290 GRI Rotation of Stakeholder Council Members 2011: 2
291 http://www.globalreporting.org/ReportingFramework/SectorSupplements April 18, 2011

rule-making in the GRI by means of the GRI stakeholder council. Additional inclusive consultation procedures also aim at involving rule-takers in the standard development process e.g. through practitioner networks, regional workshops and the GRI multi-stakeholder governance bodies[292].

Are the groups of rule-makers and rule-takers congruent in the GRI?

- ✓ congruent
- – partial overlap
- – no overlap

3.1.5 Mode of installing the GRI board of directors

The GRI board of directors is installed through appointment by membership groups.

16 members constitute the board of directors. two seats are currently vacant. The GRI stakeholder council appoints the board members along their geographical constituencies. The composition of the GRI board of directors is quite diverse in terms of geographical representation. Currently five members represent European countries, two North America, one India, one Hong Kong, one South Africa, one Brazil and one Australia. *International* is attributed to two members not representing a nation-state[293]. The task to "[a]ppoint all the Board members except the Chief Executive, based on a slate of nominations received from the GRI Nominating Committee"[294] is listed first among the key responsibilities of the stakeholder council. Responsibilities of the stakeholder council also include appointing two members to the GRI Nominating Committee further enhancing its influence in regards to setting up the composition of the GRI board[295]. Board members were previously appointed for three year terms and could be reappointed in sequence once[296]. The term has now been reduced to two years[297].

In the early years, the GRI was an institutionalized partnership between the Coalition of Environmentally Responsible Economies and the United Nations Environment Program led by a joint steering committee. The steering committee served as an interim board until 2002 when the GRI became an independent organization, now run by a board of directors. The first GRI board of directors took office in 2002 and was established by the GRI nominating committee[298]. The GRI board is responsible for the scheme's strategic outlook and makes overall policy decisions for the GRI[299].

How is the GRI board of directors put in place?

- – self-appointment
- ✓ appointment by membership groups (federal/corporatist)
- – election by members

---

292 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview/DevelopmentProcess April 4, 2011
293 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board April 4, 2011
294 GRI Rules and Procedures for the GRI Stakeholder Council 2009: 1
295 GRI Rules and Procedures for the GRI Stakeholder Council 2009: 1
296 GRI Sustainability Report 2008/2009: 21
297 GRI Sustainability Report 2008/2009: 15
298 GRI Board Resolutions 2002: 1
299 Dingwerth 2007: 105 – 6

3.1.6   The GRI secretariat

The GRI secretariat is commissioned with carrying out substantive tasks for the scheme.

The GRI secretariat plays a central role in developing new scheme strategies and serves as the link between the GRI board and stakeholder base[300]. Implementing the technical work plan, managing communications, financial administration, supporting the operations of the GRI governance bodies are also listed among the coordinative functions of the GRI secretariat. It is structured in the four departments operations, sustainability reporting framework development, learning services and marketing, communications and network relations[301]. The GRI secretariat is based in Amsterdam, the Netherlands. The GRI secretariat staff doubled from 20 to 40 members from 2006 to 2009[302].

What is the capacity of the GRI secretariat?

– no permanent secretariat
– secretariat with administrative tasks
✓ secretariat with substantive tasks

3.1.7   The GRI's relation to other GSCSs

The GRI operates in nested cooperation with other GSCSs in the field of sustainability reporting.

The GRI strives to coordinate its guidelines with other GSCSs' standards and institutionalized nested cooperation with e.g. the Earth Charter Initiative in 2008, or the International Standardizing Organization[303]. The GRI also integrates the Extractive Industries Transparency Initiative into its framework[304]. In the GRI indicator protocol compilation series, the mining and metals commentary reads: "report countries of operation that are subscribers to the Extractive Industries Transparency Initiative"[305]. The GRI collaborated with the International Council on Mining and Metals when designing the GRI sector supplement mining and metals[306]. Roberto Waack, chairman of the Forest Stewardship Council Board of directors also has a seat on the GRI board of directors[307]. The GRI secretariat has one division solely responsible for "engaging in strategic external relationships with businesses, governments, civil society and other stakeholders"[308].

Notwithstanding that the GRI offensively engages with other GSCS standards "to ensure technical compatibility with the GRI standards" the scheme nevertheless strives to "maintain and improve GRI's position as the leading sustainability reporting standard setter globally" as its first stated objective in its current strategy[309]. This also indicates competition among GSCSs engaging in reporting. Still, examples of nested cooperation dominate here.

---

300 Dingwerth 2007: 106
301 GRI Sustainability Report 2008/2009: 22
302 Dingwerth 106; GRI Sustainability Report 2008/2009: 15
303 http://www.globalreporting.org/AboutGRI/Alliances April 4, 2011
304 Haufler 2010: 67
305 EITI 2009: 43
306 GRI Annual Report 2008/2009: 22
307 http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board April 18, 2011
308 http://www.globalreporting.org/AboutGRI/WhoWeAre/Secretariat/GIDATeam.htm April 4, 2011
309 GRI Sustainability Report 2008/2009: 4, 7

How does the GRI interrelate with other GSCSs?

- – no relations (monopoly)
- ✓ nested cooperation
- – open competition

3.1.8   The GRI's relation to (inter-)governmental organizations

International organizations such as the OECD and the UNEP are strongly supportive of the GRI activities.

Just shortly after its launching, the GRI partnered with the United Nations Environment Program in 1999[310]. 2002, the GRI was formally inaugurated at the United Nations as a collaborating centre of UNEP. Today, in addition to the United Nations Environment Program, the Organization for Economic Cooperation and Development (OECD) as well as the United Nations Global Compact have entered global strategic partnerships with the GRI[311]. The OECD invited the GRI to help update the OECD guidelines for multinational enterprises. 2010, the GRI and the OECD issued a joint memorandum "to promote understanding and use of the two instruments, to exploit their synergies, and to develop cooperation in areas of mutual interest"[312]. All three GRI governance bodies include UNEP representatives. The GRI *financial services sector supplement* is a joint product of the GRI and the UNEP[313]. May 2010, the GRI signed a similar agreement with the United Nations Global to align the work of the two organizations"[314].

GRI has also created a Governmental Advisory Group with members representing the governments of Argentina, Denmark, the European Parliament, France, Germany, The Netherlands, Spain, Sweden and Norway. The group initiated an inaugural meeting in 2008 and discussed the GRI as part of a global sustainability agenda. On a global level, the GRI was attributed a central role in developing a standard on sustainability disclosures for the European Commission. Sweden enhanced its support for the GRI by requiring all of its state-owned companies to engage in reporting based on the guidance from the GRI[315].

How does the GRI interrelate with international organizations?

- – no relations
- ✓ orchestration
- – delegated authority

3.1.9   Financing of the GRI's activities

The GRI finances its operations primarily by voluntary donations. Minor income is generated through the GRI's marketing activities.

---

310 Dingwerth et al. 2009: 725
311 http://www.globalreporting.org/AboutGRI/Alliances April 4, 2011
312 http://www.globalreporting.org/AboutGRI/Alliances/OECD.htm April 4, 2011
313 http://www.globalreporting.org/AboutGRI/Alliances/UNEP.htm April 4, 2011
314 http://www.globalreporting.org/AboutGRI/Alliances/UNGC.htm April 4, 2011
315 GRI Annual Report 2008/2009: 18

Today, contributions through *organizational stakeholders*, institutional grants by governments, foundations and international organizations, corporate and governmental sponsorship and support on a project basis, and services constitute the financing pillars of the GRI. The GRI organizational stakeholders program provides a fundamental funding base[316]. The government of the Netherlands constituted the largest GRI funder for the latest budget period by far sponsoring specific projects. The governments of Sweden and Norway are also listed as funders for unrestricted donations. There is no governmental representation in the governance structure of the GRI but the scheme receives significant financial assistance from governments in form of tax reliefs and credits as well as grants[317]. The GRI is a not-for profit organization like all cases under study here. In the early years of the GRI operations the partnership with the United Nations Environment Program proved vital for securing its financing[318]. The latest UNEP contribution is dated to the budget period 2006/2007. For the following two budget periods to date UNEP issued no further donations[319].

In 2005, the GRI began offering revenue-generating services in order to broaden its income base and now also generates income through its marketing activities. The five main revenue-generating elements to GRI's operations are the *GRI Biennial Amsterdam Conference on Sustainability and Transparency, Application Level Checks* (formerly in *Accordance Checks*), *Learning Publication Series*, *Certified Local Training Programs* and the *Organizational Stakeholder Program*[320]. The GRI guidelines and frameworks are available "as a free public good"[321]. Membership fees do not apply to the GRI stakeholder council resembling GRI membership.

> *How are the GRI's activities financed?*
>
> ✓ voluntary donations
> – regular contributions
> ✓ marketing of the GSCS's activities

3.1.10 GRI scheme evaluation

The GRI has no institutionalized procedures for evaluating the GRI.

Throughout the GRI's history, several fundamental changes in its governance and operations can be observed. Major alterations concern the updating of the guidelines and the installment of several additional sector supplements on an irregular basis, dealt with under standard evaluation in point 4.3.1. An adjustment relating to the GRI scheme as such is e.g. the institutionalization of the biennial conference in 2006, which has convened three times to date. In the latest GRI sustainability report, "no changes in the legal arrangement of GRI as a foundation"[322] are listed. Minor amendments mentioned relate to e.g. shortening terms of the GRI board of directors and chair of the stakeholder council from three to two years or establishing new sub-committees to the board.

No information on the GRI homepage and its own publications reveal a mode of institutionalized procedures for evaluation leading to these changes. At the end of the day, the GRI board of directors is "the final decision-

---

316 http://www.globalreporting.org/AboutGRI/Funding April 4, 2011
317 GRI Sustainability Report 2008/2009: 30 – 32
318 Dingwerth et al. 2009: 725
319 GRI Sustainability Report 2008/2009: 30
320 GRI Sustainability Report 2008/2009: 10
321 GRI Sustainability Report 2008/2009: 10
322 GRI Sustainability Report 2008/2009: 15

making authority on Framework developments and organizational strategy"[323]. The GRI stakeholder council provides strategic and policy-related advice and the technical advisory committee provides technical advice.

> *Has the GRI institutionalized procedures for evaluating the scheme?*
>
> ✓ no institutionalized evaluation
> – institutionalized scheme evaluation by management, members and/or stakeholders
> – institutionalized scheme evaluation by an autonomous body

3.2 Characteristics of the GRI global standard

3.2.1 Subject of the GRI global standard

By definition, the GRI standard relates solely to reporting and thus procedures.

The sustainability reporting guidelines are the central document of the GRI and constitute the GRI global standard[324]. Certification as such is not part of the GRI scheme. The overall GRI sustainability reporting framework comprises the sustainability reporting guidelines, sector supplements and the technical protocol respectively national annexes[325]. The GRI operates 16 sector supplements including a sector supplement for mining and metals initiated 2005. The first supplement issued 2002 focuses on logistics and transportation. The oil and gas sector is among the four sectors dealt with in the most recent supplements issued 2009[326].

> *What is subject to the GRI global standard?*
>
> ✓ procedures (production/process management)
> – results (product/performance)
> – origin of product

3.2.2 Chain of custody certification in the GRI

The nature of sustainability reporting does not enable consumer visibility comparable to the certification of commodity trade chains. Subsequently organizations' reporting against the GRI standard can hardly be visible to consumers beyond business to business.

The GRI sustainability reporting framework addresses companies' and organizations' managerial procedures and does not relate to a product that can be sold at a sales counter.

The GRI also deals with the issue of supply chain and is currently making an effort to enabling adoption of the GRI reporting framework along supply chains. 2006 – 2008 the GRI carried out a "Transparency in the Supply Chain"-pilot program in collaboration with the *Deutsche Gesellschaft für Technische Zusammenar-*

---

323   GRI Sustainability Report 2008/2009: 21
324   Dingwerth 2007: 107
325   http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview April 1, 2011;
     GRI Sustainability Report 2008/2009: 8
326   GRI Sustainability Report: 9

beit, now *Gesellschaft für Internationale Zusammenarbeit*. From October 2008 the program "Global Action Network for Transparency in the Supply Chain" followed[327]. The program partnered the four multinational enterprises Daimler, the Otto Group, PUMA and Telefonica with twelve small and medium-sized suppliers from India, Thailand, China, Turkey, South Africa and Chile. The objective of the program is to detect added value of sustainable reporting for partners in a supply chain. On its homepage, the GRI provides measures for supporting sustainability reporting for organizations in the global supply chain. The GRI supply chain project does not include the end consumer but only business partners in the supply chain further underscoring the business to business nature inherent of the GRI global standard.

> *At which stage in the chain of custody does certification against the GRI global standard apply?*
>
> – certificate visible for end consumer
> – certificate included in other end consumer visible certificate
> ✓ business to business certificate not visible to end consumer

3.2.3 Precision of the GRI global standard

In terms of precision, the GRI global standard comprises also measurable rules.

The updated GRI sustainability reporting guidelines, G3.1 constitute a document of 189 pages. The document entails the sustainability reporting guidelines, the indicator protocols set, the GRI application levels and the technical protocol. The reporting guidelines are structured in part 1 comprising principles of definitions on report content, quality, and boundary, i.e. "on how to define the range of entities represented by the report"[328] and part 2 comprising standard disclosures structured in seven issue areas[329]. The principles of definitions and the protocols explain *how to report* and the standard disclosures including indicator protocols explain *what to report*[330]. Indicator protocols accompany each performance indicator contained in the guidelines in order "to assist report preparers and to ensure consistency in the interpretation of the Performance Indicators"[331].

GRI reporting principles are divided in "Principles for determining the topics and Indicators on which the organization should report [content]; and Principles for ensuring the quality and appropriate presentation of reported information"[332]. There are four GRI reporting principles on content and six on quality. One example is the principle on content *stakeholder inclusiveness* defined as, "[t]he reporting organization should identify its stakeholders and explain in the report how it has responded to their reasonable expectations and interests"[333]. Each principle is first defined and then explained in length. In the case of *stakeholder inclusiveness* the explanation covers an entire page. Each section on a principle ends with tests in order to facilitate the reporting companies' own assessment of their reporting performance against the respective principle. The principle *stakeholder inclusiveness* is accompanied by four tests, the first one stipulates "[t]he organization can describe the stakeholders to whom it considers itself accountable"[334].

327 GRI Annual Report 2008/2009: 26
328 GRI G3.1 2000 – 2011: 4
329 GRI G3.1 2000 – 2011: 1
330 GRI G3.1 2000 – 2011: 3
331 GRI G3.1 2000 – 2011: 4
332 GRI G3.1 2000 – 2011: 6
333 GRI G3.1 2000 – 2011: 10
334 GRI G3.1 2000 – 2011: 11

Part two on standards disclosures entails sustainability performance indicators and is organized by economic, environmental, and social categories. The social indicators are further categorized by labor, human rights, society, and product responsibility. Each category includes a disclosure on management approach and a corresponding set of core and additional performance indicators. The core indicators "are intended to identify generally applicable indicators and are assumed to be material for most organizations". "Additional indicators represent emerging practice or address topics that may be material for some organizations, but are not material for others"[335]. To take an example, the environmental performance indicators are structured in nine aspects such as materials, energy, or water. A core indicator of materials is "[m]aterials used by weight or volume". An additional indicator in the context of energy is [i]nitiatives to reduce indirect energy consumption and reductions achieved"[336]. The performance indicators add up to nine economic, 30 environmental, 14 labor, eleven human rights, eight society, and nine for product responsibility, in total 81. Each individual indicator is dealt with in detail in the following chapter *indicator protocols* set covering the lengthiest part of the document. Here, each indicator is boosted by sections on relevance, compilation, definitions, documentation and references. E.g. in the context of the core indicator "[m]aterials used by weight or volume" definitions relate to direct and non-renewable materials and sound "[m]aterials that are present in a final product" and respectively "[r]esources that do not renew in short time periods, such as minerals, metals, oil, gas, coal, etc"[337]. The OECD, Recommendation of the Council on Material Flows and Resource Productivity, 2004 is listed as a reference.

Respective sector supplements constitute their own documents and complement the guidelines and are meant to facilitate their sector specific adoption and include sector-specific performance indicators constituting a "tailored version of the G3 Guidelines which contains integrated commentary and new disclosure items specific to a given sector"[338].

> *To which degree of precision is the GRI global standard formulated?*
>
> ✓ also measurable rules
> – also specific norms
> – only general principles

3.2.4   Context sensitivity of the GRI global standard

Till 2009, the GRI sustainability reporting framework constituted only a global standard. The first localized version of the GRI global standard is currently piloted.

Notwithstanding sector specifications on the basis of the sector supplements, the GRI guidelines had been the global standard valid for all geographies. Only having one global standard is grounded in the vision of the GRI: "disclosure on economic, environmental, and social performance should become as commonplace and comparable as financial reporting"[339]. The objective of comparability underscores the notion of one global standard for harmonizing and coordinating different sustainability reporting frameworks. This situation was altered when the GRI initiated the concept of national annexes currently tested in a pilot project in Brazil 2009/2010. The concept was introduced in order for the GRI global standard to take "unique local conditions into account" and "are likely to take shape as localized sustainability guidance for particular countries or

---

335 GRI G3.1 2000 – 2011: 24
336 GRI G3.1 2000 – 2011: 28
337 GRI G3.1 2000 – 2011 Indicator Protocols Set EN: 5
338 GRI Sustainability Report 2008/2009: 9
339 GRI Annual Report 2008/2009: 4

regions"[340]. The experiences in the Brazil pilot project led to the introduction of further national focal points. In 2010 these were India and USA, in 2009 China[341]. Still, the outcome of this pilot project and its consequences for the GRI's future operations and network structure are currently unclear. Subsequently, the national annexes cannot yet be accounted for here.

Is the GRI global standard context sensitive?

    ✓ only global standard
    – global standard takes regional/national specifics into consideration
    – global standard as framework for local/national/regional standard

3.2.5 Minimum or maximum standard in the GRI

The GRI global standard entails progressive demand.

A system of progressive demand is part of the three GRI application levels A, B, and C, introduced to the scheme together with the third generation GRI reporting guidelines 2006. The application levels are meant to encourage continual improvement in reporting against the GRI standard and "to meet the needs of new beginners, advanced reporters, and those somewhere in between"[342]. "In order to achieve a certain level, a set of disclosure items must be reported against, the number of which varies for each Application Level"[343]. Reporters must declare the level of application they adhered to in their report via the application level system. In case the report preparer consults external assurance a + can be added to each level[344]. Accuracy of the level of application detailed in each report lies within the responsibility of the report preparer's self-declaration[345]. Because certification is not envisaged part of the scheme a certain level of conformity is not pre-conditional for using the GRI sustainability reporting framework. The 97 GRI performance indicators are structured in 50 core indicators and 47 additional indicators. The requirements of all core indicators must be respected in order to conform to the GRI reporting framework – in GRI terms to be *in accordance*. It is also possible for businesses to issue reports based on the GRI framework but not necessarily fulfilling the criteria for being *in accordance* with the GRI. Of the 950 organizations that had produced GRI based reports by 2006, only 300 met full GRI requirements[346].

How ambitious is the GRI global standard?

    – minimum standard
    ✓ progressively demanding standard
    – maximum ("gold") standard

---

340 GRI Sustainability Report 2008/2009: 9
341 http://www.globalreporting.org/AboutGRI/WhatIsGRI/History/OurHistory.htm April 6, 2011
342 GRI G3.1 2000 – 2011: 5
343 GRI Sustainability Report 2008/2009: 8
344 GRI G3.1 2000 – 2011: 5
345 GRI G3.1 2000 – 2011: 5
346 Dingwerth 2007: 107 – 108

3.2.6   Incentives for client participation of the GRI global standard

In the GRI reputational incentives are decisive for client participation.

In a project document with the central question, "[w]hat is the added value of the sustainability reporting process for small and medium-sized enterprises suppliers in emerging economies and their multinational buyers"[347], the GRI analyses potential benefits both for small-scale as well as large scale industry. The main benefits of reporting for small and medium-sized enterprises were stated as "[a]chieving competitive advantage and leadership", "[i]mproving internal processes and setting goals", and "enhancing reputation, achieving trust and respect"[348]. In the context of the multinational enterprises, indirect benefits such as raising awareness through reporting were stated[349].

Sweden is the only country to date that requires sustainability reporting against the GRI standard through its Ministry of Enterprise, Energy and Communications coming close to a legal incentive[350].

What are clients' incentives to participate in certification against the GRI global standard?

- ✓ reputational incentive
- – price premium
- – legal incentive

3.2.7   Industry scale of the GRI global standard

The GRI does not specifically address a certain scale of industry.

By its own account, the GRI sustainability reporting framework "is applicable to organizations of any size or type, from any sector or geographic region"[351]. In its latest *sustainability report* for 2009 the GRI provides figures on implementation of the GRI reporting framework among companies. These figures demonstrate noteworthy acceptance only among large enterprises, 77% of Global Fortune 250 companies, 69% of the 100 largest companies by revenue and 32% of the 2000 largest private companies. Figures for small and medium scale enterprises are not mentioned[352]. The GRI offers six guidance documents primarily addressing small and medium-sized enterprises and has an own rubric for supporting small and medium-sized enterprises in implementing the GRI reporting framework[353].

In the context of the GRI supplement for mining and metals, community issues as well as artisanal and small scale mining are explicitly listed as a key issue for the sector and dealt with as such in the GRI supplement. Other key issues listed are Biodiversity/Ecosystem services, emissions, effluents and waste, labor or indigenous rights[354].

---

347 GRI Small, Smart and Sustainable 2008: 4
348 GRI Small, Smart and Sustainable 2008: 4
349 GRI Small, Smart and Sustainable 2008: 4
350 GRI Annual Report 2008/09: 18
351 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview April 1, 2011
352 GRI Sustainability Report 2008/2009: 8
353 http://www.globalreporting.org/LearningAndSupport/SupportForSMEs/Spec_publications.htm; http://www.globalreporting.org/LearningAndSupport/SupportForSMEs April 5, 2011
354 http://www.globalreporting.org/ReportingFramework/SectorSupplements/MiningAndMetals April 19, 2011

Which scale of industry does the GRI address?

- – large-scale (state) companies
- – small-scale and artisanal producers
- ✓ no specification in industry scale

3.3 Developing the GRI global standard

3.3.1 Procedures for evaluating the GRI global standard

In the GRI, evaluation of the global standard is carried out spontaneously.

Although evaluation of the GRI global standard is not institutionalized on a regular basis, the GRI sustainability reporting guidelines are now "in their third generation"[355] implying thorough evaluation and revision for the third time. The update of the current version G3.1 was finalized March 2011. The revision led to new items for reporting recommendations relating to human rights, local community impacts and gender[356]. "As knowledge of sustainability issues evolves, so do the needs of reporters and report users. In order for the guidance in Sector Supplements to remain up to date and relevant, GRI commits to reviewing the need for revisions every five years"[357]. Indicators confirming institutionalized revision of the GRI global standard on a five year basis are widely absent. It is also still early to assess the extent to which the GRI has fulfilled this commitment because the time frame of five years has not yet elapsed in the case of many of the GRI sector supplements. The five existing sector supplements; *Electric Utility, Financial Services, Food Processing, Mining and Metals* and *NGO* based on the G3 version of the GRI guidelines were all launched between 2008 and 2010. The GRI sector supplements currently implemented in their pilot versions date further back. Here, review is only documented for one out of the four sector supplements in pilot versions. In the context of the sector supplement *Public Agency* released 2005, the "GRI undertook research to review the use of the Supplement"[358] in 2009. In the context of the three other sector supplements in pilot versions; *Automotive* (2004), *Logistics and Transportation* (2006), and *Telecommunications* (2003) evaluation procedures are not documented although the stipulated five years for reviewing the need for revisions recently passed. The other five sector supplements making up 15 GRI sector supplements are currently under development.

What are the GRI evaluation procedures for the global standard?

- ✓ only "spontaneous" evaluation through management, members and stakeholders
- – institutionalized evaluation through management, members and/or stakeholders
- – institutionalized evaluation through autonomous body

355 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview April 1, 2011
356 http://www.globalreporting.org/ReportingFramework/G31Guidelines April 5, 2011
357 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2 April 7, 2011
358 http://www.globalreporting.org/ReportingFramework/SectorSupplements/PublicAgency/#PASS3 April 27, 2011

3.3.2   Actors responsible for initiating revision of the GRI global standard

Also stakeholders constitute the actors responsible for initiating revision of the global standard in the GRI.

In the context of the GRI reporting guidelines, "various mechanisms including, practitioner networks, regional workshops and the multi-stakeholder governance bodies"[359] led to initiating their revision. Stakeholders were involved in the process through participation in these mechanisms. The GRI sustainability reporting guidelines are a permanent document that has undergone revision three times to date. While the GRI reporting guidelines are updated by undergoing revision, new standards as such emerge only in the form of sector supplements. Basically three factors condition the necessity for developing an additional sector supplement; "the need for sector-specific content in reporting, the potential to improve the sustainability performance of organizations in the sector, and the potential for increasing the number and quality of reports in the sector"[360].

> *Who can initiate revisions of the GRI global standard?*
>
> – only scheme management
> – also members
> ✓ also stakeholders

3.3.3   Actors responsible for preparing the GRI global standard

In the GRI autonomous bodies of external experts are installed for developing a new global standard, e.g. a sector supplement.

Once the revision of a GRI standard or the introduction of a new standard is decided, working groups comprising ca 20 external experts representing the stakeholder groups of business, civil society, labor, investors, accountants and others relevant come together. In sequence, three practitioners are authorized the responsibility of drafting new guidance through an open platform and finally agree on the document after a comprehensive period of consensus-seeking, i.e. stakeholder consultation[361]. A new sector supplement is developed in a process of two years including institutionalized stakeholder consultation. At the end of these two years the working group passes the draft standard on to the GRI technical advisory committee, established 2005 with the primary objective of supervising the development of the GRI standard[362]. The technical advisory committee assesses the standard in terms of content, development process and compliance with the overall GRI sustainability reporting framework[363]. The mining and metals sector supplement e.g. was developed in two phases with the International Council on Mining and Metals as co-convener[364]. The working group preparing the standard included e.g. BHP Billiton, Oxfam International or the World Bank[365].

---

359 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview/DevelopmentProcess April 20, 2011
360 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2 April 7, 2011
361 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview/DevelopmentProcess April 20, 2011
362 Dingwerth 2007: 106
363 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2 April 7, 2011
364 http://www.globalreporting.org/ReportingFramework/SectorSupplements/MiningAndMetals/#MM3 April 7, 2011
365 http://www.globalreporting.org/ReportingFramework/SectorSupplements/MiningAndMetals/#MM4 April 7, 2011

Who is preparing the content of the GRI global standard?

- ✓ technical bodies of external experts
- – scheme management
- – members and stakeholders

3.3.4 Stakeholder consultation on the GRI global standard

Stakeholder consultation on the GRI global standard is institutionalized and open to all interested stakeholders.

In the context of developing a new sector supplement, two years are envisaged for the process. In this period, "[t]he public is invited twice to submit commentaries and suggestions about the draft documents"[366]. Stakeholder consultation in the GRI is institutionalized in the *structured feedback process*, a core element in standards development and revision[367]. "GRI researches the experiences of reporters to date using the existing Guidelines and gathers practitioners' feedback through various mechanisms including, practitioner networks, regional workshops and the multi-stakeholder governance bodies"[368] in the first of four steps comprising the GRI guidelines development process, *identifying priorities*. The GRI organizational stakeholders program comprising over 560 members from some 50 countries is "at the heart of the global, multi-stakeholder network"[369]. *Sector networks* are an additional component in the GRI stakeholder consultation process. Sector networks are installed for each sector supplement coordinating stakeholders with an interest in sustainability reporting in the respective sector. Network members are provided with information on developments relating to the sector supplement and are individually encouraged to participate in calls for comments or workshops. The GRI provides a registration form on its website for stakeholders interested in joining a sector network and a contact email address for signing up[370]. Each sector supplement also has a group on LinkedIn serving as a further stakeholder consultation forum. The metals and mining supplement group is the GRI Extractives Network. All interested stakeholders can join the group by registering under http://www.linkedin.com/groups?mostPopular=&gid=2802787[371].

How is the process of stakeholder consultation organized?

- – ad hoc; not institutionalized
- – institutionalized, open to selected stakeholders
- ✓ institutionalized, open to all interested stakeholders

3.3.5 Final decision-making on the GRI global standard

Final decision-making in the GRI on the GRI guidelines as well as the sector supplements lies with the GRI board of directors.

366 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2 April 7, 2011
367 Dingwerth 2007: 106
368 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview/DevelopmentProcess April 20, 2011
369 GRI Annual Report 2008/2009: 6
370 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2 April 7, 2011
371 http://www.linkedin.com/groups?mostPopular=&gid=2802787 April 7, 2011

The GRI board of directors "exerts ultimate authority over the decision-making process"[372]. In the context of developing the sector supplements e.g., the GRI technical advisory committee presents the results of its review on the draft standard prepared by the multi-stakeholder working group to the GRI board of directors. The board then decides if the "document may have to undergo an update or further development[373] and is finally responsible for issuing final approval. Similarly, comments by stakeholders collected through the GRI structured feedback process are also evaluated by the GRI board of directors[374].

How are final decisions on the GRI global standard made?

- – near consensus among members
- – voting among members
- ✓ decision by scheme management (board decision)

3.4   Conformity assessment in the GRI

3.4.1   Auditing in the GRI

Auditing is not an envisaged part of the GRI scheme.

The GRI framework is restricted to content of the standard and guidance on the standard. Conformity assessment is not part of the GRI framework. Certification is not part of the GRI scheme. Reporting in accordance with the GRI reporting guidelines can neither be certified by the GRI nor by any other accredited certification body[375]. Similar to the International Standardizing Organization's 9011 or the Marine Stewardship Council's fisheries certification/assessment methodology, the GRI's technical protocol as part of the reporting framework offers "process guidance on how to define the content of a sustainability report"[376]. To further guide conformity assessment with the GRI reporting framework, the GRI launched a certified training program in 2007/2008 "developed especially to help report makers (e.g., consultants, or managers of businesses, SMEs and NGOs) and users (e.g., NGOs, financial analysts, government officials, company Boards and media) to use the GRI Framework and GRI reports more effectively[377]. In opposition to other GSCSs these guidance documents do not address certification bodies but are rather meant to help the organization writing a report against the GRI standard to adequately employ the GRI reporting framework from a first party stance as GRI client. The guidance documents also address the public, i.e. report users who have an interest in adequately evaluating the report issued by a certain organization against the GRI standard.

---

*Which actor carries out the auditing against the GRI global standard? – **not applicable***

- • standard setting body on global level (centralized structure)
- • standard setting body on regional or national level (federal structure)
- • independent third party

---

372 Dingwerth 2007: 99; http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board April 4, 2011
373 http://www.globalreporting.org/ReportingFramework/SectorSupplements/AboutSectorSupplements/AboutSectorSupplements.htm#SS2
     April 7, 2011
374 Dingwerth 2007: 106
375 Dingwerth 2007: 107
376 http://www.globalreporting.org/ReportingFramework/ReportingFrameworkOverview April 1, 2011
377 GRI Annual Report 2008/2009: 14

3.4.2   Monitoring actors in the GRI

Generally, like auditing monitoring is not envisaged as part of the GRI framework.

While monitoring is not mandatory in the GRI scheme the entity preparing the report against the GRI sustainability reporting framework is free to consult external assurance for its report. This will be demonstrated by adding a + to the respective application level[378]. For reporters seeking additional assurance for conforming to the GRI sustainability reporting framework the GRI provides two voluntary options. Either "[h]ave an assurance provider offer an opinion on the self-declaration" or [r]equest that the GRI check the self-declaration" [379]. In this case, the GRI carries out a form of monitoring in a centralized structure as a standard setting body on a global level. But as a general rule, monitoring is currently not envisaged in the GRI scheme.

Which actor monitors compliance with standard? – ***not applicable***

- standard setting body on global level (centralized structure)
- standard setting body on regional or national level (federal structure)
- independent third party

3.4.3   Modes of monitoring in the GRI

As the entire process of conformity assessment is not envisaged in the GRI, this also applies to modes of monitoring. Notwithstanding this, by definition, the GRI global standard requires company reporting. Yet, reporting in the GRI cannot be understood as a mode of monitoring because it is the subject of the primary object of the standard as such and not part of a conformity process. Continual conformity respectively improvement against the GRI sustainability reporting framework is generally assured by means of self-declaration on behalf of the entity preparing the report[380].

Which mode of monitoring is institutionalized in GRI? – ***not applicable***

- fire alarm
- police patrol
- company reporting

3.4.4   Accreditation in the GRI

While parallels could be detected among the former dimensions relating to aspects of conformity assessment here and the GRI scheme, although conformity assessment as such is not applicable to the GRI, accreditation plays no role whatsoever in the GRI scheme.

---

378 GRI G3.1 2000 – 2011: 5
379 GRI G3.1 2000 – 2011: 6
380 GRI G3.1 2000 – 2011: 6

*Who is responsible for accreditation? – **not applicable***

- standard setting body on global level (centralized structure)
- standard setting body on regional or national level (federal structure)
- independent third party

3.4.5   Dispute-settlement in the GRI

Procedures of dispute-settlement are equally not applicable to the GRI scheme.

*How is dispute-settlement organized in the GRI? – **not applicable***

- only bargaining between disputants
- also mediation by "political" body
- also adjudication by independent judicial body

3.4.6   Means of enforcement in the GRI

Means of enforcement in the case of non-compliance against the GRI standard are also not applicable to the GRI scheme.

*How is non-compliance dealt with? – **not applicable***

- no means of enforcement
- withdrawal of privileges
- sanctions

4   THE MARINE STEWARDSHIP COUNCIL (MSC)

The Marine Stewardship Council (MSC) was developed in the footsteps of the Forest Stewardship Council which also served as a blueprint for designing the MSC[381]. Similar to the public discourse on deforestation, the MSC emerged against the background of rising concern on the depletion of the world's oceans' fish stocks. As in the Forest Stewardship Council the World Wildlife Fund was also a central driver in the making of the Marine Stewardship Council partnering with the world's largest frozen fish buyer and processor at the time, Unilever. The GSCS was preliminarily launched 1997 and entered into effect 1999, when the MSC global standard on sustainable fishing had been developed. Despite parallels between the MSC and its role model the Forest Stewardship Council from the fledgling stages of the MSC's existence to date, in institutional respect, the two schemes each demonstrates distinctive characteristics. One fundamental similarity relates to the market driven stance of both schemes and subsequently meager participation of public authorities. One fundamental distinction refers to aspects of scheme governance. The MSC is more board-driven whereas the Forest Stewardship Council is more member-driven.

The MSC operates a label for seafood products similar to the Fairtrade label in terms of its widespread prevalence in supermarkets, discounters and the like and subsequently high visibility for the end consumer. Although the MSC likes to refer to itself as *the Charity* the charitable notion underlying the MSC has a different connotation than the historically based charitable fundament underlying e.g. the fair trade movement in general and subsequently also inherent to the Fairtrade GSCS, at least in terms of its origins.

4.1   General aspects of the MSC

4.1.1   Actors involved in founding the MSC

Civil society actors and private businesses joined forces in launching the MSC. Public authorities were not included in the endeavor.

As in the context of deforestation resulting in the creation of the Forest Stewardship Council, the World Wildlife Fund for Nature also took the lead in launching a market-driven process to reduce overfishing. 1996, the World Wildlife Fund's Global Endangered Seas Project involved Unilever as the world's largest processor of ocean-caught fish leading to the creation of the Marine Stewardship Council, 1997. Unilever had been under pressure by Greenpeace and committed to "purchase all its fish from sustainable sources by the end of 2005"[382]. As with the Forest Stewardship Council, public authorities were not included in the making of the MSC. The strong stance of the private corporation Unilever as the main sponsor and central actor in the making of the MSC evoked negative attitudes among some public authorities. This was for example the case in regards to the Swedish government who had previously not at all disapproved of the private nature of e.g. the Forest Stewardship Council[383].

---

381 Dingwerth et al. 2009: 710
382 Conroy 2007: 212
383 Boström et al. 2008: 56

Which actors were involved in founding the MSC?

- ✓ civil society actors
- ✓ private businesses
- – public authorities

4.1.2   Membership structure of the MSC

All three actor groups of civil society, private businesses and public authorities can become members in the MSC. In practice, the bulk of members represent civil society and private business while only one member in the MSC stakeholder council represents a public authority.

Members in the MSC's governance structure as understood here are represented in a *stakeholder council* in place next to the other two main bodies, the board of trustees and the technical advisory board[384]. Relating to the stakeholder council the MSC states, "[m]embership of the Stakeholder Council shall be open to any individual"[385]. The stakeholder council is structured in three categories, the public interest category, the commercial and socio-economic category and the developing world category. Representatives of public authorities are not attributed an own category nor are they formally excluded from MSC membership. Exclusion of public authorities could be implied by the MSC stipulation that only allows members to be "nominated in a personal capacity not as representatives of their organizations"[386]. The stakeholder council comprises primarily civil society actors and private businesses. A representative of the World Wildlife Fund or a scholar from the University of Ibadan, Nigeria are examples of members in the public interest category. One public authority representative of the German *Gesellschaft für Technische Zusammenarbeit*, now part of the *Gesellschaft für Internationale Zusammenarbeit* is also included in the public interest group. Deutschesee, Unilever or Metro are enterprises representing the fish industry in the commercial and socio-economic group[387]. Membership in the stakeholder council is limited to a maximum of 50 persons and should comprise no less than 30 persons[388].

Which actors constitute the MSC membership?

- ✓ civil society actors
- ✓ private businesses
- ✓ public authorities

4.1.3   Members' representation in the MSC

Members in the MSC are represented in a corporatist structure.

In theory, the MSC stakeholder council is categorized in three groups; public interest, commercial and socio-economic, and developing world mirroring both a corporatist as well as a federal structure. In practice, the category developing world is indeed theoretical, because it has no members. Only members of the public interest and commercial and socio-economic group are listed among the stakeholder council members. 17 members

---

384   http://www.msc.org/multimedia/images/about-us/governance/MSC-governance-structure-800px.jpg March 28, 2011
385   MSC Articles of Association: 12
386   http://www.msc.org/about-us/governance/structure/msc-stakeholder-council March 28, 2011
387   http://www.msc.org/about-us/governance/structure/msc-stakeholder-council/whos-on-the-msc-stakeholder-council March 28, 2011
388   MSC Articles of Association: 12

represent the public interest category and 18 members represent the commercial and socio-economic category in the MSC stakeholder council[389]. "Each interest group nominates and appoints its own new members as needed"[390]. Stakeholder council members are nominated for a three year term and can be reappointed. The MSC stakeholder council is led by two *co-chairs* and a *steering group* consisting of eight stakeholder council members. The two stakeholder council co-chairs are held by members of the categories public interest and respectively commercial and socio-economic. In theory, the steering group are elected by one of the three MSC stakeholder council categories in order to represent their interests, not explicitly excluding the developing world category[391]. In practice the MSC developing world category has no members to send to the steering group. five members of the stakeholder council steering group represent the public interest category, the other three the commercial and socio-economic category[392].

How are member groups represented in the MSC?

- – federal structure
- ✓ corporatist structure
- – no special interest representation

4.1.4   Congruence among rule-makers and rule-takers in the MSC

There is a partial overlap among rule-makers and rule-takers in the MSC.

Fishers and seafood enterprises, traders and retailers of ocean caught seafood are the rule-takers in the MSC. They are represented in all three pivotal bodies of the governance structure involved in rule-making in the MSC; the board of trustees, the stakeholder council and the technical advisory board. The technical advisory board plays an important role in the standard-setting process, i.e. as a rule-maker in the MSC. Most of the technical advisory board members are scientists or consultants and not rule-takers[393]. Only one member of the MSC technical advisory board is a representative of the seafood industry and thus also a rule-taker.

Are the groups of rule-makers and rule-takers congruent in the MSC?

- – congruent
- ✓ partial overlap
- – no overlap

389 http://www.msc.org/about-us/governance/structure/msc-stakeholder-council/whos-on-the-msc-stakeholder-council March 28, 2011
390 http://www.msc.org/about-us/governance/structure/msc-stakeholder-council March 28, 2011
391 http://www.msc.org/about-us/governance/structure/msc-stakeholder-council March 28, 2011
392 http://www.msc.org/about-us/governance/structure/msc-stakeholder-council/whos-on-the-stakeholder-council-steering-group March 28, 2011
393 http://www.msc.org/about-us/governance/structure/technical-advisory-board/whos-on-the-msc-tab April 16, 2011

4.1.5   Mode of installing the MSC board of directors

The MSC board of directors is installed by self-appointment.

In the MSC, the board of directors is the *MSC board of trustees*. The trustees nominate one or more candidates for appointment as a trustee, i.e. for a seat on the MSC board of directors and can also nominate themselves for re-appointment. The trustees are finally appointed by simple majority vote at the MSC board of trustees meeting. In case more nominations exist than vacancies and agreement by simple majority vote cannot be achieved procedures according to *Instant Runoff Voting* or respectively *Single Transferable Vote* apply[394].

The MSC board of trustees is the governance body of the institution. Currently the MSC board of trustees comprises 13 members, all but one, men from highly industrialized countries such as North America, Australia, Germany, the United Kingdom, Norway or Japan[395]. By statute, the two stakeholder council co-chairs as well as the chair of the MSC technical advisory board are members of the MSC board of trustees. The board meets four times a year and has a maximum of 15 members appointed for a period of three years[396]. After the three year term the board member can seek reappointment for another three year term. This process can be repeated without limitation. The MSC board of directors is not only responsible for appointing its own board members but also for appointing committees, the initial technical advisory board and the initial stakeholder council[397]. The MSC trustees constitute *members* by statute in the MSC. Their status in the MSC is further elaborated as "subscribers to the memorandum, being the initial trustees, shall be the initial members"[398]. The MSC formal members, i.e. trustees and may not exceed a number of 15 persons implying a board rather than a membership base as understood in e.g. the Forest Stewardship Council or also the Kimberley Process Certification Scheme[399].

> *How is the MSC board of directors put in place?*
>
> ✓ self-appointment
> – appointment by membership groups (federal/corporatist)
> – election by members

4.1.6   The MSC secretariat

The MSC secretariat carries out substantive tasks for the scheme.

Similar to the Forest Stewardship Council's *experts and staff* constituting the FSC international center, the MSC has *offices and staff* constituting corporate and regional teams. The function of in particular the MSC corporate teams generally resemble that of a secretariat authorized to carry out substantive tasks. The corporate teams are based in London and are led by a chief executive and his office consisting of six members. The MSC executive plays a role in the most substantive task of the organization, i.e. the standard setting process. Here, the executive is responsible for making the decision on whether a standard revision should be recommended to the technical advisory board and/or the board of trustees after each review. Additionally, the MSC executive

---

394 MSC Articles of Association: 8 – 9
395 http://www.msc.org/about-us/governance/structure/board-of-trustees/whos-on-the-msc-board March 28, 2011
396 http://www.msc.org/about-us/governance/structure/board-of-trustees March 28, 2011
397 MSC Articles of Association: 8
398 MSC Articles of Association: 3
399 MSC Articles of Association: 7

and the director of the standards and licensing team, one of the four corporate teams, form part of the working group installed for preparing revision of the standard[400].

The MSC corporate teams include a development team, a corporate communications team, a central services team and a standards and licensing team. The standards and licensing team is the most comprehensive further subdivided in the five groups; policy development, fisheries, supply chain, ecolabel licensing and developing world fisheries. The staff of the London based MSC office alone exceeds the number of members in the overall MSC stakeholder council[401].

What is the capacity of the MSC secretariat?

- – no permanent secretariat
- – secretariat with administrative tasks
- ✓ secretariat with substantive tasks

4.1.7   The MSC's relation to other GSCSs

The MSC operates in open competition with other GSCSs in sustainable fishing management.

Several standards and certification schemes are currently engaging in sustainable management in fishing globally. For its ten year anniversary the MSC commissioned the management consultancy agency Accenture to undertake a comparative study on GSCSs in fishing. The result, MSC was scored 95.63% against criteria for credible programs with a 30% head start to the next fishery certification program under investigation. In the annual report 2009/2010, the MSC markets this figure underscoring the nature of open competition in the branch[402].

Notwithstanding, like the Forest Stewardship Council and the Fairtrade Labeling Organizations International, the Marine Stewardship Council is also member of the ISEAL Alliance and refers to the ISEAL Code of Good Practice for Setting Social and Environmental Standards when explaining how the MSC chain of custody standard was developed[403]. In the ongoing scheme evaluation process, the MSC does seek to coordinate information sharing and terms of communication but this does not apply to GSCSs as such but rather to institutions responsible for stages in the governance cycle outside of the MSC'S core responsibility of standards and policy development such as the Accreditation Services International or other certifiers[404].

How does the MSC interrelate with other GSCSs?

- – no relations (monopoly)
- – nested cooperation
- ✓ open competition

---

400 MSC Standard Setting Procedure 2.0: 4
401 http://www.msc.org/about-us/offices-staff/msc-staff/corporate March 28, 2011
402 MSC Annual Report 2009/2010: 25
403 http://www.msc.org/about-us/standards/standards/chain-of-custody#how-was-it-developed March 28, 2011
404 http://www.msc.org/about-us/program-improvements/key-program-updates March 29, 2011

4.1.8   The MSC's relation to (inter-)governmental organizations

The MSC has no special relations to international organizations or to national governments.

The MSC only relates to international organizations when justifying its activities and their underlying modes, e.g. "[t]he standard is based on the FAO [United Nations Food and Agriculture Organization's] Code of Conduct for Responsible Fisheries and other international conservation instruments"[405].

How does the MSC interrelate with international organizations?

- ✓ no relations
- – orchestration
- – delegated authority

4.1.9   Financing of the MSC's activities

The MSC finances its activities by voluntary donations and marketing of its activities.

2009 – 2010, the two main sources of MSC finances derived from 1) voluntary donations, in MSC's own words "[c]haritable grants (trusts and individuals)" constituting 52% of the MSC income for the period and 2) marketing of the MSC's activities, i.e. "[c]haritable activities (logo activities)" totalling 42%[406]. Financial support from other actors and activities such as governments, companies and individuals, investment income and revaluations together added up to 6% of total financing. The 10 – 15 members constituting the MSC board of trustees are by statute the only formal members in the MSC and thus are insignificant in terms of generating regular contributions on the basis of membership fees. The Marine Stewardship Council refers to itself as *the Charity* implying a non-profit organization[407].

How are the MSC's activities financed?

- ✓ voluntary donations
- – regular contributions
- ✓ marketing of the MSC's activities

4.1.10   MSC scheme evaluation

Evaluating the MSC as a whole is an institutionalized agenda item of the MSC technical advisory board and board of trustee meetings.

In the MSC, the review and revision process in regards to scheme elements is called *Policy Development Cycle*. This scheme evaluation is institutionalized within the responsibility of the technical advisory group and the board of trustees with decision points every six months[408]. "At each meeting of the MSC Technical

---

405   http://www.msc.org/about-us/standards/standards/msc-environmental-standard#how-was-it-developed March 28, 2011
406   http://www.msc.org/about-us/finances March 29, 2011
407   MSC Articles of Association
408   http://www.msc.org/about-us/program-improvements/policy-development-cycle March 29, 2011

Advisory Board and Board of Trustees, changes to MSC's assessment requirements and other aspects of the program are considered"[409].

Currently, a review of the scheme documents underlying the making of the MSC two core standards is under way. MSC's ten year anniversary 2009 conditioned the initiation of this thorough review. Changes in the guidelines of renowned global standardizing organizations such as the International Standardizing Organization, the United Nations Food and Agriculture Organization and the ISEAL Alliance also urged the Marine Stewardship Council to review its scheme and where applicable adapt scheme elements to the new requirements. The scope of the revision is limited to enhancing the understanding and practicability of the MSC system in regards to the conformity assessment process and will explicitly not include fundamental changes to the MSC requirements or stakeholder participation modes[410]. The work plan of the current policy development cycle encompasses overarching objectives as well as issues on the broad notion of fisheries. The former relates to e.g. the overall scheme requirements such as the MSC standards, methodologies, technical advisory board directives and policy advisories. The latter can also touch on fundamentals of the scheme such as the conformity assessment process in general but on a more precise level. E.g. in regards to the *surveillance audit process*, the current policy development cycle work plan holds, "Expedited audits: The Fisheries Certification Methodology allows ad hoc and or expedited audits to occur outside the surveillance audit cycle but does not currently specify under what circumstances an expedited audit of a certified fishery must occur, nor what an expedited audit should consist of. There is a need for this."[411] Other policy items entailed under *fisheries* concern commodity specifics of e.g. low trophic level species, Salmon or Bivalves[412]. The work plan consists of four columns, the first column introducing the policy item, column two outlines the status quo and columns three and four describe the necessary steps to be taken in order to deal with the respective issue in two stages ending with the year 2011[413].

> *Has the MSC institutionalized procedures for evaluating the scheme?*
>
> –   no institutionalized evaluation
> ✓   institutionalized scheme evaluation by management, members and/or stakeholders
> –   institutionalized scheme evaluation by an autonomous body

4.2   Characteristics of the MSC global standard

4.2.1   Subject of the MSC global standard

The MSC standards entail procedural requirements.

The MSC operates two sets of standards, 1) the MSC environmental standard for sustainable fishing and 2) the MSC chain of custody standard for seafood traceability focusing on "good management practices"[414]. The three overarching principles of the MSC standard sustainable fishing are on sustainable fish stocks, minimizing environmental impact and effective management all relating to managerial and thus procedural aspects of fishing. In the context of principle 2 e.g., the requirement stipulates "measures are in place to limit

---

409   http://www.msc.org/about-us/program-improvements/recent March 29, 2011
410   http://www.msc.org/about-us/program-improvements/key-program-updates March 29, 2011
411   MSC Policy Development Cycle Work Plan 2011
412   MSC Policy Development Cycle Work Plan 2011
413   MSC Policy Development Cycle Work Plan 2011
414   http://www.msc.org/about-us/standards/standards/msc-environmental-standard#why-is-it-needed March 29, 2011

bycatch"[415]. The MSC chain of custody standard also entails procedural requirements such as e.g. "effective storage and record keeping systems"[416].

> *What is subject to the MSC global standard?*
>
> ✓ procedures (production/process management)
> – results (product/performance)
> – origin of product

4.2.2   Chain of custody certification in the MSC

The MSC label is highly visible to consumers.

The MSC chain of custody certification was introduced in the year of MSC's formal inauguration, 1999, when the MSC standard on sustainable fishing was already developed. The MSC chain of custody label is probably the most visible label for certified fish products in the market today. Major enterprises such as the German discounter ALDI offer MSC certified frozen fish[417]. MSC stresses the importance of consumer visibility with major investments in strengthening the MSC brand and marketing. Addressing retailers, the MSC is working on "a series of innovative ways to help promote your support and attract shoppers to MSC labeled products in store"[418]. The Marine Stewardship Council even engages a leading marketing agency, Saatchi & Saatchi to further develop the MSC brand and optimize its marketing effects[419]. Saatchi & Saatchi carry the supplement title "the Lovemarks Company and define "lovemark" as "a product, service or entity that inspires loyalty beyond reason"[420].

> *At which stage in the chain of custody does MSC certification apply?*
>
> ✓ certificate visible for end consumer
> – certificate included in other end consumer visible certificate
> – business to business certificate not visible to end consumer

4.2.3   Precision of the MSC global standard

In regards to precision, the MSC standard prescribes requirements equal to specific norms.

Drawing on the first MSC standard on sustainable fishing, the standard opens with three relatively simple principles. Principle one, e.g., "[a] fishery must be conducted in a manner that does not lead to over-fishing or depletion of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery"[421]. The standard also includes two sets of criteria,

415 http://www.msc.org/about-us/standards/standards/msc-environmental-standard#what-does-it-assess March 29, 2011;
http://www.msc.org/about-us/standards/standards/msc-environmental-standard#what-does-this-mean March 29, 2011
416 http://www.msc.org/about-us/standards/standards/chain-of-custody#what-does-it-assess March 29, 2011
417 http://www.aldi-sued.de/de/html/product_range/2744_5576.htm March 28, 2011
418 MSC Joint Marketing 2010
419 MSC Joint Marketing 2010
420 http://www.saatchi.com March 29, 2011
421 MSC Fishery Standard 2010: 5

management system criteria respectively operational criteria which follow the principles but do not adhere to one specific principle. The first management system criterion stipulates, "[t]he fishery shall not be conducted under a controversial unilateral exemption to an international agreement", respectively the first operational criteria, "make use of fishing gear and practices designed to avoid the capture of non-target species […]"[422].

The MSC has developed methodologies that supplement the rather imprecise principles and criteria of the MSC standards. The MSC fisheries assessment methodology is an extensive document of 122 pages prescribing guidance for certification bodies when assessing a fishery against the MSC standard. On MSC's own account the assessment methodology "provides the detailed interpretation of the fisheries standard"[423] and can thus be considered part of the MSC global standard. In the methodology, three chapters individually deal with each of the three principles in turn. Each chapter opens with "general guidance on Principle 1" respectively 2, respectively 3 and includes performance indicators[424]. Examples of *outcome performance indicators* are "a more consistent fluctuation around the target level" or "biomass levels in excess of target levels"[425]. Irrespective of the length of the document, the indicators in the MSC fisheries assessment methodology are not more precise than the criteria in the core MSC standard.

> *To which degree of precision is the MSC global standard formulated?*
>
> – also measurable rules
> ✓ also specific norms
> – only general principles

4.2.4   Context sensitivity of the MSC global standard

The MSC has only a global standard.

Neither the MSC standard on sustainable fishing nor the chain of custody standard has regional implications. The MSC has several regional offices but they are not involved in the standard setting process at all, let alone commissioned with the task of adapting the global standard to regional, national or a local context. In opposition to the MSC regional offices the MSC technical advisory board plays a role in standard development procedures in the MSC but also has no geographic specifics that could influence regional or national adaptations of the MSC global standard.

In addition to the MSC corporate teams the MSC operates eleven regional and local offices with the MSC headquarters based in London. The MSC London office also serves as the regional office for Europe, Middle East and Africa. The bulk of offices are located in Europe, and all are based in industrialized countries including an office in South Africa, according to the World Bank classification an upper middle income economy[426].

422 MSC Fishery Standard 2010: 6, 8
423 http://www.msc.org/about-us/standards/methodologies/fam/msc-fishery-assessment-methodology#how-do-the-msc March 30, 2011
424 MSC Fisheries Assessment Methodology 2010
425 MSC Fisheries Assessment Methodology 2010: 26
      http://data.worldbank.org/about/country-classifications/country-and-lending-groups#Sub_Saharan_Africa March 28, 2011
426 http://data.worldbank.org/about/country-classifications/country-and-lending-groups#Sub_Saharan_Africa, March 28, 2011

Is the MSC global standard context sensitive?

- ✓ only global standard
- – global standard takes regional/national specifics into consideration
- – global standard as framework for local/national/regional standard

4.2.5　Minimum or maximum standard in the MSC

The MSC operates a progressively demanding standard.

Provisions for progressive compliance are not part of the MSC standards on sustainable fishing and seafood traceability but are indeed prescribed in detail as one constituent of the conformity assessment in the MSC certification methodology *conditions*. Conditions for improvement are agreed upon between the client and the certifier as part of the assessment in order for the fishery to improve performance and for the certifier to adequately assess the level of improvement of the client. The certification body evaluates the fishery's performance by a mode of scoring. "Where the fishery achieves a score of less than 80, but at least 60 for any individual Performance Indicator, the certification body shall set one or more conditions for continuing certification. The condition(s) shall improve performance to at least the level of 80 within a period set by the certification body but no longer than the term of the certification"[427].

After initial certification, post certification monitoring "shall audit compliance with, and progress and performance against, certification conditions"[428]. The MSC technical advisory board directive D-013 *Evaluating fishery client progress on meeting certification conditions* offers guidance to the certification bodies "when judging and reporting the adequacy of client progress"[429].

How ambitious is the MSC global standard?

- – minimum standard
- ✓ progressively demanding standard
- – maximum ("gold") standard

4.2.6　Incentives for client participation of the MSC global standard

Clients are attracted to the MSC by reputational incentives and by possible price premiums for products carrying the MSC label.

The MSC markets the scheme with incentives such as "an opportunity to increase sales" and to "reinforce […] sustainability credentials with an influential and growing market segment"[430]. The MSC stresses the potential in terms of purchasing power of the *Lifestyles of Health and Sustainability market* – so called LOHAS that "is rapidly becoming an influential and global consumer group" and employs the slogan "[a]dded value with marketing support"[431]. The annual report 2009/2010 emphasizes the high market demand for "certified

---

427　MSC Fisheries Certification Methodology 2010: 23
428　MSC Fisheries Certification Methodology 2010: 35
429　MSC Fisheries Certification Methodology 2010: 35
430　http://www.msc.org/documents/msc-brochures/MSC_Joint_Marketing_Case_Study_EN.pdf/view March 28, 2011
431　MSC Joint Marketing 2010

sustainable seafood" underscoring the market-driven nature of the MSC[432]. Against the background of the MSC requirement on maintaining fish stock levels, benefits for fishers dependent on the abundance of fish are demonstrated. This aspect is converted to "benefit from the assurance of continuity of future supply and hence sustainability of their own businesses" for fish processors, traders and retailers[433].

Another incentive underlying clients' interest in using the MSC label in selling seafood relates to "increased competition in the retail sector, thus the search for additional properties in products to add profitability and/ or market share"[434]. Especially retailers use the MSC label with the hope to attain price premiums for the certified products.

What are clients' incentives to participate in certification against the MSC global standard?

- ✓ reputational incentive
- ✓ price premium
- – legal incentive

4.2.7   Industry scale of the MSC global standard

The Marine Stewardship Council does not specify addressees of its standard in terms of industry scale.

On its own account, the "MSC promotes equal access to its certification program irrespective of the scale of the fishing operation. The implications of the size, scale, type, location and intensity of the fishery, […] will be considered in every certification"[435]. Yet, in the work plan of the current policy development cycle, the MSC acknowledges that especially the management requirement of principle 3 of the MSC sustainable fishing standard "may not necessarily be appropriate for some small scale fisheries"[436]. Including the objective of facilitating access to MSC certification for small scale fisheries in the work plan underscores the impression that MSC certification is more attainable to large scale fish industry. Investigations on the MSC have demonstrated, among other things, "a bias in favor of industrial fisheries, and developed country fisheries in particular". The study also highlighted impeding "financial and human resource costs that achieving certification would entail in developing country and especially small-scale fisheries"[437]. The MSC has been a scheme of superlatives from the start. E.g. the major transnational corporation for frozen fish, Unilever was a driving force in the making of the MSC. Today, the largest fish corporations such as the French Carrefour and the German Metro engage in the MSC[438]. Possibly aware of this deficit, the MSC is tentatively introducing additional measures to make MSC certification more feasible for small fisheries. In the annual report 2010/2011 the MSC announced that it is planning to develop a "capacity building and training tool" and make it "available to other small-scale fisheries[. I]n the longer term, making the MSC program more accessible to small-scale fisheries […]"[439]. Yet, this attempt is still in its fledgling stage and does not have first priority among the MSC activities. The MSC standard sustainable fishing applies only to fisheries catching fish in the wild and not to farm fishing

432 MSC Annual Report 2009/2010
433 MSC Fishery Standard 2010: 3
434 Aguilar et al. 2009: 31
435 MSC Fishery Standard 2010: 3
436 MSC Fishery Standard 2010: 3
437 Aguilar et al. 2009: 33
438 For Carrefour cf. http://www.carrefour.com/cdc/responsible-commerce/our-commitment-to-the-environment/developing-responsible-products/?com.carrefour.cdc.print.page.content=true March 28, 2011; for Metro cf. http://www.metrogroup.de/internet/site/sustainability2009/node/71441/Lde/index.html March 28, 2011, for Unilever cf. http://www.unilever.com/images/Unilevers%20Fish%20Sustainability%20Initiative_tcm13-9157.pdf March 28, 2011
439 MSC Annual Report 2010/2011: 5

and aquaculture[440]. At the catch level MSC certification against the MSC sustainable fisheries standard is only attainable by fisheries and not by individual operators. Individual operators in the trade, processing, and retail sectors can only use the MSC label within its chain of custody scheme[441]. This constitutes on the one side a further impediment for small-scale operations and on the other side an advantage for large-scale industry often integrating the catch level as well as trading, processing and retailing in one enterprise.

Notwithstanding these developments regarding the industry scale of MSC clients empirically assessed, the MSC global standard as such does not specify the scale of industry it designates primarily.

Which scale of industry does the MSC address?

– large-scale (state) companies
– small-scale and artisanal producers
✓ no specification in industry scale

4.3   Developing the MSC global standard

4.3.1   Procedures for evaluating the MSC global standard

Review of the MSC standard is institutionalized for every five years.

Irrespective of stakeholder demand for review of the standard, review in the MSC is scheduled not later than five years after adoption of the previous version. Reviewing is defined as "[t]he process of analyzing comments and feedback received to determine a Standard's continued effectiveness". As for revision, "a review shall consider whether the Standard should be formally and publicly revised"[442]. The MSC evaluation procedure explicitly excludes the possibility that fundamental aspects embodied in the MSC requirements undergo revision as a result of a review process. Thus, from the start this institutionalized limitation compromises the procedure for review and revision of the MSC global standard. Subsequently, recent changes relating to the MSC global standard in specific, e.g. the "[i]ntroduced species in MSC assessments" in the context of the MSC fisheries standard or e.g. "[r]evisions to recording waste and batch reconciliation" do not touch on fundamental aspects but rather to minor aspects of the MSC standards[443].

In the MSC, the border between the MSC standard and MSC policies on the conformity assessment process is a thin line. This is similar to the unclear boundary within the Extractive Industries Transparency Initiative standard concerning the requirements and the validation guide relating to the global standard as well as to conformity assessment policies of the initiative. Thus, the examples of recent changes to the MSC global standard mentioned can be understood as either constituent to the MSC or also constituent to the MSC policies relating to conformity assessment.

440 http://www.msc.org/get-certified/fisheries/eligible-fisheries March 29, 2011
441 Aguilar et al. 2009: 32
442 MSC Standard Setting Procedure 2.0: 2
443 http://www.msc.org/about-us/program-improvements/recent March 29, 2011

What are the MSC evaluation procedures for the global standard?

- – only "spontaneous" evaluation through management, members and stakeholders
- ✓ institutionalized evaluation through management, members and/or stakeholders
- – institutionalized evaluation through autonomous body

4.3.2   Actors responsible for initiating revision of the MSC global standard

Also stakeholders can initiate revision of an MSC standard.

"[S]takeholder and/or internal feedback" is stated first among the reasons justifying the decision on the need for revising an MSC standard. Other reasons are "new scientific developments, change in legislation or any other significant change in the fishery and seafood supply chain industry"[444]. Any interested party has the right to propose reviewing an MSC standard. The proposals are managed by the MSC standards and licensing team.

Who can initiate revisions of the MSC global standard?

- – only scheme management
- – also members
- ✓ also stakeholders

4.3.3   Actors responsible for preparing the MSC global standard

The MSC management plays a pivotal role in preparing the content of the (revised) MSC standard.

Once the MSC executive has decided upon initiating the revision of an MSC standard, a senior management team appoints a working group comprising a designated project manager from the MSC executive, the standards and licensing team director and one additional member. External consultants will only join the team, "if necessary"[445]. Despite the prominent role the MSC technical advisory board is ascribed as a body of external experts in the MSC, it first enters the standard development process, once the senior management team has approved a draft standard. The draft standard is then put forward to the technical advisory board. Offering consultancy on the MSC standard to the MSC board of directors is only one task among others of the MSC technical advisory board responsible for providing advice "on the Charity's [=MSC] technical, scientific and quasi-judicial functions, including but not limited to the Charity's Principles and Criteria, certifier approval (accreditation) methodologies and certification methodologies"[446]. The MSC stakeholder council also is responsible for, "advising the MSC board and technical advisory board on the MSC standard"[447]. The stakeholder council is involved in the next step of the standard development process after the draft standard has been endorsed by the technical advisory board. Broader consultation is only designated in yet a next step after the stakeholder council in turn has approved the MSC draft standard[448].

---

444 MSC Standard Setting Procedure 2.0: 4
445 MSC Standard Setting Procedure 2.0: 4
446 MSC Articles of Association: 13
447 http://www.msc.org/about-us/governance/structure/msc-stakeholder-council March 28, 2011
448 MSC Standard Setting Procedure 2.0: 4

Who is preparing the content of the MSC global standard?

- – technical bodies of external experts
- ✓ scheme management
- – members and stakeholders

4.3.4   *Stakeholder consultation on the MSC global standard*

Any interested stakeholder can engage in consultation on an MSC standard once the public consultation period is opened.

The MSC develops its standards largely following the United Nations Food and Agriculture Organization's Guidelines for Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries as well as the ISEAL Code of Good Practice for Setting Social and Environmental Standards[449]. The article on *consultation* in the MSC Standard Setting Procedure strongly picks up on the ISEAL requirements in regards to e.g. having at least two comment periods after publication or proposal of a standard, or regarding the time frame of the consultation rounds comprising at least 60 days for the submission of comments etc.[450]. These provisions are very general and offer only a vague idea of how the consultation process is designed on the ground in the MSC.

All documents open for consultation can be accessed and commented upon on the MSC homepage[451]. A form for issuing comments is also available online[452]. Public comment periods are formalized and announced in the context of current policy development projects which are all described on the MSC homepage[453]. Consultation on an MSC standard first opens to the public once the senior management team has prepared the content of the draft standard and other MSC bodies such as the technical advisory group and the stakeholder council have approved it[454]. Thus, MSC policies designate by far less inclusive procedures in the MSC standard development than the MSC itself describes in regards to the making of the MSC sustainable fisheries standard in 1997, "more than 300 individuals and stakeholders were included in the making of the first MSC global standard on sustainable fishing in eight regional workshops and two expert drafting sessions"[455]. This description can be misleading because it does not make evident that stakeholder consultation is only envisaged in an advanced stage in the MSC standard development process and that in the initial stages primarily the MSC scheme management is solely responsible for preparing the content of the MSC global standard.

Stakeholder consultation in the MSC is not only designated for the advanced stage of standard development. It is also part of the conformity assessment process and here, it is envisaged in an early stage of the process[456].

How is the process of stakeholder consultation organized?

- – ad hoc; not institutionalized
- – institutionalized, open to selected stakeholders
- ✓ institutionalized, open to all interested stakeholders

---

449 MSC Standard Setting Procedure 2.0: 3
450 MSC Standard Setting Procedure 2.0: 6 – 7; ISEAL Standard-Setting Code 2010: 9
451 http://www.msc.org/documents/consultations/consultations/scheme-document-review March 29, 2011
452 http://www.msc.org/documents/consultations/MSC_standards_comment_form.doc/view March 29, 2011
453 http://www.msc.org/about-us/program-improvements/current March 29, 2011
454 MSC Standard Setting Procedure 2.0: 5; and ISEAL Standard-Setting Code 2010: 9
455 http://www.msc.org/about-us/standards/standards/msc-environmental-standard March 28, 2011
456 MSC Fisheries Certification Methodology 2010: 19

4.3.5   Final decision-making on the MSC global standard

Final decisions on the MSC standard are made by near consensus among the members of the MSC bodies involved in the different stages of the standard development process.

Before final approval, the MSC standard undergoes several stages of decision-making after it has been drafted and passed by the senior management team appointed for the cause. First, the technical advisory board endorses the draft standard. Subsequently, it is the MSC stakeholder council's turn to issue its approval. In the next step, the MSC board of directors must approve as well. Approval of the MSC bodies on the draft standard is made in line with each body's respective rules and procedures. Final decisions in the MSC technical advisory board as well as in the MSC stakeholder council are to be reached by consensual agreement. In case consensus is not attainable, the working group appointed for preparing the standard shall prepare a report to the MSC board of directors "summarizing the standards development activities[,] explain the main issues and concerns raised during the process [and] highlight the areas where consensus has not been reached and recommendations on how to address them"[457]. In this case the MSC board has the final say in approving the draft standard. Decisions by the MSC board of directors are accepted by voting. Each member of the board has one vote[458]. Following approval by the three MSC bodies, the formal adoption, i.e. very final decision-making on the MSC global standard, rests with the MSC board of trustees.

In the context of standard revisions, the MSC executive reserves the right to make the final decision leading to revision of an MSC standard[459].

How are final decisions on the MSC global standard made?

- ✓ near consensus among members
- – voting among members
- – decision by scheme management (board decision)

4.4   Conformity assessment in the MSC

4.4.1   Auditing in the MSC

The MSC authorizes accredited independent third party certification bodies to carry out audits.

The MSC does not undertake audits nor does it issue certificates. Independent third party certification bodies carry out audits for certification in the MSC scheme[460]. The MSC methodologies write guidelines for certifiers carrying out assessments against the MSC standards. The technical advisory board has also developed directives and policy advisories for further clarification of the MSC methodologies[461]. The audit is structured in pre-assessment, full assessment in three steps and finally the issuing of the certificate which "marks the end of the fishery assessment process"[462].

---

457 MSC Standard Setting Procedure 2.0: 6
458 MSC Articles of Association: 6
459 MSC Standard Setting Procedure 2.0: 4
460 http://www.msc.org/about-us/standards/third-party-certification March 30, 2011
461 http://www.msc.org/documents/scheme-documents March 28, 2011
462 MSC Fisheries Certification Methodology 2010: 10 – 15

Which actor carries out the auditing in the MSC?

–   standard setting body on global level (centralized structure)
–   standard setting body on regional or national level (federal structure)
✓ independent third party

4.4.2   Monitoring actors in the MSC

In line with auditing, only independent third party bodies are authorized to monitor compliance of fisheries against the MSC standard.

The *MSC fisheries certification methodology* prescribes the process of monitoring called *surveillance audit* in the MSC scheme[463] as providing "for the surveillance and enforcement of the conditions of certification and the opportunity for any changes in the fishery evaluated for continued consistency with the MSC Principles and Criteria"[464]. Post certification monitoring can be carried out by the same accredited independent third party certification body that undertook the original assessment. Or a certification body that was not involved in the primary certification can carry out monitoring. "If different from the original assessment team, the selection of individuals to conduct audits shall be justified in writing[465]. In any case, the monitoring agency must be an independent third party.

Which actor monitors compliance with the MSC global standard?

–   standard setting body on global level (centralized structure)
–   standard setting body on regional or national level (federal structure)
✓ independent third party

4.4.3   Modes of monitoring in the MSC

The MSC employs a system of police patrol for the mode of monitoring compliance of MSC certified fisheries.

The MSC requires a surveillance audit no later than twelve months after initial certification and thereafter in an annual rhythm implying a strict regime of police patrol[466].The certificate is valid for a period of up to five years from the time of issuance. A positive full re-assessment within these five years must be concluded before expiry of the valid certificate in order for the client to maintain uninterrupted certification[467].

Which mode of monitoring is institutionalized in the MSC?

–   fire alarm
✓ police patrol
–   company reporting

---

463   http://www.msc.org/about-us/standards/methodologies/msc-fishery-certification-methodology
464   MSC Fisheries Certification Methodology 2010: 16
465   MSC Fisheries Certification Methodology 2010: 34
466   MSC Fisheries Certification Methodology 2010: 16
467   MSC 2010 Fisheries Certification Methodology: 32 – 33

4.4.4   Accreditation in the MSC

Certification bodies assessing compliance with MSC standards are accredited by a third party accreditation agency.

The MSC engages the ASI – Accreditation Services International GmbH to manage the accreditation of certifiers conducting conformity assessments of fisheries in the MSC[468]. The ASI was created for accrediting certification bodies for the Forest Stewardship Council and currently also accredits certifiers operating in the framework of the Aquaculture Stewardship Council[469].

Who is responsible for accreditation?

- – standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- ✓ independent third party

4.4.5   Dispute-settlement in the MSC

In the case of a dispute not resolvable through bargaining among disputants, the MSC prescribes mediation by the MSC objections panel, i.e. a *political body*.

Dispute settlement, in MSC terms the *objections procedure*, is an integral part of the certification process and is dealt with in length in the MSC certification methodology. „No formal certificate or logo licensing agreements may be issued or entered into relating to any fishery product until the objections procedure has run its course in accordance with Section 4.2 and the MSC Objections Procedure, and the Determination is finalized"[470]. The MSC distinguishes between three kinds of objections; procedural objections, merit objection or an objection relating both to procedures of the assessment as well as to the determinants of the certification decision[471]. The MSC has two different procedures in place for handling objections to the certification body and respectively for handling objections directed to the MSC as such. The official MSC objections procedure is restricted to parties formally involved in the assessment process either as clients or as stakeholders. Complaints by parties outside of the certification process can only be filed "in support of another party's permitted Merits Objection"[472]. The objections procedure is outlined in detail entailing precise time frames for lodging objections and respectively responding to objections by the certification body and the MSC. The dispute is first negotiated among disputants, generally among client and certifier according to the procedure as outlined in the MSC fisheries certification methodology. The MSC chief executive will be informed on the case of the objection. But the MSC as such first takes an active stance in the objections procedure when bargaining among the disputants has failed to resolve the dispute. In this case, the MSC installs an *objections panel* consisting of independent members who "shall not be involved in activities that constitute the conflict" to act as a political mediator[473].

---

468   http://www.msc.org/about-us/standards/third-party-certification March 30, 2011
469   http://www.accreditation-services.com March 30, 2011
470   MSC Fisheries Certification Methodology 2010: 27
471   MSC Fisheries Certification Methodology 2010: 27
472   MSC Fisheries Certification Methodology 2010: 28
473   MSC Fisheries Certification Methodology 2010: 31

How is dispute-settlement organized in the MSC?

- – only bargaining between disputants
- ✓ also mediation by "political" body
- – also adjudication by independent judicial body

4.4.6 Means of enforcement in the MSC

The MSC deals with non-compliance by withdrawing privileges.

If monitoring reveals non-compliance with audit requirements and/or agreed conditions for improvement the fishery certificate will be suspended or withdrawn. Changes in certification status of a client are publicly advertised by the certification body. The fishery has 90 days to comply with the requirements following suspension. At the end of this period, an on-site surveillance audit takes place resulting in either suspending the suspension of the certificate or ultimately withdrawing it[474].

The MSC's detailed objections procedure as described above only accounts for the case of a dispute on behalf of a client against procedures or decisions by the certification body in question. The case of a dispute on grounds of non-compliance is not object of the MSC objections procedure.

How is non-compliance in the MSC dealt with?

- – no means of enforcement
- ✓ withdrawal of privileges
- – sanctions

---

474 MSC Fisheries Certification Methodology 2010: 37

5 THE KIMBERLEY PROCESS CERTIFICATION SCHEME (KPCS)

The negative impacts of resource abundance on growth and sustainable development in general have been dealt with in depth and width in academia, policy circles and increasingly also in civil society campaigns since Auty presented the *resource curse thesis* 1993[475]. Next to poor economic performance or weak democracy indicators natural resource related conflict is also considered as one indicator of the so called resource curse[476]. This is where the Kimberley Process Certification Scheme (KPCS) sets in. In 2000, Southern African diamond-producing states adjoined in a series of conferences in the traditional diamond producing city of Kimberley, South Africa, in order to discuss ways to stop the trade in *conflict diamonds* – diamonds related to instigating or lengthening conflict in certain African countries – and to ensure that diamond purchases were not funding violence. Backed by the United Nations General Assembly[477], the Kimberley Process Certification Scheme was formally established November 2002 and has been in effect since January 1, 2003.

The KPCS emerged in parallel to other sustainability governance schemes in the mineral resource sector such as the Extractive Industries Transparency Initiative for revenue disclosure in the oil, gas and mining sector. Differing from the latter, the KPCS focuses solely on diamonds and even more specifically, on rough diamonds at the point of extraction or export before polish and cut or other further manufacturing.

5.1 General aspects of the KPCS

5.1.1 Actors involved in founding the KPCS

The three actor groups; civil society, private business and public authorities were involved in founding the Kimberley Process Certification Scheme.

In the 1990s the exploitation of diamonds in Africa had been related to the financing of civil war and other forms of violent conflict in Angola, Sierra Leone, Liberia and the Democratic Republic of the Congo. The United Nations imposed sanctions on many of the countries suffering conflict in Africa. Yet high profile United Nations reports, most prominently the *Fowler report* demonstrated how the specific nature of the diamond sector enabled rebel groups to further finance their illicit activities, illustrating widespread *sanctions-busting*[478]. The United Nations reacted by imposing *smart sanctions* specifically targeting strategic commodities such as oil, diamonds and timber. Yet, these *smart sanctions* were still criticized for first and foremost affecting the communities and small-scale miners and not counteracting the rebel groups' activities[479].

High media coverage of the African conflicts brought the brutality of the rebel practices, particularly in Sierra Leone, to the attention of Western civil society. Western civil society organizations in turn organized the b*lood diamond campaign* to further raise awareness on the role of diamonds in conflicts in African states. Global Witness and Partnership Africa Canada were leading nongovernmental organizations in the campaign which turned out to be very effective, finally leading to the creation of the KPCS. Nongovernmental organizations

475 Basedau et al. 2005
476 Le Billon 2001 on conflict; Werner, Sachs 1995 on economic performance; Ross 2001 on democracy
477 United Nations General Assembly resolution A/RES/55/56, December 2000
478 Haufler 2009: 406 – 7
479 Haufler 2009: 406 – 7

further streamlined their activities by joining forces in the *Fatal Transactions* campaign and increased pressure on the diamond industry by threatening to call a consumer boycott on diamonds in late 1999[480]. The diamond industry, in turn, realized the reputation at stake, given the symbolic value of diamond jewelry as synonymous for love and faith fearing a similar development as in the fur industry, where civil society campaigns brought about a close to complete closing of the business. At the time, the global diamond industry was strongly concentrated in the hands of one global enterprise, De Beers. De Beers was once in control of 80% of the diamond sector and still dominates the trade in diamonds. The quasi-monopolistic stance of De Beers made the enterprise an easy target for the campaign[481]. Due to De Beers' business strategy of controlling the supply side of diamonds, marketing diamonds stigmatized as *conflict diamonds* posed not only a threat to the company's reputation but threatened the general maintenance of its business operations as a whole[482].

Besides international organizations, civil society and the diamond industry itself, major diamond-producing countries such as South Africa were also concerned about upholding the activities in diamond extraction. Realizing possible consequences of a setback in diamond trade for their domestic economy, the government of South Africa initiated a technical forum bringing together representatives from diamond-producing countries, the industry and civil society in a series of conferences collectively known as the Kimberley Process in 2000 in the traditional diamond producing town of Kimberley. By the end of the year, the United Nations General Assembly adopted resolution 55/56 on conflict diamonds supporting the creation of an international certification scheme for rough diamonds. The Kimberley Process Certification Scheme was officially declared at a conference in Interlaken, Switzerland, November 5, 2002 and has been in effect since January 1, 2003.

Which actors were involved in founding the KPCS?

- ✓ civil society actors
- ✓ private businesses
- ✓ public authorities

5.1.2   Membership structure of the KPCS

Only public authorities can become formal members in the KPCS.

According to the KPCS core document, "[p]articipation in the Certification Scheme is open on a global, non-discriminatory basis to all Applicants willing and able to fulfill the requirements of that Scheme"[483]. Applicants here resemble only countries. The KPCS's membership is limited to sovereign states represented through their government[484]. Members constitute KPCS *participants*, defined as "a state or a regional economic integration organization for which the Certification Scheme is effective"[485].These include all major diamond producing countries like South Africa, Namibia and Botswana which were among the first to participate in the early meetings led by concern for their well-developed domestic diamond industry[486]. Belgium, harboring one of the world's largest diamond entrepôts in Antwerp, where more than 80% of all rough diamonds pass, is represented through the European Community constituting one member in the KPCS. Japan, the USA and Europe are important members as major diamond consumer markets. Civil society actors, namely Global Witness and

---

480   Paes 2005: 314
481   Haufler 2009: 405
482   Vogel 2009: 172
483   KPCS Document 2002: 10
484   Paes 2005:317
485   KPCS Document 2002: 4
486   Smillie 2005: 56

Partnership Africa Canada played a pivotal role in the process from the start and still do up to date although, officially, they enjoy observer status only and have no vote[487]. Observers are defined as "a representative of civil society, the diamond industry, international organizations and non-participating governments invited to take part in Plenary meetings"[488]. For all practical purposes the nongovernmental organizations have the right to participate in all meetings and to join government officials at the negotiations table where decisions among the members are made by deliberative negotiation until tacit consensus emerges. Thus nongovernmental organizations are in a position to influence outcomes[489]. The World Diamond Council, an industry association bringing together the World Federation of Diamond Bourses and the International Diamond Manufacturers Association was created in July 2000 in order to tackle the challenge of conflict diamonds on behalf of industry even before the creation of the KPCS[490]. The World Diamond Council represents the diamond industry in the KPCS and has observer status like Global Witness and Partnership Africa Canada[491].

Which actors constitute the KPCS membership?

- – civil society actors
- – private businesses
- ✓ public authorities

5.1.3   Members' representation in the KPCS

The KPCS has no special interest representation in regards to its membership.

Each member country constitutes one KPCS participant, i.e. one member of the scheme. KP participating countries together with industry and civil society observers gather twice a year at intersessional and plenary meetings, as well as in working groups and committees that meet on a regular basis. Each participant or observer is represented by one delegate in the plenary and other KPCS meetings[492]. Every participant's voice is counted as one vote in a decision-making process.

How are member groups represented in the KPCS?

- – federal structure
- – corporatist structure
- ✓ no special interest representation

---

487 Jojarth 2009: 217
488 KPCS Document 2002: 4
489 Jojarth 2009: 217
490 Gooch 2008: 198
491 http://www.kimberleyprocess.com/structure/participants_world_map_en.html November 15, 2010
492 KPCS Rules of Procedure 2003: 3

5.1.4   Congruence among rule-makers and rule-takers in the KPCS

In the KPCS, the group of rule-makers is congruent with the group of rule-takers.

The KPCS standard is drafted for application by the KPCS participants. Thus, the KPCS participants constitute the group of rule-takers in the scheme. At the same time, the participants also constitute the group of rule-makers. Other actor groups neither constitute formal parts of the rule-making nor the rule-taking group.

> *Are the groups of rule-makers and rule-takers congruent in the KPCS?*
>
>   ✓ congruent
>   – partial overlap
>   – no overap

5.1.5   Mode of installing the KPCS board of directors

The KPCS merely has a chair and a vice-chair in place of a board of directors, installed by mode of self-appointment.

Differing from the original KPCS core document, the KPCS rules of procedure speak of selecting the chair and respectively vice-chair rather than electing them[493]. The KPCS core document states that "the chair would be elected to preside over all Plenary meetings, *ad hoc* working groups and other subsidiary bodies" at the end of each plenary meeting and that decisions are to be reached by consensual agreement among participants[494]. According to the amendments to the KPCS rules of procedure, the chair and vice-chair are now to be decided upon by the participants progressing to chair and selected as vice-chair from within their delegations implying a mode of self-appointment[495]. 2010 Israel chaired the KPCS assisted by the Democratic Republic of the Congo as vice-chair[496]. As for the office of vice chair, the vice chair accedes the chair for the following year after the chair has concluded a term of twelve months[497].

> *How is the KPCS board of directors put in place?*
>
>   ✓ self-appointment
>   – appointment by membership groups (corporatist/federal)
>   – election by members

---

493 KPCS Rules of Procedure 2003: 3
494 KPCS Document 2002: 9
495 KPCS Rules of Procedure Amendment 2003
496 KPCS Final communique – Plenary 2009
497 KPCS Final communique – Plenary 2003

5.1.6   The KPCS secretariat

The KPCS has no permanent secretariat.

A secretariat exists in support of the chair, but like the chair, rotates on an annual basis and is not responsible for any substantive tasks. The secretariat has no permanent office and only weak capacity, often consisting of one person if existent at all. The office of secretariat is neither mentioned once in the KPCS core document nor in its rules. Administrative tasks, such as arranging plenary sessions or circulating documents, usually carried out by a secretariat, lie within the responsibility of the KPCS chair[498]. The lack of a well functioning secretariat is subject to critique by involved civil society actors such as the KPCS observer Partnership Africa Canada[499].

> *What is the capacity of the KPCS's secretariat?*
>
> ✓ no permanent secretariat
> – secretariat with administrative tasks
> – secretariat with substantive tasks

5.1.7   The KPCS' relation to other GSCSs

The KPCS operates in nested cooperation with other initiatives in the diamond sector.

By its own account the KPCSs' members account for 99.8% of the world trade on diamonds implying monopoly in the diamond sector under the umbrella of the scheme. Nevertheless, the KPCS operates in nested cooperation with other initiatives introduced by industry and civil society in order to enhance the effects of the KPCS. The World Diamond Council e.g. has introduced a system of warranties as industry self-regulation extending the effects of the KPCS, more complementing the KP than competing with it[500]. This voluntary self-regulation is also referred to in the preamble of the KPCS's core document[501]. Additionally, the Diamond Development Initiative and the Diamond Area Community Development Fund have been established in sustainability governance of the diamond sector[502]. Like the industry led system of warranties these initiatives rather compensate for shortcomings of the KPCS than challenge the initiative in open competition. The EITI also refers to the KP in a cooperative tone[503].

> *How does the KPCS interrelate with other GSCSs?*
>
> – no relations (monopoly)
> ✓ nested cooperation
> – open competition

---

498 KPCS Rules of Procedure 2003: 5
499 PAC 2010: 2
500 Gooch 2008: 204
501 KPCS Document 2002: 2
502 Hilson et al. 2009: 83
503 EITI 2009: 40

5.1.8   The KPCS' relation to (inter-)governmental bodies

(Inter-)governmental bodies have supported the KPCS from the start.

As for international organizations, the initial mandate for the Kimberley Process was established by United Nations General Assembly resolution 55/56 adopted December 2000. Several resolutions have followed since renewing the initial mandate on a regular basis[504]. The United Nations Security Council also issued recognition for the scheme by its resolution 1459, January 2003 and in two further resolutions on Liberia and Côte d'Ivoire[505].

As for national governments, the KPCS also relies on support by the governments of its participants for implementing the changes necessary for fulfilling the requirements outlined in the scheme.

How does the KPCS interrelate with (inter-)governmental bodies?

- – no relations
- ✓ orchestration
- – delegated authority

5.1.9   Financing of the KPCS's activities

The KPCS finances its activities primarily by voluntary donations.

The costs of launching the KPCS as well as its implementation have been dispersed unequally primarily among KP participants, i.e. their governments, as well as among the KPCS observers[506]. The countries hosting the KPCS annual plenary meetings and other meetings bear the respective costs. South Africa bore the organizational expenses that aroused in the context of executing the first twelve Kimberley meetings. Execution and financing of necessary requirements for achieving certification as outlined in the core document lie within the responsibility of the participants, i.e. members, as well. Since members are nation-states, the implementation of the process takes place within national borders and governments bear the costs[507]. KPCS observers also provide ad hoc financing. E.g., the nongovernmental organization Partnership Africa Canada offered funding for a number of experts from developing, artisanal-alluvial producing participants to participate in review visits. Revenues are neither attained through regular contributions by the KPCS nor for issuing the KPCS certificate in terms of marketing of activities constraining the KPCS budget.

How are the KPCS's activities financed?

- ✓ voluntary donations
- – regular contributions
- – marketing of activities

504 KPCS 2006: 6
505 KPCS 2006: 6; BICC 2009: 29
506 Bieri 2010: 167 – 167
507 Smillie 2005: 59 – 60; http://www.kimberleyprocess.com/home/index_en.html , November 15, 2010

5.1.10 KPC scheme evaluation

Scheme evaluation by members is institutionalized in the KPCS.

The KPCS core document recommends a mode of review as follows: "the Certification scheme should be subject to periodic review, to allow Participants to conduct a thorough analysis of all elements contained in the scheme". Further, the first review is to take place "no later than three years after the effective starting date of the Certification Scheme"[508]. No detailed provisions are documented for the time period of subsequent reviews of the scheme after the first and only evaluation of the KPCS took place in 2006. The results of the review are documented and are publicly available[509]. The review was conducted by a working group established for the cause consisting of the participants Australia, China, European Community, India, Israel, Russian Federation, Sierra Leone, South Africa, United States, World Diamond Council and Partnership Africa Canada/Global Witness including the KP chair, vice-chair and chairs of the working groups and committees[510]. No further reviews on the KPCS are documented. In addition to the provision of a three-year review, refining the sysem is also one agenda point of the KPCS annual meetings[511].

As for the KPCS core document, any participant can propose modifications which must be approved by consensus among the participants[512]. The KPCS rules of procedure may be amended by a decision of the plenary following a report on the proposed amendment by an ad hoc working group or a subsidiary body specifically appointed for the cause[513].

> *Has the KPCS institutionalized procedures for evaluating the scheme?*
>
> – no institutionalized evaluation
> ✓ institutionalized scheme evaluation by management, members and/or stakeholders
> – institutionalized scheme evaluation by an autonomous body

5.2 Characteristics of the KPCS global standard

5.2.1 Subject of the KPCS global standard

The origin of rough diamonds is the primary subject to the KPCS global standard.

The KPCS requires each participating country to track the rough diamonds it is exporting back to the place where the diamonds were mined or to the point of import thus certifying origin[514]. Installing procedures such as establishing a system of internal controls and designating an importing and exporting authority are also required. Yet, procedural requirements in the KPCS are merely instrumental to achieving the central objective of disclosing the origin of the rough diamond[515]. Managerial aspects of production or mineralogical characteristics of the diamond are not subject to the KPCS global standard.

---

508 KPCS Document 2002: 11
509 http://www.kimberleyprocess.com/documents/third_year_view_en.html April 28, 2011
510 KPCS Terms of Reference Ad hoc Working Group on the Review of the KPCS 2005: 2
511 Haufler 2010: 410
512 KPCS Rules of Procedure 2003: 11
513 KPCS Rules of Procedure 2003: 10
514 Gooch 2008: 193
515 KPCS Document 2002: 7

What is subject to the KPCS global standard?

   – procedures (production/process management)
   – results (product/performance)
   ✓ origin of product

5.2.2   Chain of custody certification in the KPCS

The KPCS certificate is not visible to the end consumer.

The KPCS certificate is a document accompanying tamper proof shipments of diamonds visible only at points of import and export to public authorities. Nevertheless, the diamond industry itself is very visible to the consumer and – also due to the symbolic meaning of diamonds – vulnerable to reputational damage. Thus, merely being a member of the KPCS, knowing that the members account for 99.8% of worldwide global production justifies further trading in diamonds, although the KPCS is not visible to the end consumer. Yet, buying a diamond online as a private consumer, e.g. at Tiffany & Co, the KP certificate does not appear throughout the transaction.

At which stage in the chain of custody does KPCS certification apply?

   – certificate visible for end consumer
   – certificate included in other end consumer visible certificate
   ✓ business to business certificate not visible to end consumer

5.2.3   Precision of the KPCS global standard

In terms of precision, the KPCS standard comes closest to specific norms.

Adhering to the Kimberley Process Certification Scheme implies that diamond shipments accompanied by a KP certificate do not entail *conflict diamonds* defined in the KPCS core document as "rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognized in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future"[516]. The definition of conflict diamonds is the first and most comprehensive definition of the 18-items long list of definitions opening the KPCS core document. Following the definitions in section I, come the requirements for participants regarding the use and application of the Kimberley Process Certificate (section II), undertakings in respect of the international trade in rough diamonds (section III), internal controls (section IV), co-operation and transparency (section V) and finally administrative matters (section VI). The document closes with three annexes further specifying one, certificates, two, internal controls and three, statistics.

Section IV of the document is central to the scheme and encompasses the minimum standards conditional for issuing certificates referring to internal controls. The section opens with the rather weak formulation "Each

---

516 KPCS Document 2002: 3

participant *should* …"[517] followed by seven requirements. The first (a) "establish a system of internal controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds imported into and exported from its territory" and the last (f) "when establishing a system of internal controls, take into account, where appropriate, the further options and recommendations for internal controls as elaborated in Annex II"[518]. These requirements entail neither time limits nor numbers nor specification of how the stringency of the internal controls system could be measured. The KPCS makes specific recommendations about the design of the system but leaves the details to industry and government in each member state[519].

To which degree of precision is the KPCS global standard formulated?

- – only general principles
- ✓ also specific norms
- – also measurable rules

5.2.4   Context sensitivity of the KPCS global standard

The KPCS only has a global standard with no further specification.

Besides the requirements outlined in the KPCS core document constituting the global standard no provisions exist on the national level in regards to KPCS implementation. Requirements relating to form and content of the KPCS certificate are outlined in the KPCS global standard, i.e. the KPCS core document and are the same for all KPCS participants[520]. How the KPCS participants go about in order to meet the requirements of the KPCS global standard lies in the sole responsibility of the respective participant. "According to the Administrative Decision on Peer Review, participants are required to submit annual reports on their implementation of the Kimberley Process in their countries"[521]. Yet, these reports are not made public. Thus, the mere existence of national implementation plans of individual KPCS participants resembling national versions of the KPCS global standard cannot be assessed. Furthermore, national implementation plans cannot be compared or let alone streamlined. Subsequently, regional or national versions of the KPCS global standard can hardly be developed.

Is the KPCS global standard context sensitive?

- ✓ only global standard
- – global standard takes regional/national specifics into consideration
- – global standard as framework for local/national/regional standard

---

517 KPCS Document 2002: 7
518 KPCS Document 2002: 7
519 Haufler 2009: 410
520 KPCS Document 2002: 5, 12
521 http://www.kimberleyprocess.com/documents/annual_report_en.html April 28, 2011

5.2.5   Minimum or maximum standard in the KPCS

The KPCS global standard resembles a minimum standard.

Membership in the KPCS is open to any country willing and able to comply with the Kimberley Process' minimum standards[522]. KP certificates are issued after meeting minimum requirements as described throughout the official KPCS document, e.g. in section IV, b) "designate an Importing and an Exporting Authority(ies)"[523]. Furthermore, the participants are encouraged to ensure that the certificates meet the minimum requirements set out in Annex I by e.g. numbering according to ISO 3166-1, one of the few quite precise requirements[524]. Several years after the scheme's initiation, the narrow scope of the KPCS with its focus on conflict diamonds has been criticized for arriving at a stalemate and called upon to broaden its mandate to also include illicit diamonds[525].

> *How ambitious is the KPCS global standard?*
>
> ✓ minimum standard
> – progressively demanding standard
> – maximum ("gold") standard

5.2.6   Incentives for client participation of the KPCS global standard

Participation in KPCS certification is driven by legal as well as reputational incentives.

The clear monopoly of the KPCS on the world trade of diamonds and the strong involvement of governments in the scheme make KP certification conditional for importing and exporting of rough diamonds. The KPCS formulates binding legal norms[526] and is an export/import regime implemented through domestic legislation in member states[527]. A KPCS provision calls upon the participant to "ensure that no shipment of rough diamonds is imported from or exported to a non-participant"[528]. Subsequently, due to the fact that 99.8% of diamond production is controlled by KPCS participants, not holding a KP certificate or being expelled from the KPCS means factual expulsion from the global trade in diamonds – "a trade restriction for which the WTO has granted a waiver"[529]. Even before the making of the KPCS, the global diamond industry and major diamond producing countries happily agreed to support the making of a scheme for diamond certification. They feared the damage the civil society organizations' *blood diamond campaign* would have on their reputation and respectively their business. Thus, the reputational incentives also play a role in the context of the KPCS[530].

---

522 Smillie 2005: 61
523 KPCS Document 2002: 7
524 KPCS Document 2002: 5, 12
525 Zulu et al. 2009: 1,126
526 Paes 2005: 305
527 Haufler 2009: 404
528 KPCS Document 2002: 6
529 Vogel 2009: 173
530 Smillie 2005: 55

What are clients' incentives to participate in certification against the KPCS global standard?

- ✓ reputational incentive
- – price premium
- ✓ legal incentive

5.2.7　Industry scale of the KPCS global standard

From the start, large-scale industry engaged in the KPCS. The scheme has also special provisions addressing small-scale industry.

Diamond producing industry can be divided in two very distinct scales of production, Kimberlitic and alluvial diamond production. The first is large scale requiring high capital investments, heavy machinery and technological knowhow. Major diamond producers representing large-scale industry such as the world's leading diamond trader De Beers championed the making of the KPCS. Large-scale industry is represented in the KPCS through membership in the World Diamond Council, one out of three official KPCS observers[531]. Contrarily, alluvial diamonds are mined in river beds, primarily by artisanal and community miners using next to no technical support beyond pure manpower[532]. Regulating alluvial mining in line with the KPCS minimum requirement of ensuring a verifiable audit from the mine to market is more challenging than controlling point-source Kimberlitic mining[533]. The complete chain of warranties from the mine to the retailer can only be maintained if the requirements of KPCS are matched by similar certification mechanisms on the national level[534]. This is most challenging for alluvial diamond producing states often lacking the necessary infrastructure and state capacity to enforce regulation[535]. Alluvial mining states also shoulder the greatest financial burden due to the disproportionately high challenge of subjecting informal and diffuse artisanal mining to effective regulation. At the same time, alluvial diamond mining states face the highest risk of diamond-related conflict and thus also can expect the highest profits for complying with the KPCS[536]. In order to meet the special needs of the artisanal and small-scale mining sector, the KPCS included two provisions for regulating alluvial diamond mining in the annex of the KPCS core document aiming at formalizing the sector[537]. Additionally, already 2004, an ad hoc sub-group was established as part of the working group *monitoring* in order to deal with alluvial mining. Furthermore, the full review of the KPCS resulted in recommendations concerning alluvial mining, leading to the installment of a full-fledged ad hoc working group, 2007, the youngest of the KPCS, *working group on alluvial and artisanal producers*[538].

Which scale of industry does the KPCS address?

- ✓ large-scale (state) companies
- ✓ small-scale and artisanal producers
- – no specification in industry scale

531　http://www.worlddiamondcouncil.com, 15.11.2010.
532　Paes 2005: 312 – 3
533　Zulu et al. 2009: 1,121
534　Paes 2005: 318
535　Zulu et al. 2009: 1,121
536　Jojarth 2009: 199
537　KPCS Document 2002: Annex II, paragraph 11, 12
538　KPCS Third Year Review 2006: 82 – 83; KPCS WGAAP Terms of Reference 2007

5.3   Developing the KPCS global standard

5.3.1   Procedures for evaluating the KPCS global standard

The KPCS has no institutionalized procedures for evaluation of the KPCS global standard.

The KPCS provision of the KPCS core document relating to review of the scheme in general also can apply to the KPCS document per se. The provision stipulates a "thorough analysis of all elements contained in the scheme"[539] including the KPCS global standard as one scheme element. Although the three year review requirement also can apply to the KPCS core document as the KPCS global standard, the KPCS global standard by far did not constitute the core focus of the exercise. The resulting recommendations of the review barely relate to issues touching on the KPCS standard such as internal controls. The review first and foremost concerned procedural aspects regarding the general effectiveness of the Kimberley Process per se such as technical provisions or organization and working methods[540]. Subsequently, in practice, evaluating the KPCS global standard only takes place spontaneously and is not institutionalized in the scheme's operations practically.

What are the KPCS evaluation procedures for the global standard?

- ✓ only "spontaneous" evaluation through management, members and stakeholders
- – institutionalized evaluation through management, members and/or stakeholders
- – institutionalized evaluation through autonomous body

5.3.2   Actors responsible for initiating revision of the KPCS global standard

In the KPCS, revisions are initiated by the scheme participants, i.e. members.

As described in the preceding the evaluation procedures are the same for the global standard and for the functioning of the entire scheme. The provisions for modifications in general entailed in the KPCS core document postulate that revisions can be proposed by any participant, i.e. member, and should be accepted by consensus among all participants[541]. Observers from industry and civil society are in the position to influence members to take action in this respect[542].

Who can initiate revisions of the KPCS global standard?

- – only scheme management
- ✓ also members
- – also stakeholders

---

539 KPCS Document 2002: 11
540 KPCS Third Year Review 2006: 76 – 85
541 KPCS Document 2002: 11
542 Jojarth 2009: 217

5.3.3 Actors responsible for preparing the KPCS global standard

The content of the KPCS global standard, in the form of the KPCS core document, was negotiated between the members and included selected stakeholders from industry and civil society.

In all working groups and committees including those commissioned for preparing standards the KPCS members are coalesced by the KPCS observers, the non-governmental organizations Global Witness and Partnership Africa Canada as well as the industry representative the World Diamond Council. Thus, these selected stakeholders from industry and civil society are also in a position to influence the outcome of all negotiations including the KPCS official document as the global standard[543].

Who is preparing the content of the standard?

   – technical bodies of external experts
   – scheme management
   ✓ members and stakeholders

5.3.4 Stakeholder consultation on the KPCS global standard

Stakeholder consultation in the KPCS is institutionalized and open to selected stakeholders.

Stakeholder consultation in the KPCS is primarily organized within the framework of the annual plenary meetings. "Participants and Observers are to meet in Plenary annually, and on other occasions as Participants may deem necessary"[544]. KPCS meetings of the plenary are to be held in private. In the KPCS, private meetings as well as working groups and respective sub-groups involve formal KPCS observers also[545]. Furthermore, working groups or subsidiary bodies may invite representatives of civil society, industry or governmental agencies other than the participants and formal KPCS observers on a permanent or temporary basis. This invitation can be revoked by plenary decision. Once invited, observers are free to engage in negotiations and despite the absence of decision-making power yield influence due to the expertise they develop[546].

How is the process of stakeholder consultation organized?

   – ad hoc; not institutionalized
   ✓ institutionalized, open to selected stakeholders
   – institutionalized, open to all interested stakeholders

---

543 Jojarth 2009: 217; http://www.kimberleyprocess.com/background/index_en.html, March 9, 2011
544 KPCS Document 2002: 9
545 KPCS Rules of Procedure 2003: 6
546 Jojarth 2009: 217

5.3.5   Final decision-making on the KPCS global standard

Final decisions on the KPCS global standard are made by consensual agreement among the KPCS members.

Final decisions are made at the plenary meetings through consensual agreement among the members. In case consensus cannot be achieved, the chair is to conduct consultations[547]. Observers do not have a vote but can influence the course of negotiations by active participation in the meetings[548].

> *How are final decisions on the KPCS global standard made?*
>
> ✓ near consensus among members
> – voting among members
> – decision by scheme management (board decision)

5.4   Conformity assessment in the KPCS

5.4.1   Auditing in the KPCS

Formally, the KPCS system of peer review equals an audit by the global standard setting body.

In Sun City 2003, the KPCS introduced review visits to be called upon voluntarily by a participant and carried out upon the participant's agreement to gather a firsthand impression of its implementation efforts[549]. By the KPCS three year review in 2006, review visits had been undertaken in the countries of 32 participants. Yet fundamental weaknesses in the systems' effectiveness have been demonstrated in several cases, among them Brazil and Venezuela[550]. On paper, the KPCS peer review mechanism was developed for the course of conducting conformity assessments on KPCS participants against the KPCS global standard, i.e. carrying out the auditing by the global KPCS in a centralized structure. On the ground, the KPCS review system rather complements the KPCS implementation process on the national level rather than constitutes a formalized audit itself.

The concept of audit is only dealt with superficially in various instances of the KPCS core document and does not constitute an own paragraph let alone an own document in the scheme. The participants themselves are responsible for outlining "how the requirements for the Certification Scheme are being implemented" and "to include an item where information as stipulated in paragraph […] is reviewed and participants can provide further details of their respective systems"[551]. Self-assessment is even specified in conjunction with the requirements of co-operation and transparency[552]. Underscoring the notion of self-assessment, the exporting authority is responsible for validating a certificate and providing a declaration on the integrity of the rough diamonds export. In a similar vein, the importing authority carries responsibility for verifying that the seals and the container have not been tampered with and that the export was performed in accordance with the KPCS[553].

---

547 KPCS Document 2002: 9
548 Jojarth 2009: 217
549 Jojarth 2009: 211
550 Gooch 2008: 209 – 212
551 KPCS Rules of Procedure 2003: 10
552 KPCS Rules of Procedure 2003: 8
553 KPCS Rules of Procedure 2003: 14 – 15

The United States, e.g. passed the Clean Diamond Trade Act as the national scheme for implementing the KPCS using – among others – the not-for-profit entity U.S. Kimberley Process Authority to implement the domestic and international provisions of the act[554]. US Kimberley Process Authority is commissioned by the act to issue KP certificates in the US diamond trade. Yet, several years after the implementation of the act, it has been pointed out that no plan exists to supervise and review the licensees that issue the certificates. This is finally left to industry which has the biggest stake in keeping diamonds flowing freely compromising the credibility and neutrality of the system[555].

Which actor carries out the auditing in the KPCS?

- ✓ standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- – independent third party

5.4.2   Monitoring actors in the KPCS

Monitoring in the KPCS lies primarily in the responsibility of the standard setting body on a global level.

The KPCS working group on monitoring was established 2003 in order to deal with "issues relating to the implementation of the […] scheme by participants" and is responsible for the peer-review mechanism, for organizing review visits and for assessing the participants' annual reports[556]. It is composed of members appointed by the plenary from the ranks of KPCS participants and observers on proposal by the chair, thus on the global level of the scheme[557].

From the start, consensus on the concrete implications of monitoring in the KPCS was impossible to achieve. Third party monitoring was strongly opposed by the governments of Russia, China, and Israel[558]. Thus, in line with auditing, on a day to day basis, monitoring compliance with the KPCS requirements is primarily left to the responsibility of the KPCS participant regardless of the activities of the working group monitoring[559]. The working group first sets in actively when indications for non-compliance arise. For example, in Ghana late 2006 government officials reacted to a call by nongovernmental organizations for a thorough inspection of the country's policies and monitoring systems by assembling a so called Kimberley Team for double-checking surveillance of the diamond sector. Three officers from the Ghana Precious Minerals and Marketing Corporation and other government officials made up the team. Before the fire alarm sounded responsibility for monitoring the sector and its compliance with the KP requirements lay with the Corporation[560]. Subsequently – similar to auditing – on paper, the KPCS is primarily responsible for monitoring as the standard setting body on global level. On the ground, monitoring is often primarily left to national KPCS participants.

---

554 Gooch 2008: 196 – 7
555 Gooch 2008: 200
556 http://www.kimberleyprocess.com/structure/working_group_en.html March 10, 2011
557 KPCS Rules of Procedure 2003: 1
558 Smillie 2005: 60
559 Hilson, Clifford 2010: 432
560 Hilson, Clifford 2010: 433

Which actor monitors compliance with the KPCS global standard?

✓ standard setting body on global level (centralized structure)
– standard setting body on regional or national level (federal structure)
– independent third party

5.4.3   Modes of monitoring in the KPCS

Monitoring in the KPCS is primarily initiated by a mode of *fire alarm*. In theory, the scheme also requires reporting but in practice delays in reports weaken this mode of monitoring.

Only upon credible indications of significant non-compliance with the certification scheme, will the KPCS plenary suggest dispatching of "review missions by other participants or their representatives"[561]. As mentioned above, 2005, civil society actors alerted alarm resulting in Ghana's policies and monitoring systems in its diamond sector to be subject to a visit of a KPCS review team[562]. There is a fine distinction in the KPCS between review visits and review missions. The former relate to the institutionalized KPCS peer review mechanism. The latter are only called upon in the case of suspected non-compliance. Participants are to "inform another Participant through the Chair if it considers that the laws, regulations, rules, procedures or practices of that other Participant do not ensure the absence of conflict diamonds in the exports of that other Participant" thus officially acknowledging a system of fire alarm[563]. The KPCS civil society observers are also well positioned to serve as effective fire alarms surveying governments' trade control efforts in many of the poorly governed diamond-producing states[564]. KPCS observers can also participate in monitoring activities. In the above mentioned case of Ghana, after the Ghanaian government had put together a "Kimberley Team" for monitoring its monitoring system the World Diamond Council sent experts three times to conduct 2 – 3 day pre-shipment inspections of stored produce[565].

In theory, participants are also required to issue annual reports on their progress in implementing the KPCS requirements[566]. In addition to the annual reports reporting is also an integral part of the review missions[567] and generally a key element to the KPCS as described in Section V *Co-operation and Transparency* of the official KPCS document[568]. Emphasis is given to data gathering and sharing information among participants in general. Recommendations on how to optimize procedures of information exchange are outlined in several points, further specified in an Annex III on Statistics[569]. The theme of reporting is again picked up on in the following section VI *Administrative Matters* outlining participant measures for issuing a report containing the relevant information identifying their designated authorities or bodies responsible for implementing the provisions of the KP Certification Scheme for the plenary meetings[570]. Yet in practice, the mode of monitoring in form of reporting by the participants has been compromised by delays[571]. Due to strategic importance or monopoly arrangements within the diamonds sector of certain producer states countries have uttered discomfort with the requirements on reporting arguing on behalf of commercial confidentiality and are often reluctant

---

561 Jojarth 2009: 211
562 Hilson, Clifford: 2010: 431 – 432
563 KPCS Rules of Procedure 2003: 8
564 Jojarth 209: 204
565 Hilson, Clifford 2010: 443
566 http://www.kimberleyprocess.com/documents/annual_report_en.html March 10, 2011
567 KPCS Document 2002: 10
568 KPCS Document 2002: 8
569 KPCS Document 2002: 16
570 KPCS Document 2002: 10
571 Bieri 2010: 173 – 174

to provide the agreed statistics[572]. Consequently, the reports are not posted on the KPCS homepage and thus are not publicly available[573].

> *Which mode of monitoring is institutionalized in the KPCS?*
>
>   ✓ fire alarm
>   – police patrol
>   ✓ (company) reporting

5.4.4   Accreditation in the KPCS

In the KPCS the national KPCS participant is also responsible for accreditation of the body issuing the KPCS certificates.

In the KPCS, national certification bodies issue the certificates. As governmental agencies these bodies are accredited by statute. Because the KPCS government resembles the KPCS participant, accreditation in the KPCS lies within the responsibility of the standard setting body on a national level. Due to the strong involvement of accredited governmental authorities in the process the question of accreditation of an independent third party cannot apply here. This is different in the case of other GSCSs which commission purely private bodies to carry out certification.

> *Who is responsible for accreditation?*
>
>   – standard setting body on global level (centralized structure)
>   ✓ standard setting body on regional or national level (federal structure)
>   – independent third party

5.4.5   Dispute-settlement in the KPCS

In the KPCS, dispute-settlement is organized as bargaining between disputants.

In case of a dispute "any concerned Participant may so inform the chair, who is to inform all Participants without delay about the said concern and enter into dialogue on how to address it"[574]. The KP chair also informs relevant observers[575]. The chair mediates subsequent dispute settlement within the plenary on the basis of the report issued by the review mission. Yet, this does not justify the chair as a mediator in form of a political body due to his engagement as participant in the KPCS[576]. The participant subject to a review mission can comment on the report of results of compliance verification measures no later than three weeks after submission of the report[577]. By the three year review 2006, the formal provisions for KP dispute resolution had only been drawn upon on one occasion. All other disputes have been handled informally by the chair or the working groups

---

572 Smillie 2005: 60
573 http://www.kimberleyprocess.com/documents/annual_report_en.html March 10, 2011
574 KPCS Document 2002: 11
575 KPCS Third Year Review 2006: 69
576 KPCS 2007: 12
577 KPCS Document 2002: 10

within the terms of their mandate[578]. Thus, bargaining between disputants is the common mode of dispute-settlement in the KPCS.

How is dispute-settlement organized in the KPCS?

- ✓ only bargaining between disputants
- – also mediation by "political" body
- – also adjudication by independent judicial body

5.4.6   Means of enforcement in the KPCS

Means of enforcement in the case of KPCS non-compliance can include withdrawal of privileges as well as sanctions.

The KPCS working group participation committee is responsible for investigating cases of non-compliance and advising upon measures to be taken respectively. The participation committee considers information submitted by the working group on monitoring regarding compliance by a participant and must determine whether the participant does or does not meet the minimum requirements of the KPCS no later than 30 days following the referral[579]. In case the "Committee finds that the Participant no longer meets the minimum requirements, it must notify the KP chair in writing of the reasons for its conclusion"[580]. Subsequently, the candidate may be removed from the KP list of participants[581].

Before a participant is removed from the scheme, interim measures step in, as decided upon 2008 in the follow up of the three year review[582]. The mentioned dispute in Ghana, e.g. led to the suspension of the diamond trading activities from Ghana's region, Akwatia from late 2006 till March 2007. Shipments were first reassumed after no visible evidence of diamonds being smuggled from Côte d'Ivoire into Ghana had been confirmed[583]. The suspension heavily impacted the regions local diamond production and has had lasting economic impacts depressing local prices and repelling investors and exporters "fearful of being (wrongly) indicated in a national investigation of "conflict diamonds"[584]. The KPCS has been criticized as, "[w]hen confronted with overt examples of obvious and serious non-compliance […][it] seemed to become paralyzed"[585].

How is non-compliance dealt with?

- – no means of enforcement
- ✓ withdrawal of privileges
- ✓ sanctions

---

578 KPCS Third Year Review 2006: 69
579 KPCS Participation Committee Interim Measures 2008: 1
580 KPCS Third Year Review 2006: 67
581 http://www.kimberleyprocess.com/structure/working_group_en.html#5 March 10, 2011
582 KPCS Participation Committee Interim Measures 2008
583 Hilson et al. 2010: 443
584 Hilson et al 2010: 432
585 Gooch 2008: 207

6   THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (EITI)

The negative impacts of resource abundance on growth and sustainable development in general have been dealt with in depth and width in academia, policy circles and increasingly also in civil society campaigns since Auty presented the *resource curse thesis* 1993[586]. In parallel, transparency and the notion of multi-stakeholder governance have evolved to global norms[587] setting the normative context of the Extractive Industries Transparency Initiative (EITI). The EITI was announced 2002 by the British government at the World Summit on Sustainable Development in Johannesburg. The EITI sets a standard for transparency requiring its participants to disclose revenues generated in oil, gas and mining. This applies both to the operating companies' payments to national governments as well as to governments' revenues received from the respective extractive industries. The two data sets can then be compared and assessed in terms of their congruity[588]. Revealing discrepancies in the numbers identify possible corruption. By eliminating traditional obscurity in financial transactions in the oil, gas and mining sector the EITI seeks to deprive public officials and private business of the possibility to further engage in corrupt practices. Subsequently – in theory – financial resources that would have been squandered in bribes and other acts of corruption now can potentially be used to enhance sustainable development[589]. At this stage, the impact of the EITI cannot yet be captured. Also the potential of transparency as an instrument to reduce corruption has been subject to debate[590].

The EITI not only emerged in parallel to other sustainability governance schemes in the mineral resource sector such as the Kimberley Process Certification Scheme for tracing the origin of so called conflict diamonds, diamonds related to instigating or lengthening conflict in certain African countries. The Kimberley Process initially even served as a blueprint when designing the EITI from scratch[591]. The EITI differs from the Kimberley Process in the sense that the EITI targets developmental objectives beyond purely security related issues.

6.1   General aspects of the EITI

6.1.1   Actors involved in founding the EITI

All three actor groups of civil society, private business and public authorities were involved in constituting the EITI. The activities of the British government dominated the process.

From the start, the EITI attained high support from governmental development cooperation, championed by the British Department for International Development in terms of both political and financial support[592]. Then Prime Minister of the United Kingdom Tony Blair personally announced the launch of the initiative at the Johannesburg World Summit on Sustainable Development in 2002. The British government served as the

---

586 Basedau et al. 2005
587 cf. Haufler 2010: 53, Garsten et al. 2008: Introduction, Grossman et al. 2008: 100 – 101 on transparency; Hallström, Boström 2010: 6 – 10 on multi-stakeholder
588 EITI Rules 2010: 17
589 EITI Rules 2010: 9, EITI Principle 1
590 Kolstad et al.: 2006
591 Dingwerth et al. 2009: 730
592 Koechlin et al. 2009: 92, 108

driving force behind the emergence of the EITI. At the end of the day, governments of the developed world and western policymaking circles have been responsible for promulgating the EITI[593].

Besides national governments, international organizations also supported the creation of the EITI. In the context of strengthening governance and transparency the World Bank Extractive Industries Review, 2000 – 2004, recommended that the World Bank Group require revenue transparency as a condition for new investments in extractive industries[594]. The report had a massive impact on raising awareness for the problematic correlation of the extractive sector and development further strengthening the cause of the EITI in development cooperation policy circles. EITI founder and EITI chairman Peter Eigen managed development programs in Africa and Latin America for the World Bank before founding the Transparency International and subsequently the EITI. Also the intergovernmental body of the G-8 supported the creation of the EITI. In the Action Plan *Fighting Corruption and Promoting Transparency* the G-8 summit in Evian, 2003 states in point 6: "Consistent with these principles and recognizing the importance of revenues from the extractive industries (oil, gas and mining), we have agreed to pilot on a voluntary basis an intensified approach to transparency"[595] not specifically articulating EITI but enhancing the spirit underlying its creation and most probably also actually implying it. Additionally, African leaders had committed to the cause of the just developing EITI in the New Partnership for African Development (NEPAD)[596].

In civil society, George Soros' Open Society Institute began focusing on extractive industries and established the Revenue Watch program to investigate financial flows in the oil sector, eventually broadening its focus to other sectors of extractive industries. The Publish What You Pay initiative, launched by Global Witness and the Open Society Institute also 2002, campaigned in a similar vein[597] and mobilized support from some 270 nongovernmental organizations aiming at mandatory disclosure of all payments in the oil, gas and mining sector. The EITI was developed n these footsteps but the initiative opted for a voluntary approach rather than the mandatory approach chosen by the Publish What You Pay campaign[598]. As with the Kimberley Process Certification Scheme the nongovernmental organization Global Witness was a key player also in the making of the EITI[599].

The EITI itself contests the multi-stakeholder nature of the initiative also in the founding phase from its launch in September 2002 up to the Lancaster House conference a year later implying involvement also from private businesses[600]. Nevertheless, while public authorities' and civil society support for the EITI is evident, private business engagement is not. Civil society organizations' campaigns surely targeted private businesses pressuring them to join in the project[601]. And private businesses were among the 140 delegates from 70 governments, companies, industry groups, international organizations, investors and nongovernmental organizations convening at the founding EITI conference in the Lancaster House in London, June 17, 2003, in order to agree upon the statement of principles and agreed actions[602]. But no information indicates forceful support on the side of private businesses in the context of the emergence of the EITI. No private business representative championed the making of the EITI in a manner similar to e.g. the Unilever in making the Marine Stewardship Council.

---

593   Hilson et al. 2009: 53
594   EIR 2004: iv
595   http://www.g8.fr/evian/english/navigation/2003_g8_summit/
      summit_documents/fighting_corruption_and_improving_transparency_-_a_g8_action_plan.html February 18, 2011
596   http://www2.dfid.gov.uk/news/files/eitireportconference17june03.asp February 18, 2011
597   Haufler 2010: 62
598   Le Billon 2006 – 2007: 98; Zimmer 2010: 77
599   Dingwerth et al. 2009: 730
600   http://collections.europarchive.org/tna/20070701080507/http://www.dfid.gov.uk/pubs/files/eitidraftreportstatement.pdf
      February 18, 2011: 2
601   Haufler 2010: 62
602   http://collections.europarchive.org/tna/20070701080507/http://www.dfid.gov.uk/news/files/eitireportconference17june03.asp
      February 18, 2011

Which actors were involved in founding the EITI?

- ✓ civil society actors
- – private businesses
- ✓ public authorities

6.1.2   Membership structure of the EITI

All three actor groups; civil society, private business and public authorities are members in the EITI.

The EITI association consists of the three EITI constituencies, referred to in the EITI *Articles of Association* in the order; countries – comprising implementing and supporting countries –, companies and civil society organizations. An EITI member of the EITI constituencies can be a personal representative or a legal entity[603].

Implementing countries are states that are implementing the EITI process and have at minimum achieved candidate status in the EITI scheme. Supporting countries are states supporting the EITI but not generally implementing the process. The constituency companies comprise the four sub-constituencies international oil and gas sector, mining sector, national oil or gas company, and institutional investors. Nongovernmental organizations, global action networks or coalitions make up the constituency *civil society*[604].

The EITI association is an organization with the three permanent institutional bodies; the EITI members' meeting held in connection with the EITI conference, the EITI board led by a chair and the EITI international secretariat led by a head of secretariat[605].

Which actors constitute the EITI membership?

- ✓ civil society actors
- ✓ private businesses
- ✓ public authorities

6.1.3   Members' representation in the EITI

Special provisions are installed for ensuring representational balance among the EITI constituencies.

The three EITI constituencies with their respective sub-constituencies make up a corporatist structure of the EITI members association. All EITI implementing and supporting governments are entitled to become members of the EITI association. Companies and civil society organizations are entitled to as many members of the association as they wish. Each implementing and respectively each supporting country or their unions are allowed up to one representative. The same applies to each company and associations representing them, and a maximum of five representatives from the sub-constituency institutional investors, and up to one representative from each civil society organization[606]. Each member of the constituency countries has one vote. The votes of the members of the constituencies companies and civil society are determined by dividing the total of country

603 EITI Rules 2010: 48
604 EITI Rules 2010: 48 – 49
605 EITI Rules 2011: 72
606 EITI Rules 2010: 49

votes by the number of members of the latter two constituencies respectively[607]. By doing so, the voting of the constituency *companies* and respectively *civil society* is each weighted to the same total as the voting of the constituency countries comprising implementing and supporting countries. This provision guarantees equal balance among the three constituencies' vote irrespective of their number of members.

How are member groups represented in the EITI?

- – federal structure
- ✓ corporatist structure
- – no special stakeholder representation

6.1.4   Congruence among rule-makers and rule-takers in the EITI

In the EITI, there is a partial overlap among the groups of rule-makers and rule-takers.

Rule-takers in the EITI are the EITI implementing countries. Besides the one exception of Norway, they are all resource rich developing countries from the South, the lion part from Africa. In contrast, all supporting countries are industrialized countries, twelve out of a total of 17 from Europe. The non-European supporting Countries are Australia, Canada, Japan, Qatar and the United States of America[608]. Due to natural global distribution of natural resource wealth the inclusion of southern countries in the EITI is a geological and geographical consequence. Yet, Northern countries such as the Netherlands, the United Kingdom, Norway and Germany have well developed extractive industries sectors as well. Germany e.g. is one of the world's leading producers of so called industrial minerals such as brown coal, china clay, rock salt, potash as well as stones and earths. Even gas is produced domestically[609]. Germany is involved in the EITI as a supporter and is thus represented in the rule-making group but has not signed up for the EITI as an implementing country. Thus, Germany does not implement the same standard that it expects – in the name of EITI – of other resource rich EITI implementing countries. Norway is the only exception of a Northern EITI supporting country that also implements the EITI standard in its domestic extractive industries sector as an EITI implementing country[610]. Summing up, while all rule-takers of the EITI are also represented in the rule-making group the rule-making group comprises many more members than those that are addressed by the EITI standard.

Are the groups of rule-makers and rule-takers congruent in the EITI?

- – congruent
- ✓ partial overlap
- – no overap

6.1.5   Mode of installing the EITI board of directors

The EITI board of directors is appointed along the corporatist lines of its membership. Specific modes of regional representation have also been established recently.

607 EITI Rules 2010: 50 – 51
608 http://eiti.org/supporters/countries February 17, 2011
609 BDI Bericht zur Verfügbarkeitssituation metallischer Rohstoffe und ihren Auswirkungen auf die deutsche Wirtschaft 2006: 11
610 http://eiti.org/countries/compliant April 17, 2011; http://eiti.org/supporters/countries April 17, 2011

The EITI board of directors is elected for a period of two years by the EITI members' meetings – the governing body of the EITI association – held at the biennial EITI global conference. Each EITI constituency nominates candidates from its own ranks sustaining the multi-stakeholder structure of the EITI members association. The former EITI International Advisory Group formed July 2005 was reconstituted as the EITI board in its current form in 2006[611]. The EITI board of directors consists of 20 board members including a chair. Eight board members represent the constituency *countries*, three of them from supporting countries and the remaining from implementing countries. Furthermore, it is attempted that at least three representatives of the implementing companies are EITI compliant. Companies appoint six members for the board and civil society five[612]. Within *companies* two seats are ascribed to the sub-constituencies international oil and gas respectively mining sector, and one for a national oil or gas company respectively an institutional investor.

According to EITI rules, resolutions adopted by the members' meeting should be achieved in consensual agreement. For the case that a vote is required, resolutions are adopted by qualified majority requiring the support of at least two thirds of the total votes cast and must include the support of at least one third of the votes cast by the members representing each constituency. The total number of votes for the members of each constituency shall be equal and be determined as follows: members from the constituency of countries have one vote each; the votes for members from the constituency of companies and the constituency of civil society organizations is determined by dividing the total of country votes by the number of members of the company and civil society constituencies respectively. Additionally, a quorum of a members' meeting shall be a minimum of half of the members, and must include at least one third of the members from each constituency[613].

Principles for nominating candidates for election at the global conferences exist as guidance for the individual internal processes of the EITI-constituencies. Implementing countries e.g. select their nominations by preferential vote, whereby each implementing country indicates which nominee it wishes to select for each of the available seats, by means of a ranked ballot. As for civil society, the selection process is undertaken by current civil society board members that are not seeking re-election for the seats. They assess the capacity of the candidate and then consult with civil society in their regions and finally decide by unanimous opinion. The selection process for the EITI constituency *companies* differ depending on the sub-constituency but mostly rely on consensus on the candidate among the members of the sub-constituency[614].

As for federal representation, all implementing countries are to be represented in the board by one of the three regions; Francophone Africa, Non-Francophone Africa and other parts of the world. Of the two board seats for supporting countries, two are attributed to European countries and one ascribed to a non-European country. As for civil society organizations, two of the five seats go to OECD/supporting countries and three to implementing countries[615].

How is the EITI board of directors put in place?

- – self-appointment
- ✓ appointment by membership groups (corporatist/federal)
- – election by members

---

611 Koechlin et al. 2009: 100
612 EITI Rules 2010: 51
613 EITI Rules 2010: 50 – 51
614 EITI Constituency Guidelines 2011: 3
615 EITI Constituency Guidelines 2011

6.1.6   The EITI secretariat

The EITI international secretariat carries out substantive tasks for the scheme.

As part of its substantive tasks, the EITI secretariat is involved in reviewing application and assessing conformity with the EITI requirements in the context of EITI candidacy and "will work closely with the senior individual appointed to lead on EITI implementation"[616]. Among its administrative tasks are the responsibility for implementing policy decisions of the EITI Board and coordinative tasks relating to communication, administering stakeholder consultation, managing EITI publications in a resource centre, and overseeing the validation process. Jointly with supporting and implementing countries, the EITI international secretariat also organizes the biennial EITI Conference[617].

The secretariat opened September, 2007 and is hosted by the government of Norway in Oslo. By EITI's own account, it is an independent body, solely accountable to the EITI board. Head of secretariat, currently Jonas Moberg, leads a staff that includes four regional directors, an executive secretary and an office manager. EITI's focus on Africa is mirrored in the delineated regions of responsibility of the respective four regional directors all including African states. The regions listed with the respective regional directors are Anglophone/Lusophone Africa and Middle East, Francophone Africa, Francophone West Africa, and Latin America, China and other African countries, and do not mirror actual political geographies, like continents or regional associations.

What is the capacity of the EITI secretariat?

 – no permanent secretariat
 – secretariat with administrative tasks
 ✓ secretariat with substantive tasks

6.1.7   The EITI's relation to other GSCSs

The EITI operates in nested cooperation with other GSCSs in the mineral resource sector.

By seeking complementarity and avoiding duplication in efforts of existing initiatives in the mineral resource sector, the EITI is explicitly not operating in open competition to others[618]. "The EITI has successfully embedded itself in other institutions which further reinforce its aims"[619]. The EITI acknowledges audits of international standards in its core EITI and does not require additional EITI audits in these cases if these audits also include financial statements[620]. Vice versa, other initiatives, such as the International Council on Mining and Metals or the United Nations Global Compact support the EITI as a concrete action in their broader objective of enhancing sustainable development[621]. Cooperation is also underscored by personal interrelations. Anthony Hodge, president of the International Council on Mining and Metals is a member in the EITI Board[622]. The Global Reporting Initiative integrates EITI into its framework[623]. In its indicator protocol compilation series,

---

616 EITI Rules 2011: 16
617 http://eiti.org/about/secretariat February 14, 2011
618 Advancing the EITI in the Mining Sector 2009: 39
619 Haufler 2010: 68
620 Implementing the EITI 2008: 37
621 EITI 2009: 41
622 Haufler 2010: 66, http://eiti.org/about/board Feburary, 21, 2010
623 Haufler 2010: 67

the mining and metals commentary reads: "report countries of operation that are subscribers to the Extractive Industries Transparency Initiative"[624].

The EITI stresses similarities in the scope of the EITI and the Kimberley Process Certification Scheme. One overlap can be detected in the latter's provisions outlined in Section V of the official document *Co-operation and Transparency* regarding publishing of statistical data[625]. This is even more specifically the case in the Kimberley Process' provision "[…]all cash purchases of rough diamonds are routed through official banking channels, supported by verifiable documentation"[626]. The EITI focuses on an array of natural resource sectors, primarily oil and gas and mining – including the Kimberley Process Certification Scheme's exclusive focus on diamonds.

How does the EITI interrelate with other GSCSs?

- – no relations (monopoly)
- ✓ nested cooperation
- – open competition

6.1.8   The EITI's relation to (inter-)governmental bodies

Overall, the EITI attains strong support by governmental bodies on the national as well as international level.

On a national level, supporting countries often enhance the EITI's activities by incorporating them in their broader development policies, a pattern also observed in the case of the Forest Stewardship Council in forest certification in the Congo Basin. Here involvement will come from the development ministry. The British Department for International Development has supported the EITI strongly from the outset, but also the German Federal Ministry for Economic Cooperation and Development is constructively engaging with the EITI[627]. For implementing countries, the EITI supplements public policies on broader budget and financial transparency reforms, often overseen by ministries of finance[628].

On an international level, the EITI cooperation with the World Bank is not only reflected in the personal linkage to EITI founder and chairman, Peter Eigen, former regional director in the World Bank[629]. The World Bank also manages the EITI multi-donor trust fund. Other international organizations have also endorsed the EITI's activities. 2008, the United Nations General Assembly adopted a resolution supporting the EITI and the G-8 has been supportive of the cause of the EITI from start[630].

How does the EITI interrelate with (inter-)governmental bodies?

- – no relations
- ✓ orchestration
- – delegated authority

---

624 Advancing the EITI in the Mining Sector 2009: 43
625 Advancing the EITI in the Mining Sector 2009: 40
626 KPCS Document 2002: 13
627 http://www.bmz.de/de/index.html February 18, 2011
628 Advancing the EITI in the Mining Sector 2009: 40
629 http://eiti.org/node/948 February 18, 2011
630 Shaxson 2009: 7

6.1.9   Financing of the EITI's activities

The EITI bulk of financing derives from voluntary donations.

The EITI association is a non-profit association financed by voluntary contributions from EITI members and grants from bilateral and multilateral donors, international financial institutions and other agencies, organisations and entities[631]. International financial institutions are central to providing the EITI with technical and financial support[632]. Membership fees are not charged[633]. No revenues are generated through market activities, since the validation process lies outside the scope of EITI activities and are carried out and financially borne by the implementing countries themselves. The EITI also does not offer a trademark nor does it provide for accreditation or certification services like the Forest Stewardship Council.

Principally, the private sector and supporting countries bear the core responsibility of financing the EITI's international management. Their support is supplemented by contributions by civil society and to a more substantive extent by the Norwegian government mostly related to sustaining the activities of the EITI international secretariat in Oslo. This is reflected in the EITI's financing structure, the private sector contributing 40%, supporting countries 37%, the Norwegian government 20%, and nongovernmental organizations 4%[634].

Additionally, a multi-donor trust fund was established for the EITI, August 2004 through an agreement by the British Department for International Development and the World Bank. 2005, the governments of Germany, the Netherlands, and Norway were the first to join the trust fund after the United Kingdom as founding contributor. France joined in 2006, Australia, Belgium, Canada and Spain in 2007, the US and European Commission in 2008, and Finland and Switzerland in 2009. Within the arrangement of the multi-donor trust fund the World Bank manages funds on behalf of multiple donors helping to support the World Bank Group's technical assistance and financial support to EITI-implementing countries and global knowledge activities on EITI[635].

How are the EITI's activities financed?

- ✓ voluntary donations
- – regular contributions
- – marketing of the GSCS's activities

6.1.10 EITI scheme evaluation

A review of the governance arrangements of the EITI association is scheduled for within two years after passing the constitution of the association and is to be undertaken by the EITI board[636].

February 2009, the EITI adopted the *Articles of Association for the Extractive Industries Transparency Initiative*. Article 21 stipulates "review of the governance arrangements of the EITI Association should be undertaken by the EITI Board within two years of the constitution of the Association"[637]. The two year period has just come to an end and resulted in a revised edition of the EITI rules, finalized February 2011. One change regards the

---

631 EITI Rules: 54
632 Koechlin et al. 2009: 96
633 Koechlin et al. 2009: 49
634 http://eiti.org/about/funding February 17, 2011
635 Implementing the EITI 2008: introductory note
636 EITI Rules 2010: 55
637 EITI Rules 2010: 55

amendment of the EITI rules document by an entire new chapter summarizing EITI requirements for implementing countries formerly part of the validation guide. The requirements "are now more clearly articulated, and include a number of new requirements to ensure the quality and consistency of the EITI process"[638].

Responsibility for reviewing the scheme was with the EITI board even before the procedure was formerly institutionalized in the 2009 EITI articles of association. Between the launching of the EITI in 2002 and the adoption of the new articles 2009, the EITI scheme experienced structural changes brought about by a thorough review of the EITI scheme carried out by the EITI International Advisory Group 2006. Main outcomes of this process were extending the EITI's activities to the entire mining sector beyond the scope of exclusively oil and gas, establishing the EITI international secretariat, reinforcing the multi-stakeholder nature of the EITI board and adopting the validation guide[639].

Has the EITI institutionalized procedures for evaluating the scheme?

- – no institutionalized evaluation
- ✓ institutionalized scheme evaluation by management, (members and/or stakeholders)
- – institutionalized scheme evaluation by an autonomous body

6.2 Characteristics of the EITI global standard

6.2.1 Subject of the EITI global standard

The EITI standard entails procedural requirements.

The EITI's overall objective is the full publication and verification of company payments and government revenues from oil, gas and mining[640]. EITI requirements demand procedural changes of EITI members. EITI criteria 1 states e.g.: "Regular Publication of all material oil, gas and mining payments by companies to governments ("payments") and all material revenues received by governments from oil, gas and mining companies ("revenues") to a wide audience in a publicly accessible, comprehensive and comprehensible manner"[641]. Other procedural adoptions required of governments and companies are e.g. entailed in one of the four sign-up indicators requiring government to appoint a senior individual to lead on EITI implementation[642], or e.g. in another of the EITI criteria requiring a work plan for implementing the criteria[643]. Subsequently, the challenge of the initiative is to assure that the EITI does not become a "triumph of form over results, with real power remaining in the hands of government and corporate elites". "[T]he EITI helps them [states] credibly commit to reform. It does not, however, catalyze such reforms itself"[644]. This again underscores the EITI's focus on procedural requirements rather than measurable results on performance levels.

---

638 EITI Rules 2011: 8
639 Koechlin et al. 2009: 103 – 105
640 Implementing the EITI 2008: introductory note
641 http://eiti.org/eiti/principles February 19, 2011
642 http://eiti.org/eiti/implementation/signup February 19, 2011
643 http://eiti.org/eiti/principles February 19, 2011
644 Haufler 2010: 69

What is subject to the EITI global standard?

   ✓ procedures (production/process management)
   – results (product/performance)
   – origin of product

6.2.2   Chain of custody certification in the EITI

The EITI certificate is not visible to consumers on a product at a sales counter.

The EITI'S focus on revenue transparency entails more an immaterial requirement and does not apply to a trading chain of commodities. Thus chain of custody certification cannot apply to the EITI in the same way that it applies to wood products labeled against the Forest Stewardship Council standard or seafood labeled against the Marine Stewardship Council standard. The commodities of oil, gas and mining are further manufactured and do not end up in their primary form at the sales counter for purchase by an end consumer. This hampers visibility of EITI certification. A superficial search on respective companies' homepages, such as BP or Total, shows that they clearly demonstrate their participation in the EITI as part of their sustainability efforts[645]. Yet, this information is reserved to concerned consumers and does not reach the end consumer engaging in everyday consumption.

At which stage in the chain of custody does certification apply?

   – certificate visible for end consumer
   – certificate included in other end consumer visible certificate
   ✓ business to business certificate not visible to end consumer

6.2.3   Precision of the EITI global standard

The EITI global standard comprises elements of the most general nature down to measurable rules.

The EITI standard comprises the *EITI Principles and Criteria* and the *EITI requirements*. The EITI validation guide is also central to the EITI scheme but relates more to the conformity assessment process and will be dealt with in the respective point.

 There are twelve principles, six criteria and 21 requirements. The 21 requirements are structured in six parts; *sign-up requirements, preparation requirements, disclosure requirements, dissemination requirements, review and validation requirements, and retaining compliance requirements*[646].

The 21 EITI requirements are further structured in bullet points on two levels. The number of bullet points accompanying each EITI requirement varies from none at all up to nine points on both the first and second sub-level. An example, requirement 9) stipulates, "[t]he multi-stakeholder group is required to agree a definition of materiality and the reporting templates". Bullet point d) accompanying requirement 9) on the first

---

645 http://www.total.com/en/our-challenges/ethical-business-conduct/financial-transparency/eiti-201668.html,
     http://www.bp.com/sectiongenericarticle.do?categoryId=9032737&contentId=7060014 February 24, 2011
646 EITI Rules 2011: 14 – 15

sub-level stipulates, "[i]t is commonly recognized that the following revenue streams should be included". The second sub-level lists the ten items included in the requirement such as iii) "profits taxes", iv) "royalties" and ix) "other significant benefits to government as agreed by the multi-stakeholder group"[647].

By "set(ting) out the requirements for countries wishing to implement the EITI", the EITI requirements constitute measurable rules in the EITI scheme. The chapter also contains guidance on how to best ensure that these requirements are met. Thus, the requirements do not only constitute a part of the EITI standard but also relate to the process of conformity assessment leading to partial convergence of aspects relating to the standard respectively conformity assessment in the EITI[648].

In terms of precision the twelve EITI principles can be understood as general principles and the EITI criteria as *specific norms*. The EITI principles differ from the criteria in the respect that they mirror the ideological fundament underlying the EITI and its proponents' motivation, e.g. principle 1: "We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts"[649]. Formulated in first person, the EITI principles constitute – by EITI's own account – the "cornerstone of the initiative"[650]. The six criteria entail requirements addressing EITI clients directly, e.g. criteria 1: "Regular publication of all material oil, gas and mining payments by companies to governments ("payments") and all material revenues received by governments from oil, gas and mining companies ("revenues") to a wide audience in a publicly accessible, comprehensive and comprehensible manner"[651].

The EITI makes a point of conveying a sense of national ownership to the EITI within the EITI member countries. Because the EITI affirms individual country specific methods for implementing the initiative the EITI global standard must be flexible for individual adaptation in the domestic context. The EITI acknowledges this necessity but has nevertheless developed measurable rules constituent to its global standard.

> *To which degree of precision is the EITI global standard formulated?*
>
> – only general principles
> – also specific norms
> ✓ also measurable rules

6.2.4   Context sensitivity of the EITI global standard

The EITI global standard serves as a framework for a national standard.

An EITI national standard does not exist as such. Yet the EITI global standard requires the national multi-stakeholder group to design a "work plan, containing measurable targets" and "to agree a definition of materiality and the reporting templates"[652]. These elements resemble constituent parts of a national standard based on the framework set out by the EITI global standard.

---

647 EITI Rules 2011: 23
648 EITI Rules 2011: 13
649 http://eiti.org/eiti/principles February 18, 2011
650 http://eiti.org/eiti/principles February 18, 2011
651 http://eiti.org/eiti/principles February 18, 2011
652 EITI Rules 2011: 15

"The guidance [entailed in the requirements] is limited given that the EITI is a robust but flexible standard, leaving national stakeholders to adapt it to local needs and context"[653]. The EITI principle 2 affirms "[…] that management of natural resource wealth for the benefit of a country's citizen is in the domain of sovereign governments to be exercised in the interests of their national development"[654]. While respecting the voluntary nature of the EITI, the EITI global standard requires the development of country-specific methods in order to achieve EITI compliant status. Subsequently drafting a national standard is part of the EITI implementation process. The EITI global standard comprising the EITI principles and criteria and requirements themselves entail no national provisions but serve as a framework for the EITI national standard designed by the EITI national multi-stakeholder group.

Is the EITI global standard context sensitive?

– only global standard
– global standard takes regional/national specifics into consideration
✓ global standard as framework for local/national/regional standard

6.2.5   Minimum or maximum standard in the EITI

The EITI global standard entails minimum requirements[655]. At the same time, EITI compliant countries are encouraged to implement further steps beyond the minimum standard.

The EITI brand name compliant can first be used when all requirements of all stages have been met to the full satisfaction of the EITI board. Firstly, in order to achieve candidate status, countries must pass through the *sign-up process* by meeting five sign-up requirements. These five stipulations require of the government to 1) issue an unequivocal public statement of its intention to implement EITI, 2) commit to work with civil society and companies on EITI implementation, 3) appoint a senior individual to lead on the implementation of the EITI, 4) establish a multi-stakeholder group to oversee the implementation of the EITI, and finally 5) the multi-stakeholder group in consultation with key EITI stakeholders, should agree and publish a fully costed work plan, containing measurable targets, and a timetable for implementation and incorporating an assessment of capacity constraints[656]. The Nigerian EITI was the first implementing country to establish a multi-stakeholder group[657].

Only once the EITI board has decided that the country fulfills the first five sign-up requirements will the respective country become an EITI candidate country – the minimum requirement for membership in the EITI association as an EITI implementing country. Candidate countries then have 18 months to publish an EITI report and two and a half years to submit a final validation report[658]. The EITI requirements 6 – 20 further guide the candidate country through the subsequent steps of EITI implementation leading to the submission of the validation report pre-conditional for EITI compliance. But the EITI process does not end by the candidate country becoming EITI compliant. Requirement 20 deals with "steps to act on lessons learnt, [to] address discrepancies and ensure that EITI implementation is sustainable" in order for the EITI scheme to "lead towards the fulfillment of the EITI Principles by contributing to wider public debate"[659]. Finally, the last

---

653 EITI Rules 2011: 13
654 EITI Rules 2010: 42
655 EITI Rules 2010: 7
656 EITI Rules 2011: 14
657 Haufler 2010: 66
658 EITI Rules 2011: 21
659 EITI Rules 2011: 31

requirement 21 relates to maintaining adherence to all of the 20 EITI requirements in order to retain compliant status[660]. To date, Azerbaijan, the Central African Republic, Ghana, the Kyrgyz Republic, Liberia, Mongolia, Niger, Norway, Timor-Leste, and Yemen have achieved EITI compliant status[661].

Having achieved compliant status, an ambitious EITI implementing country is welcome to further elaborate its EITI commitment by implementing "EITI plus" consisting of steps superseding compliance with the regular international EITI criteria and validation indicators – the minimum requirement for achieving EITI compliant status[662]. E.g., the EITI requires disclosure of revenues generated in only oil, gas and mining. One country, Liberia, has expanded this requirement also to revenues generated in another sector, forestry – this is one example of an EITI plus indicator[663]. There is no uniform catalogue of EITI plus. Rather, possible steps differ depending on the individual country's EITI program.

How ambitious is the EITI global standard?

- ✓ minimum standard
- ✓ progressively demanding standard
- – maximum ("gold") standard

6.2.6   Incentives for client participation of the EITI global standard

The EITI offers an array of incentives. Possible reputational benefits outweigh the prospective for purely economic gains and the legal incentive also inherent to the EITI.

Prospective reputational benefits attract implementing countries to sign up to the EITI in the first place. The incentive for many governments and companies to adhere to join EITI has been to help deflect criticism and gain domestic and international legitimacy[664]. Adhering to the EITI signalizes investors and international financial institutions that the country is willing to promote economic and political stability and thus improving the investment climate[665]. This is especially relevant for countries related to conflict, despotic rule and corruption such as Central African states. Civil society in Côte d'Ivoire e.g. describes the government's objective as "[…] to put in place the EITI in order to get financing from the International Monetary Fund and the World Bank – that is the motivation of the state[666]. Vice versa, stable African countries such as Botswana have not entered the EITI despite the mining industry as key to its economy[667]. "Botswana, e.g. have a good relationship with their investors; therefore, they feel they do not have to participate in international conferences and meetings"[668]. Civil society organizations have criticized the voluntary nature of the EITI from the start and to date hold "[o]nly if legal frameworks are implemented can resource governance [implying EITI and KP] be effective"[669]. As for companies reputational incentives are increasingly attractive for the oil industry due to rising awareness

660 EITI Rules 2011: 32
661 http://eiti.org/countries/compliant, February 25, 2011
662 Implementing the EITI 2008: 36 – 37
663 Implementing the EITI 2008: 38
664 Auty, le Billon 2007: 178
665 Garrett 2008: 28; Schlieritz 2009: 122
666 BICC 2009: 28
667 USGS Minerals Yearbook Ghana 2009
668 Eigen 2006
669 BICC 2009: 28

and acknowledgement of transparency and the issue of corruption in the sector[670]. Furthermore, "it is an easy and not very costly governance contribution for companies to support EITI"[671].

No price premium can be achieved for implementing the EITI. Yet, companies can gain in purely economic terms if participating in EITI relieves them from having to pay bribes to public agencies or officials, e.g. for acquiring licensing permits in return[672]. On a macro-level in the long run, joining the cause of the EITI may offer implementing countries the prospective for economic growth since the adoption of codes of practice such as the EITI helps to constrain the scope for growth-repressing rent-seeking often prevalent in resource rich countries[673]. The initiative has been recognized as an important step in creating transparency about oil revenues but the question of EITI's contribution to actually help the people on the ground in e.g. the Niger Delta or to solve violent conflict is regarded as unresolved[674].

As for the legal incentive, similar to the Kimberley Process Certification Scheme, the EITI presses national governments to adopt the process and to provide for legal incentives on national level for companies to participate. E.g., the indicator assessment tool accompanying grid indicator 11, "Validator will need to see evidence that the government has done one of the following: introduced/amended legislation […]"[675]. This legal incentive is an EITI requirement and subsequently only applies once the implementing country has already signed up to the EITI. It cannot serve as an incentive for attracting governments to adopt the scheme in the first place. Yet, once a country has signed up for the EITI, companies engaging in the respective country cannot bypass the EITI requirements as they are adopted in domestic law[676].

Due to grounds of contractual confidentiality and competition, strong incentives are necessary for encouraging companies to join in the objective of the EITI[677]. This is especially the case for the oil and gas sector often dominated by non-listed para-statal companies in producing countries with weak tradition in accountability "only beginning to grapple with the idea of democracy"[678].

> *What are clients' incentives to participate in certification against the EITI global standard?*
>
> ✓ reputational incentive
> – economic incentive
> – legal incentive

6.2.7   Industry scale of the EITI global standard

The EITI's core focus is on large-scale extractive industries operating in oil, gas and (industrial) mining[679].

Due to the EITI's focus on revenue disclosure, the higher the revenues the more likely their disclosure can make a difference in terms of development. This implies that the more large-scale companies sign up for the

---

670 Schlieritz 2009: 122
671 Zimmer 2010: 69
672 Kolstad et al. 2008: 524
673 Auty 2007: 631
674 Zimmer 2010: 68, Schlieritz 2009: 123
675 EITI Rules 2010: 23
676 Schlieritz 2009: 121
677 Le Billon 2006 – 2007: 98
678 Hilson et al. 2009: 57
679 Garrett 2008: 30

EITI, the more effective it can be in achieving its indirect objective of contributing to sustainable development in natural resource rich countries. Especially, the oil and gas sector is characterised by the input of advanced technology and large capital investments borne by transnational corporations. This is even more the case for offshore oil extraction operations. Additionally, with the argument of avoiding duplication the EITI leaves governance of the artisanal and small-scale mining to the existent initiative, Communities and Small-Scale Mining[680]. 2007, the EITI secretariat commissioned a report on challenges and opportunities for EITI implementation in the Democratic Republic of Congo's artisanal and small-scale mining sector. As a result, while recognising the high relevance of the sector the EITI assigns comparatively "low priority" to activities in artisanal and small-scale mining for reasons relating to the challenging circumstances of the often informal sector and to EITI's core focus on (large-scale) extractive industries[681]. From a practical perspective, focussing on larger operators at the export stage is more feasible and if the EITI is successful, artisanal and small-scale mining would benefit indirectly from a larger percentage of the entire revenue the sector produces returned to the community level and invested in improving labour conditions[682].

The EITI principles also apply for international financial institutions financing extractive sector projects again underscoring EITI's focus on large scale industry due to their high investment demand[683]. By October 2006, over 70 globally operating investment companies recognized the EITI criteria[684].

Which scale of industry does the EITI address?

- ✓ large-scale (state) companies
- – small-scale and artisanal producers
- – no specification in industry scale

6.3   Developing the EITI global standard

6.3.1   Procedures for evaluating the EITI global standard

The provision of scheme evaluation on a biennial basis also applies to the EITI global standard.

The core documents making up the EITI global standard and the EITI scheme were developed by and by. The principles are the oldest document and date back to 2003. The criteria were introduced in 2005. In 2007, the EITI developed the validation guide, 2009, the first edition of the EITI rules comprising all core EITI documents, and just early 2011 the 21 EITI requirements were adopted in the EITI rules. The adoption of a new EITI constituent document coincides with the biennial scheme evaluation as stipulated in the EITI articles of association. Scheme evaluation and standard evaluation in the EITI are interchangeable. The provision of a biennial "review of the governance arrangements of the EITI Association"[685] applies likewise to the EITI global standard. The EITI principles and criteria remain unchanged since the date of their endorsement in the EITI. Understanding the principles as the "cornerstone of the initiative"[686] underscores a static character of the document. After the pilot phase of the EITI it was acknowledged that a more specific standard was needed.

---

680 Advanving the EITI in the Mining Sector 2009: 40
681 Garrett 2008: 30
682 Garrett 2008: 30
683 Le Billon 2006 – 2007: 98
684 Schieritz 2009: 122
685 EITI Rules 2011: 79
686 EITI Rules 2010: 9

The principles were not specified as a result, but rather supplemented by a set of criteria[687]. The International Advisory Board's review 2006 resulted in recognizing a need for stronger guidance of implementation. This again did not lead to an evaluation of the existing documents, the principles and criteria, but rather to developing the additional document, the validation guide[688]. The validation guide has now been revised after two years from publication of the EITI rules. Extracting the EITI requirements out of the validation guide, now constituting their own chapter in the EITI rules, was the main result of the validation guide revision. EITI practices demonstrate that the EITI global standard is evaluated on the same basis institutionalized for evaluation of the EITI scheme. In theory, evaluating the global standard is not institutionalized in the EITI articles of association.

What are the EITI evaluation procedures for the global standard?

  – only "spontaneous" evaluation through management, members and stakeholders
  ✓ institutionalized evaluation through management, members and/or stakeholders
  – institutionalized evaluation through autonomous body

6.3.2   Actors responsible for initiating revision of the EITI global standard

The EITI scheme management is responsible for initiating revision of the EITI global standard.

Since a paragraph on the evaluation of the EITI global standard is absent in the EITI articles of association, respective provisions on actors responsible for initiating standard revision, are also absent. In the article on scheme evaluation, likewise applicable to revision of the EITI global standard, at least in practice, the EITI board of directors is responsible for evaluating the EITI scheme. Subsequently, the responsibility for initiating revision of the EITI global standard also lies with the EITI board of directors. Generally, the EITI board is ascribed a central role in the EITI. After all, it was the international advisory's group report 2006 that led to the adoption of the validation guide[689].

Who can initiate revisions of the EITI global standard?

  ✓ only scheme management
  – also members
  – also stakeholders

6.3.3   Actors responsible for preparing the EITI global standard

Members and stakeholders are heard in giving inputs to the content of the EITI global standard but the EITI board, and formerly the EITI international advisory group is leading in preparing the documents.

---

687 EITI Rules 2010: 10
688 EITI Rules 2010: 8
689 Koechlin et al. 2009: 103 – 105

Following EITI's official announcement in 2002, the British Department for International Development hosted a multi-stakeholder workshop in order to discuss and further develop core components of the EITI including the principles[690]. On the basis of the workshop and subsequent consultation the EITI international advisory groups drafted and presented them for adoption by the multi-stakeholder constitutive meeting of the EITI, the first EITI global conference, 2003. The validation methodology was adopted in a similar vein. On the EITI's own account, the EITI board *finalized* the document[691]. Similarly, the EITI board met five times during 2005 and 2006 in order to publish the EITI source book, the predecessor to the EITI rules, also established by the EITI board[692].

Who is preparing the content of the EITI global standard?

- – technical bodies of external experts
- ✓ scheme management
- – members and stakeholders

6.3.4   Stakeholder consultation on the EITI global standard

The biennial EITI global conferences are the main venue for regularly institutionalized stakeholder consultation and are open for participation of selected stakeholders.

Regarding the openness of the conference, the EITI articles of association state that, it shall "provide a forum for EITI Stakeholders, being all with an interest in the EITI Association". This is slightly compromised by the next passage stating "[o]ther EITI stakeholders [besides the EITI Members, EITI Board and the EITI Secretariat] should also be invited, [...], to the extent that it is reasonably practical [...]"[693]. Among the objective of the EITI conference is the inclusion of new EITI stakeholders[694]. In addition to the regularly held EITI global conferences, meetings for stakeholder consultation are also organized on an ad hoc, not institutionalized basis. As mentioned in the preceding point, as for the development of the twelve EITI principles – the cornerstone of the initiative – a multi-stakeholder workshop was held, February 2003. Further examples of additional ad hoc meetings 2008, were the West African EITI Conference in Abuja, hosted by the Nigerian EITI multi-stakeholder group and the Economic Community of West African States (ECOWAS); three training seminars in Berlin hosted by the EITI international secretariat and a national coordinators meeting in Oslo, funded by the Norwegian government[695].

In opposition to the Forest Stewardship Council, the Fairtrade Labeling Organizations International or the Marine Stewardship Council, the EITI like the Kimberley Process Certification Scheme is not a member in the ISEAL Alliance. Subsequently, the EITI does not adhere to the *ISEAL Alliance Code of Good Practice for Setting Social and Environmental Standards*. As a consequence, the EITI does not employ similar formalized open comment periods as a constitutive part of the EITI stakeholder dialogue within the process of developing the EITI global standard.

---

690   EITI Workshop Report 2003: Annex I
691   http://eiti.org/eiti/principles February 25, 2011
692   EITI Rules 2010: 8
693   EITI Rules 2010: 49
694   EITI Rules: 50
695   EITI Rules 2010: 12

Finally, stakeholder consultation solely by means of physical presence at the EITI biennial conference and other meetings and not by other means such as online comment forms via the EITI homepage and the like resemble an institutionalized form of stakeholder consultation open only to selected stakeholders.

How is the process of stakeholder consultation organized?

  – ad hoc; not institutionalized
  ✓ institutionalized, open to selected stakeholders
  – institutionalized, open to all interested stakeholders

6.3.5   Final decision-making on the EITI global standard

The EITI board finally decides upon the global standard.

Albeit the EITI itself stipulates the EITI global conference as the highest governing body of the EITI, the responsibility of the conference is to merely pass the global standard. Statements such as "the EITI Board has agreed a number of clarifying rules, which have been communicated in EITI Policy Notes" or "the EITI Board agreed in May 2008 the Validation deadlines"[696] underscores the pivotal stance of the EITI scheme management in regards to final decision-making in the developing the EITI global standard.

The EITI conference is encouraged to achieve consensual agreement on all resolutions. In case this cannot be achieved, it is up to the EITI chair to decide that a vote is required. All EITI stakeholders present at the conference, except the EITI board and secretariat members, have one vote. In case of a vote, simple majority is sufficient for adopting resolutions[697].

How are final decisions on the EITI global standard made?

  – near consensus among members
  – voting among members
  ✓ decision by scheme management (board decision)

6.4   Conformity assessment in the EITI

6.4.1   Auditing in the EITI

The EITI board as the standard setting body on a global level is primarily responsible for auditing in the EITI.

The methodology for validation is the EITI's quality assurance mechanism in place of an audit as understood here[698]. The methodology offers relatively specific guidance on how to assess implementing countries' progress towards compliance with the EITI. Further documents support the EITI validation guide such as parts of the recent EITI requirements and the *Implementing the EITI document* or the *EITI Good Practice notes*[699]. The

---

696 EITI Rules 2011: 8
697 EITI Rules 2010: 50
698 http://eiti.org/Validation February 18, 2011
699 EITI Rules 2011: 13

EITI developed the validation guide as alternate to the audit and does not designate the form of third party certification common for other global standards and certification schemes.

Different actor groups are involved in the conformity assessment process in the EITI. When completing the sign-up steps, e.g., the appointed senior individual of the EITI applicant formally lodges a *Candidate Application* in writing to the EITI chairman. It is the EITI board in form of the *Outreach and Candidacy Committee* made up of EITI board members involving the EITI international secretariat who will evaluate the consistency of the EITI applicant with the EITI sign-up requirements and finally decide whether the EITI applicant achieves candidate status[700]. After the EITI candidate country has fulfilled the EITI requirements of publishing an EITI report and finally submitting the complete validation report within the set time frame "the Board will designate that country as EITI Compliant"[701].

The EITI validation constitutes the process from a candidate country to an EITI compliant and is structured in six steps[702]. In the first step, the national multi-stakeholder group agrees to commence validation. In the second step, the implementing country "must procure an EITI Validator from a list of accredited organizations and individuals pre-approved by the EITI Board"[703]. The third step comprises the actual process of validation resulting in a draft report in step four. In step five the validator produces a final validation report and in the final step six the EITI board analyses the report and decides on the status of the country. Despite the EITI's statement "[v]alidation is in essence an external, independent evaluation mechanism", at the end of the day, "the EITI Board, with the support of the International EITI Secretariat, exercises its mandate as the custodian of the EITI principles, criteria and Validation methodology"[704].

The EITI validation process has broader objectives than an audit: it evaluates EITI implementation in consultation with stakeholders, it verifies agreements with reference to the EITI global standard, and it identifies opportunities to strengthen the EITI process[705].

> *Which actor carries out the auditing in the EITI?*
>
> ✓ standard setting body on global level (centralized structure)
> – standard setting body on regional or national level (federal structure)
> – independent third party

6.4.2   Monitoring actors in the EITI

The EITI board representing the standard setting body on the global level is responsible for monitoring EITI compliance.

As with *auditing*, the EITI validation also is in place for *monitoring*. Subsequently, the procedures described in the preceding also apply to monitoring. A validator, appointed by the multi-stakeholder group installed by the government of the EITI implementing country monitors EITI compliance according to the validation methodology. On the basis of the validator's results the EITI board evaluates the status of the implementing country.

700   EITI Rules 2011: 16
701   EITI Rules 2011: 16
702   EITI Rules 2011: 35 – 36
703   EITI Rules 2010: 36
704   EITI Rules 2011: 34
705   Koechlin et al. 2009: 99

Which actor monitors compliance with the EITI global standard?

   ✓   standard setting body on global level (centralized structure)
   –   standard setting body on regional or national level (federal structure)
   –   independent third party

6.4.3   Modes of monitoring in the EITI

Reporting is a key requirement of the EITI and forms the basis of the EITI board's evaluation of the implementing countries' status. Additionally, monitoring respectively validation is institutionalized on a five year basis after achieving EITI compliant status and earlier, upon requirement of the EITI Board[706].

"[M]aking data of revenue flows from oil, gas and mining activities publicly available [reporting] is a key activity in the EITI process"[707]. This is further underscored by the prominent role ascribed to publications as stated already in EITI Criteria 1, "Regular publication of all material oil, gas and mining payments to governments […] and all material revenues received by governments from oil, gas and mining companies […] to a wide audience in a publicly accessible, comprehensive and comprehensible manner"[708]. Furthermore, reporting is dealt with in several indicators in the Validation Grid requiring reporting templates (indicator 9), governments to ensure that all companies will report (indicator 11), that both company and government reports are based on audited accounts to international standards (indicator 12, 13), that all material oil, gas and mining payments by companies to government/ received by the governments […] disclosed to the organization contracted to reconcile figures and produce the EITI report (14) and finally indicator 15 required the EITI report to identify discrepancies and make recommendations for actions to be taken. All EITI reports are available on the EITI homepage and are listed by EITI implementing country[709]. The required country work plan for fulfilling the EITI criteria is also part of the EITI report, as well as self-assessment forms on country and international level[710].

The difference between EITI and other initiatives requiring reporting such as the GRI, is that EITI requires publication of payments of the extractive industries per country of operation, whereas the GRI e.g. advances corporate-level reporting including environmental, and social performance in reports next to pure economic performance[711].

Which mode of monitoring is institutionalized in the EITI?

   –   fire alarm
   ✓   police patrol
   ✓   company reporting

706   http://eiti.org/eiti/implementation February 19, 2011
707   http://eiti.org/document/eitireports February, 21, 2010
708   EITI Rules 2010: 16
709   http://eiti.org/document/eitireports February, 21, 2010
710   EITI Rules 2010: 12, 28 – 29
711   Advancing the EITI in the Mining Sector 2009: 42

6.4.4   Accreditation in the EITI

The EITI board, i.e. the standard setting body on the global level is also primarily responsible for accrediting the validator for undertaking EITI validation.

Seven companies and partnerships have been accredited to undertake EITI validation, "[f]ollowing an international competitive bid process, including through the Official Journal of the European Union, the UK Department for International Development, on behalf of the International EITI Secretariat, and led by a committee of the EITI Board (Validation Committee)"[712]. The EITI board pre-approved the list of accredited organizations and individuals via the secretariat. Only accredited validators listed here can be procured by the EITI implementing country for carrying out the EITI validation. "The independence of the Validator is paramount"[713].

Accreditation in the EITI can also apply in cases when the EITI acknowledges audits undertaken by international standard bodies and these bodies are accredited.

Who is responsible for accreditation?

- ✓ standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- – independent third party

6.4.5   Dispute-settlement in the EITI

In the case of a dispute, the disputants, i.e. the EITI board and the EITI implementing country engage in bargaining.

The EITI Policy Note #5 T*emporary Suspension and Delisting of EITI Implementing Countries* deals with questions of dispute. As for the actual process, "[w]here the Board is concerned that adherence to the EITI Principles and EITI Criteria is compromised it shall task the International EITI Secretariat with gathering information about the situation and submit a report to the EITI Board"[714]. In case the EITI board determines offenses of an EITI implementing country, the country concerned may petition the EITI board to review its decision. The country may also appeal a decision of the EITI board made in accordance with the first paragraph to the next ordinary members' meeting. At all stages in the process, the EITI board shall ensure its concerns and decisions are clearly communicated to the implementing country[715].

How is dispute-settlement organized in the EITI?

- ✓ only bargaining between disputants
- – also mediation by "political" body
- – also adjudication by independent judicial body

---

712 EITI Rules 2010: 36
713 EITI Rules 2011: 36
714 EITI Rules 2010: 42
715 EITI 2010: 42 – 44

6.4.6 Means of enforcement in the EITI

In the event of non-compliance the EITI board can decide upon withdrawing privileges such as EITI compliant status and membership.

The EITI board may temporarily suspend or de-list an EITI implementing country in cases that are "manifestly clear that the EITI Principles and Criteria are not in a significant aspect adhered to and honored by an Implementing Country[716]. Having achieved candidate status and after elapse of the set time limit a country can be delisted from the EITI in case 1) validation has not started, 2) validation has started but not completed and 3) validation completed but 3a) no meaningful progress can be depicted. In the case 3b) validation completed and the candidate country can demonstrate meaningful progress yet does not fully fulfill the requirements for compliant status, the candidature can be renewed via application through the national multi-stakeholder group; 3c) validation completed, the candidate is close to compliance, compliant status will follow an EITI secretariat review and finally in best case 3d) validation completed and the EITI board verifies compliance, compliant status is granted for five years[717]. Suspension is temporary with a time limit set by the EITI board for the implementing country to address breaches with corrective measures. The board lifts suspension when satisfied with the measures undertaken by the country within the given timeframe. If the country does not implement corrective measures satisfactorily by the agreed deadline the board will decide that the country will be de-listed. In that case, the country loses its status as an EITI implementing country as well as its right for membership within the EITI association. The reputational damage can be high because the suspended or de-listed status will be clearly indicated on the EITI website and elsewhere.

Countries may also opt for voluntary temporary suspension for up to one year for reasons of e.g. political instability or conflict. The country is free to apply to lift the suspension at any time. In case voluntary suspension is in effect for more than a year, the EITI board will consider whether to de-list the country[718]. Guinea is an example of a country currently suspended from the EITI after applying for voluntary suspension December 2009[719]. Unless Guinea has already introduced procedures for reentering the EITI, according to EITI policy it must be delisted in short.

Any means of enforcement primarily affect the national countries and not the companies operating there.

How is non-compliance in the EITI dealt with?

- – no means of enforcement
- ✓ withdrawal of privileges
- – sanctions

---

716 EITI Rules 2010: 42
717 EITI Policy Note #3 2008: 1
718 EITI Rules 2010: 42 – 44
719 http://eiti.org/Guinea, February 21, 2011

7   THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION'S TECHNICAL COMMITTEE 207 (ISO/TC 207)

As a global standard and certification scheme the ISO distinguishes itself from the other cases under study by its high number of standards resulting from its operations in an array of industry sectors and other areas of application. In its over 60 years existence ISO has developed over 18,500 standards to date and produces ca 1,100 new standards annually[720]. Most other GSCSs looked at here, emerged around one single issue and as a consequence are designed around one core document of a standard such as the Forest Stewardship Council for sustainable forestry management, the Kimberley Process Certification Scheme for eliminating the trade in *conflict diamonds*, or the Extractive Industries Transparency Initiative for disclosing revenues in oil, gas and mining. In order to provide for comparability between the GSCSs under study, the empirical analysis of the ISO is primarily based on the ISO Technical Committee 207 (ISO/TC 207) as a GSCS of its own unless overall ISO provisions apply. The ISO/TC 207 is responsible for "[s]tandardization in the field of environmental management systems and tools in support of sustainable development", i.e. the ISO 14000 standard series, introduced in 1996[721]. Among the ISO standards the ISO 14000 family's ultimate objective of contributing to sustainable development fits best with the research project's focus on sustainability issues[722]. The approach of treating one ISO technical committee as an organization of its own is not new in the Social Sciences. It has also been employed in the context of the ISO Technical Committee 176 responsible for developing the ISO 9000 quality management standard series[723].

7.1   General aspects of the ISO/TC 207

7.1.1   Actors involved in founding the ISO/TC 207

The three actor groups; civil society, private businesses and public authorities were involved in the foundation of the ISO Technical Committee 207.

In the run up to the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, the newly founded Business Council for Sustainable Development approached the two main international standardization bodies, the International Organization for Standardization and the International Electrotechnical Commission with the objective of promoting sustainability issues in private businesses. This interaction resulted in the two latter organizations developing the Strategic Advisory Group on the Environment 1991. The strategic advisory group was commissioned with the task of assessing the need for a global standard for environmental management. The advisory group established six task groups for the exercise and submitted its recommendations late 1992 to the ISO technical management board, resulting in the creation of ISO/TC 207 environmental management[724]. The ISO and the International Electrotechnical Commission created the new ISO/TC 207 in January 1993 and it was formally inaugurated in the following June[725].

---

720 http://www.iso.org/iso/iso_catalogue March 15, 2011
721 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/iso_technical_committee.htm?commid=54808 April 18, 2011
722 http://www.tc207.org/About207.asp March 16, 2011
723 Tamm Hallström 2000: 85 – 99
724 http://www.tc207.org/About207.asp March 16, 2011
725 http://www.tc207.org/About207.asp April 18, 2011

As for the two international standardization organizations behind the launching of the ISO/TC 207, their history is strongly intertwined. As the first international organization for industrial standardization ever, founded 1906, the International Electrotechnical Commission served as a role model for creating the ISO in the aftermath of the Second World War[726]. The process of creating the ISO, "while certainly not exclusively or even primarily governmental, involved national interests and even government bodies"[727]. The American Engineering Standards Committee, e.g. represented the United States, formed in 1918 by professional associations who in turn invited representatives of U.S. Navy, War and Commerce Departments to join the organization explicitly characterized by a high level of inclusion among the range of its members[728]. When the ISO emerged in the 1940s the phenomenon *civil society*, understood as social advocacy groups was not yet prevalent. The situation was a different one in the 1990s, exemplified by the involvement of the Business Council for Sustainable Development in creating the ISO/TC 207. The ISO officially began operations on 23 February 1947, in Geneva, Switzerland. At the founding conference of the ISO, London 1946, the objective of the newly created organization was "to facilitate the international coordination and unification of industrial standards"[729].

Which actors were involved in the ISO/TC 207's foundation?

✓ civil society actors
✓ private businesses
✓ public authorities

7.1.2   Membership structure of the ISO/TC 207

Like in the ISO as a whole all three actor groups of civil society, private businesses and public authorities can become members in the ISO/TC 207.

ISO/TC 207 membership comprises participating members, observing members and liaison members. Generally for ISO as a whole, countries' national certification bodies constitute the members in the overall ISO as well as in the ISO/TC 207. Currently, 76 ISO members are involved in the TC 207 as participating members and 32 ISO members as observing members. All 76 ISO/TC 207 participating members are full members in the ISO as a whole. Out of the 32 observing members 23 have full membership status and nine a correspondent status. No ISO members with merely subscriber status are included in the ISO/TC 207[730]. The significance of the ISO membership categories is explained in the following point.

The national standardizing bodies making up ISO members and respectively the TC/207 membership differ in terms of their categorization in the threefold distinction here. Some are governmental agencies and belong to national ministries, e.g. in Afghanistan and Angola[731]. Others, such as the *Deutsches Institut für Normung*, established 1917 as the *Normenausschuß der deutschen Industrie*, are private organizations registered as a non-profit association including members from industry, associations, public authorities, commerce, the trades and research organizations[732]. Similarly, the 1918 established American Engineering Standards Committee,

726   Yates et al. undated: 8
727   Yates et al. undated: 3
728   Yates et al. undated: 11 – 12
729   Friendship Among Equals 1997: 15
730   http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
      iso_technical_committee_participation.htm?commid=54808 April 21, 2011
731   http://www.iso.org/iso/about/iso_members/iso_member_body.htm?member_id=513271,
      http://www.iso.org/iso/about/iso_members/iso_member_body.htm?member_id=316519 March 14, 2011
732   http://www.iso.org/iso/about/iso_members/iso_member_body.htm?member_id=1511 March 14, 2011

today the American National Standards Institute, is comprised of businesses and industrial organizations, standards setting and conformity assessment bodies, trade associations, labor unions, professional societies, consumer groups, academia, and government organizations[733].

The ISO/TC 207 is further structured in eleven subcommittees or working groups: The *chairman's advisory group*, a *portfolio task force* within the chairman's advisory group, a *terminology coordination group*, a group dealing with the *combat of desertification* and a working group dealing with *material flow cost accounting* as well as *general principles and framework*. Furthermore six subcommittees complement the ISO/TC 207. These are 1) environmental management systems, 2) environmental auditing and related environmental investigations, 3) environmental labeling, 4) environmental performance evaluation, 5) lifecycle assessment and finally greenhouse gas management and related activities, listed as subcommittee 7[734]. All groups and subcommittees have their own secretariats and are further structured in subdivisions. The ISO/TC 207 subcommittee 1 e.g. is further structured in three working groups[735]. Its' secretariat is administered by the British Standards Institution[736].

Which actors constitute the ISO/TC 207 membership?

- ✓ civil society actors
- ✓ private businesses
- ✓ public authorities

7.1.3   Members' representation in the ISO/TC 207

No special interest representation is institutionalized in the ISO/TC 207.

Within its membership, the ISO/TC 207 stipulates "a meaningful representation from developed countries, developing countries and countries with economies in transition in all major geographical regions"[737]. Furthermore the ISO/TC 207 "encourages its members to ensure that their delegations and positions reflect openness and represent broad constituencies, especially the concerns of environmental and consumer public interest groups and small and medium sized enterprises[738]. In order to fulfill these requirements, the committee has institutionalized the five following groups; the developing country contact group, the chairman's advisory group task force, the Spanish translation task force, the joint Arabic translation task force and the subcommittee 1 – strategic small and medium sized enterprises[739]. Notwithstanding these claims and the respective groups and task forces for achieving broad participation in the activities of the ISO/TC 207, no provisions stipulating modes of special interest representation are institutionalized in the actual membership base of the technical committee. Participation in all ISO technical committees is open to all ISO member bodies[740].

---

733 http://www.iso.org/iso/about/iso_members/iso_member_body.htm?member_id=2188 March 14, 2011
734 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
      iso_technical_committee.htm?commid=54808 April 21, 2011
735 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
      iso_technical_committee.htm?commid=54818 April 21, 2011
736 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
      technical_committee_contact.htm?commid=54818 April 21, 2011
737 Business Plan ISO/TC 207 2005: 3
738 Business Plan ISO/TC 207 2005: 4
739 Business Plan ISO/TC 207 2005: 4
740 ISO/IEC Directives, Part 1 2004: 10

Similar to the categorization of the overall ISO membership in full members, correspondent members and subscriber members, the ISO/TC 207 membership comprises participating members, observing members and liaison members. When expressing its interest in participating in an ISO technical committee, the national body must clearly indicate according to which status it intends to participate[741]. Participating technical committee members "represent countries who wish to vote, participate actively in discussions and have access to all relevant documentation". Observing members "represent countries not wishing to vote, but rather only to participate in discussions and receive all relevant information". Liaison members are "international or broadly based regional organizations who are invited to take part in discussions and are permitted to receive all information from the TC but are not granted voting status"[742]. These include major international business-sector organizations, nongovernmental organizations, regional, consumers and certification organizations[743]. Irrespective of their membership status within the specific ISO/TC all ISO full member bodies have the right to vote on the global standard developed by the technical committee. Member bodies with participating status are obliged to vote and will be degraded to observing members if they fail to fulfill this obligation[744].

As for the ISO as a whole, from the start of its operations to date, national standards bodies constitute ISO members[745]. The ISO defines it member body as the national body "most representative of standardization in its country"[746]. Only one member body for each country is accepted for membership of ISO. By the end of October 2010, ISO membership consisted of 163 members listed by country. ISO membership is structured in the three groups of member bodies, correspondent bodies and subscriber members[747]. Member bodies are full members and are entitled to participate and exercise full voting rights on any technical committee and policy committee of ISO. A *correspondent member* is usually an organization in a country which currently does not have a fully-developed national standards activity. Correspondent members do not take an active part in the technical and policy development work, but are entitled to be kept fully informed about the work of interest to them[748]. *Subscriber members* are countries with very small economies. Subscriber members pay reduced membership fees that nevertheless allow them to maintain contact with international standardization[749]. 2009, ISO had 162 members in total, the bulk 105 were full members, 47 correspondent members, and ten subscriber members[750]. The subscriber members were Antigua and Barbuda, Burundi, Cambodia, the Central African Republic, Dominica, Eritrea, Guyana, Honduras, the Lao People's Republic, and Saint Vincent and the Grenadines[751]. Although no special interest representation per se is installed besides the fact that only *member bodies* have a vote, the members are represented to highly varying degrees in technical committees[752].

> *How are member groups represented in the ISO/TC 207?*
>
>   –   federal structure
>   –   corporatist structure
>   ✓   no special interest representation

741 ISO/IEC Directives, Part 1 2004: 10
742 http://www.tc207.org/about207.asp#membership April 18, 2011
743 Business Plan ISO/TC 207 2005: 4
744 ISO/IEC Directives, Part 1 2004: 11
745 Yates et al. undated: 8
746 http://www.iso.org/iso/about/iso_members/member_bodies.htm April 29, 2011
747 http://www.iso.org/iso/about/iso_members.htm March 14, 2011; ISO 2010 – 2011:
748 http://www.iso.org/iso/about/iso_members/correspondent_members.htm March 14, 2011
749 http://www.iso.org/iso/about/iso_members/subscriber_members.htm March 14, 2011
750 ISO Annual Report 2009: 26
751 http://www.iso.org/iso/about/iso_members.htm March 14, 2011
752 http://www.iso.org/iso/about/iso_members.htm March 14, 2011

7.1.4   Congruence among rule-makers and rule-takers in the context of the ISO/TC 207

The groups of rule-makers and rule-takers are congruent in the ISO/TC 207.

Similar to the GRI guidelines, any organization – be they private businesses, nongovernmental organizations or public agencies – can constitute the rule-takers in the context of the ISO environmental management standard. As all of these groups also can be represented in the ISO/TC 207 as the rule-making body, the groups of rule-takers and rule-makers are congruent in the ISO/TC 207.

> *Are the groups of rule-makers and rule-takers congruent in the context of the ISO/TC 207?*
>
> ✓ congruent
> – partial overlap
> – no overap

7.1.5   Mode of installing the ISO/TC 207 board of directors[753]

The ISO/TC 207 is led by a chair and a vice chair and also has a chair advisory group similar to a board of directors. The ISO/TC 207 only states that it has "chosen to establish a Chair's Advisory Group"[754] but does not specify the modes underlying the establishment of the office. As its title implies, the group holds advisory functions in the technical committee and does not make any decisions for the TC.

The ISO as a whole has five principal officers, president, vice-president (policy), vice-president (technical management), treasurer and a secretary-general. Additionally, an ISO council exists consisting of the five officers and 20 elected member bodies[755]. The division of labor between the council and the secretariat lies therein that ISO operations are *governed* by the council and *managed* by the secretariat.

The council appoints the treasurer, the fourteen members of the technical management board, and the chairpersons of the policy development committees. It also decides on the annual budget of the central secretariat. The council is chaired by the president or vice-president (policy)[756]. The *ISO statutes* stipulate that, "while the general assembly is the ultimate authority of the organization, most of the governance functions of ISO are performed by the council in accordance with the policy laid down by the member bodies"[757]. The council meets twice a year and its membership is rotated to ensure that it is representative of ISO's membership. All member bodies are eligible for appointment/election to the council[758].

---

753 On the basis of the resources at my disposal, this point is so far indeterminate and will be completed in case it turns out to be central for the further analysis.
754 http://www.tc207.org/faq.asp?Question=11 April 18, 2011
755 http://www.iso.org/iso/about/structure/structure_council.htm March 14, 2011
756 http://www.iso.org/iso/about/structure/structure_council.htm March 14, 2011
757 http://www.iso.org/iso/about/governance_and_operations.htm March 16, 2011
758 http://www.iso.org/iso/about/governance_and_operations.htm March 16, 2011

How is the ISO/TC 207 board of directors put in place?

- • self-appointment
- • appointment by membership groups (federal/corporatist)
- • election by members

7.1.6 The ISO/TC 207 secretariat

The secretariat of ISO/TC 207 carries out administrative tasks for the committee.

Each technical committee and subcommittee has a secretariat assigned to an ISO member body[759], generally a national standardizing organization. The ISO TC 207 secretariat is held by the Standards Council of Canada and administered by the Canadian Standards Association, a member body of the ISO as a whole[760]. In opposition to the ISO central secretariat, the tasks of the technical committee secretariat resemble purely *administrative tasks*. The codification here indicating administrative tasks applies in specific to the ISO/TC 207 secretariat and not to the tasks of the ISO central secretariat commissioned also with substantive tasks for ISO.

The secretary-general, based at the ISO central secretariat in Geneva, manages operations as the ISO chief executive officer and reports to the ISO council. The secretary-general is responsible for providing administrative and technical support to the ISO members, coordinating the decentralized standards' development program of the worldwide activities of more than 3,200 technical groups that develop the standards in collaboration with the 160 ISO members, and for publishing the output. It is also the secretariat of the governing bodies, the general assembly, the council, the policy development committees (committee on conformity assessment, committee on consumer policy and the committee on developing country matters) and their subsidiary bodies, the technical management board and the committee on reference materials[761]. The central secretariat has grown from a staff of 15 in the 1950s to 170 in the 1990s, from 16 countries. The secretariat's staff numbers doubled in 1966 – 1967, four technical divisions were set up, each headed by an appointed engineer. In the respective time period the budget of the secretariat increased from CHF 340,000 to CHF 29,890,000[762]. The youngest figures for 2010 on full time staff write 154[763].

What is the capacity of the ISO/TC 207's secretariat?

- – no permanent secretariat
- ✓ secretariat with administrative tasks
- – secretariat with substantive tasks

---

759 http://www.iso.org/iso/standards_development/technical_committees.htm April 20, 2011
760 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
technical_committee_contact.htm?commid=54808 April 18, 2011
761 http://www.iso.org/iso/about/structure/iso_central_secretariat.htm March 14, 2011
762 Friendship Among Equals 1997: 83
763 http://www.iso.org/iso/iso_in_figures.htm March 17, 2011

7.1.7   The ISO/TC 207's relation to other GSCSs

The ISO/TC 207 like the ISO as a whole operates in nested cooperation with other standardizing bodies.

The ISO partnerships as a whole also apply to the ISO/TC 207. Additionally, the ISO/TC 207 lists 33 partnering organizations outside of ISO including other GSCSs as well as intergovernmental bodies. Furthermore, the ISO/TC 207 also lists 22 other technical committees within the ISO as partnering institutions[764]. Nested cooperation is especially distinctive in the context of cooperation between the TC 207 for environmental management systems and technical committees developing other ISO managerial standards such as the ISO/TC 176 responsible for the ISO quality management standard series 9000. The standard series ISO 9000 for quality management and the ISO 14000 family have served as a blueprint for the development of other ISO requirements or guidelines for good management practices.

The ISO strategic plan 2011 – 2015 states, "ISO effectively promotes and manages partnership with international organizations, standards developing organizations […]"[765]. Five additional actions are outlined for promoting collaboration in standardization, specifically by enhancing cooperation with other international standardizing bodies such as the International Electrotechnical Commission and the International Telecommunication Union. Together with the two organizations the ISO forms the World Standards Cooperation. The ISO issues standards and numerous other publications in cooperation with the International Electrotechnical Commission. The joint ISO/IEC Information center further exemplifies cooperation between the two organizations and "serves as a portal to the main information given on various pages of the ISO and IEC Web sites e.g. the ISO and IEC Catalogues"[766]. ISO President 2005 – 2006 stated at his inauguration"[n]ew developments and synergies should be fostered in areas such as standards for converging technologies, training and technical assistance or issues of intellectual property rights related to standards"[767].

On the level of the technical committees ISO has formal liaison relations with over 600 international and regional organizations and has further reinforced its links with international organizations representing different groups of stakeholders, such as the World Economic Forum, Consumers International , World Business Council for Sustainable Development, and the International Federation of Standards Users[768]. ISO also cooperates with regional partners representing Africa, the Arab countries, Europe, the Americas and Asia[769]. The list of organizations cooperating with ISO is very long[770].

How does the ISO/TC 207 interrelate with other GSCSs?

  – no relations (monopoly)
  ✓ nested cooperation
  – open competition

---

764 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
     iso_technical_committee.htm?commid=54808 April 18, 2011
765 ISO Strategic Plan 2011 – 2015
766 http://www.standardsinfo.net/info/index.html March 16, 2011
767 http://www.iso.org/iso/pressrelease.htm?refid=Ref944 March 16, 2011
768 http://www.iso.org/iso/about/discover-iso_isos-international-partners.htm March 14, 2011
769 http://www.iso.org/iso/about/discover-iso_isos-regional-partners.htm March 14, 2011
770 http://www.iso.org/iso/about/organizations_in_liaison.htm?filter=A March 14, 2011

7.1.8   The ISO/TC 207's relation to (inter-)governmental organizations

International organizations delegate authority to the ISO in general and to the ISO/TC 207 in specific.

The most renowned international organizations among the 33 item long list constituting the ISO/TC partner organizations are the European Commission, the United Nations Environment and Development Program, the World Health Organization or the World Trade Organization[771]. The World Trade Organization or the European Union delegate authority to the ISO/TC 207 to develop or harmonize standards for global application. The European Union employs the ISO 14001 standard as the environmental management system of the European Union eco-management and audit scheme[772].

The ISO/IEC information center informs on the relationship between WTO, ISO and IEC with regard to world trade and on standardizing bodies which have accepted the *World Trade Organization's Technical Barriers to Trade Code of Good Practice for the Preparation, Adoption and Application of standards*[773]. Accordingly, ISO has built a strategic partnership with WTO entailing political agreements within the framework of WTO underpinned by technical agreements.

ISO also collaborates with the United Nations and its specialized agencies and commissions, particularly those involved in the harmonization of regulations and public policies, such as the CODEX Alimentarius, on food safety measurement, management and traceability, the UN Economic Commission for Europe on the safety of motor vehicles and the transportation of dangerous goods, the World Health Organization on health technologies the International Maritime Organization on transport security, or the World Tourism Organization on the quality of tourism services. In addition, ISO cooperates with United Nations organizations that provide assistance and support to developing countries, such as the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization and the International Trade Centre[774].

How does the ISO/TC 207 interrelate with international organizations?

- – no relations
- – orchestration
- ✓ delegated authority

7.1.9   Financing of the ISO/TC 207's activities

The ISO primarily finances its activities by members' regular contributions. Additionally, ISO generates revenues through marketing activities. As part of ISO, these financing mechanisms also apply to the ISO/TC 207.

The main costs of the ISO system's operations are borne by the member bodies that manage the specific standards development projects and the business organizations that provide experts to participate in the technical work. These organizations are, in effect, subsidizing the technical work by paying the travel costs of the experts and allowing them time to work on their ISO assignments. 2009, the 39 member bodies holding the ISO committee secretariats financed their operations. 2010, the operational costs of ISO's central secretariat

771 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/
     iso_technical_committee.htm?commid=54808 April 18, 2011
772 Perez et al. 2009: 594
773 http://www.standardsinfo.net/info/index.html March 16, 2011
774 http://www.iso.org/iso/about/discover-iso_isos-international-partners.htm March 14, 2011

were covered to 53% by ISO's national members' subscriptions paid by each member country in proportion to its gross national income and trade figures and by 47% through sales of publications and other income from services such as the sale of standards is another source of revenue[775].

> *How are the ISO/TC 207's activities financed?*
>
> – voluntary donations
> ✓ regular contributions
> ✓ marketing of the GSCS's activities

7.1.10 ISO/TC 207 scheme evaluation[776]

Evaluating the ISO is institutionalized as one agenda item among others of the general assembly and is administered by an ISO body such as a technical committee or if it is not related to a specific work area, the ISO technical management board.

Reviewing ISO's activities of the past and outlining the future strategy is among the general assembly's items of the agenda "with a view to taking the decisions that will ensure the Organization fulfils its goals and objectives and therefore continues to be relevant to its member's needs in the future"[777]. A strategic plan is set up for a period of five years and entails general prospects rather than precise actions[778]. An example of a recently undertaken evaluation, the ISO Technical Management Board formed a Process Evaluation Group to review the ISO standards development processes with the main focus on stakeholder participation in the ISO system[779].

> *Has the ISO/TC 207 institutionalized procedures for evaluating the scheme?*
>
> • no institutionalized evaluation
> • institutionalized scheme evaluation by management, members and/or stakeholders
> • institutionalized scheme evaluation by an autonomous body

7.2 Characteristics of the ISO/TC 207 global standard

7.2.1 Subject of the ISO/TC 207 global standard

In the ISO family 14000, the standard ISO 14001:2004[780] demands procedural changes relating to managerial aspects as the name environmental *management* system implies and is the basis for certification.

ISO itself explains why ISO 14001 focuses on procedures and not levels of environmental performance as follows: "If it specified levels of environmental performance, they would have to be specific to each busim

---

775 http://www.iso.org/iso/iso_in_figures.htm March 17, 2011
776 On the basis of the resources at my disposal, this point is so far indeterminate and will be completed in case it turns out to be central for the further analysis.
777 ISO 2001: 2
778 ISO Strategic Plan 2011 – 2015
779 ISO Guidance for ISO Liaison Organizations 2010
780 In the following referred to as ISO 14001

ness activity and this would require a specific EMS standard for each business. That is not the intention"[781]. Rather, the system requires changes in organizational routines, information management, and decision-making processes. These requirements can lead to "regular meetings, formal and systematic managerial influence, monitoring, and clear plans" or to the installment of new functions such as "environment and safety officers" or "improvement and environmental quality teams" as examples have shown[782].

The subject of certification, the environmental management system in line with the requirements outlined in ISO 14001:2004 is a *management tool*, by its own account, enabling an organization to:

- "identify and control the environmental impact of its activities, products or services, and to
- improve its environmental performance continually, and to
- implement a systematic approach to setting environmental objectives and targets, to achieving these and to demonstrating that they have been achieved"[783].

Standardizing products is explicitly excluded from the scope of work of the ISO/TC 207[784].

Other ISO standards outside of the ISO 14000 series target specific environmental issues as well as product standards targeting the product characteristics in quality and safety respect[785].

In contrast to the management and leadership standards ISO 26000 on social responsibility and ISO 31000 which serve as guidelines and cannot be certified, the environmental management standards in focus here as well as its predecessor, ISO 9000, are certifiable[786].

> *What is subject to the ISO/TC 207 global standard?*
>
> ✓ procedures (production/process management)
> – results (product/performance)
> – origin of product

7.2.2   Chain of custody certification in the ISO/TC 207

Certificate of the ISO 14001:2004 standard is first and foremost a *business to business* certificate not visible to the end consumer.

Chain of custody certification is not relevant for the ISO 14001 because the standard neither relates to the trading chain of commodities nor can environmental management systems be applied to a(n end) product. This aspect is underscored by the process-based nature of the standard. The *business to business* approach is also evident in the objective of the ISO 14001:2004, proclaiming that the standard "provides a framework for demonstrating conformity via suppliers' declarations of conformity, assessment of conformity by an external

---

781 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011
782 Perez et al. 2009: 615 – 616
783 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011
784 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/iso_technical_committee.htm?commid=54808 March 16, 2011
785 http://www.standardsinfo.net/info/aboutstd.html March 16, 2011
786 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards.htm March 15, 2011

stakeholder – such as a business client – […]"[787]. The chain of custody issue is approached directly in its own management systems standard the ISO 28000 *supply chain security*. Nevertheless, among its external objectives the ISO includes providing assurance on environmental issues also to "external stakeholders – such as customers, the community and regulatory agencies". The ISO/TC 207 task group on small- and medium-sized enterprises focuses on promoting recognition of environmental management systems in the supply chain by second parties, namely customers again indicating a tendency towards enhancing consumer visibility[788].

At which stage in the chain of custody does certification apply?

- – certificate visible for end consumer
- – certificate included in other end consumer visible certificate
- ✓ business to business certificate not visible to end consumer

7.2.3 Precision of the ISO/TC 207 global standard

The ISO 14000 standard series also includes measurable rules.

The ISO management system standards provide a framework allowing the organization to consistently achieve the requirements set out in other product and process standards[789]. The ISO standard on environmental management system comprises a family of standards encompassed in the ISO 14000 series. To date, the ISO/TC 207 has developed 23 standards on environmental management in total[790]. The first standard ISO 14001:2004 provides requirements for certification of the environmental management system and the second standard ISO 14004:2004 offers general guidelines on principles, systems and support techniques. ISO 14001 entails generic requirements and also serves as a common reference for communication[791]. The ISO 14000 series encompasses further standards and guidelines addressing specific environmental aspects, including labeling, regards of evaluation of performance, life cycle analysis, communication and auditing[792].

To which degree of precision is the ISO/TC 207 global standard formulated?

- ✓ also measurable rules
- – also specific norms
- – only general principles

7.2.4 Context sensitivity of the ISO/TC 207 global standard

The ISO standard series 14000 is a global standard with no national specifics.

787 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011
788 ISO/TC 207 Environmental management ISO/TC 207 N932: 3
789 http://www.standardsinfo.net/info/aboutstd.html March 16, 2011
790 http://www.iso.org/iso/standards_development/technical_committees/list_of_iso_technical_committees/iso_technical_committee.htm?commid=54808 March 16, 2011
791 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011; DIN EN ISO 14001:2009–11
792 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011

The ISO 14000 series is a universal standard. On its own account, the reason for focusing on procedures rather than on levels of environmental performance is that "they would have to be specific to each business activity and this would require a specific EMS standard for each business. That is not the intention". Rather, ISO 14000 intends to offer a "framework for a holistic, strategic approach"[793]. This approach mirrors the core objective of the organization formulated at the London founding conference as "to facilitate the international coordination and unification of industrial standards" in 1946[794]. In regards to environmental management, "[i]nternational standards are becoming increasingly important for organizations to work towards common and comparable environmental management practices"[795] further stressing the argument for one uniform global standard. Again highlighting this point, the ISO states, "governments and regulatory bodies are increasingly looking to ISO standards to provide a framework to ensure alignment and consistency both nationally and internationally"[796]. National member institutes participate in the ISO standards development process for facilitating the development of uniform requirements[797].

Is the ISO/TC 207 global standard context sensitive?

- ✓ only global standard
- – global standard takes regional/national specifics into consideration
- – global standard as framework for local/national/regional standard

7.2.5 Minimum or maximum standard in the context of the ISO/TC 207

The ISO 14000 standard series demands continual progress of its clients.

The ISO standard 14005:2004 offers guidelines for a phased implementation of an environmental management system. Furthermore, the ISO requires "a commitment to continual improvement – for which the EMS provides the framework"[798].

How ambitious is the ISO/TC 207 global standard?

- – minimum standard
- ✓ progressively demanding standard
- – maximum ("gold") standard

7.2.6 Incentives for client participation of the ISO/TC 207 global standard

The incentive to implement an ISO 14001 based environmental management system is first and foremost of reputational nature. Yet, the ISO is also in a position to offer legal incentives to its clients.

---

793 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011
794 Friendship Among Equals 1997: 15
795 ISO Environmental Management 2009: 3
796 ISO Environmental Management 2009: 3
797 ISO Environmental Management 2009: 3
798 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011; DIN EN ISO 14001:2009 – 11

In regards to their motivation for implementing ISO 14001, "managers […] emphasized the value of certification as a vehicle for improving the firm's reputation through the creation of a green image"[799]. The study also depicted ideological incentives such as "a sense of commitment toward the environment and the neighboring community"[800] underlying the decision to apply ISO 14001. Other managers stressed "instrumental considerations, such as pressure by clients […], regulatory bodies, and insurance companies"[801] again underscoring the notion of reputational incentives.

Environmental goals are at the heart of the ISO 14000 standards family. Accompanying environmental benefits the ISO markets its activities with emphasizing also economic incentives such as reduced raw material/resource use, reduced energy consumption, improved process efficiency, reduced waste generation and disposal costs, and the utilization of recoverable resources[802].

On its own account, the ISO international standards on e.g. monitoring of environmental aspects serve as the technical basis for a number of domestic environmental regulations and are thus incorporated in national legislation[803]. Like the FSC, ISO 14001 has been accorded legal recognition by some national and local governments[804]. ISO 14001 has been adopted as a national standard by more than half of all ISO member countries and its use is encouraged by their governments[805]. Taking into account deterrents entailed in not installing sound environmental management systems, producing pollution can cost companies fines for infringing environmental legislation[806]. The other way around, applying ISO based environmental management systems requires compliance with domestic regulation and thus is also a legal incentive[807].

What are clients' incentives to participate in certification against the ISO/TC 207 global standard?

- ✓ reputational incentive
- – price premium
- ✓ legal incentive

7.2.7   Industry scale of the ISO/TC 207 global standard

The ISO emphasizes the universality of the ISO 14000 standards series explicitly not specifying its application for a certain industry scale.

Generally, the ISO 14000 stresses that the environmental management systems required by the standard have been designed in such a way that they can be implemented "in any type of organization in either public or private sectors – from companies to administrations to public utilities"[808]. At another occasion, it explicitly states "[a]n EMS meeting the requirements of ISO 14001:2004 is a management tool enabling an organization

---

799 Perez et al. 2009: 615
800 Perez et al 2009: 615
801 Perez et al. 2009: 615
802 ISO Environmental Management 2009: 8
803 ISO Environmental Management 2009: 2
804 Vogel 2009: 156
805 ISO Environmental Management 2009: 6
806 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/business_benefits_of_iso_14000.htm March 16, 2011
807 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 16, 2011
808 ISO Environmental Management 2009: 2

of any size or any type [...]"[809]. ISO offers further recommendations for small and medium-sized enterprises in a specific section on their homepage titled *ISO 14001:2004 and SME's*[810]. Acknowledging that "EMS implementation in smaller enterprises can present significant challenges", the ISO has installed a *SME task group* which has "developed recommendations to change that perception, and make it easier for SMEs to benefit from implementing EMS based on ISO 14001:2004"[811]. The ISO/TC 207 plenary meeting 2009, opened with a presentation of an initiative aimed at greening Egypt's small- and medium-sized enterprises, illustrating ISO's outreach also to industry of smaller scale[812].

Not differentiating in terms of industry scale, the ISO 14001:2004 environmental management system standard is implemented by some 200,000 organizations in 155 countries[813].

> *Which scale of industry does the ISO/TC 207 global standard address?*
>
> – large-scale (state) companies
> – small-scale and artisanal producers
> ✓ no specification in industry scale

7.3   Developing the ISO/TC 207 global standard

7.3.1   Procedures for evaluating the ISO/TC 207 global standard

In the context of the standards family ISO 14000, evaluation is institutionalized on a regular basis by management, members and stakeholders.

As a general rule applying to all ISO global standards, the first review is carried out after three years. Thereafter systemic reviews are institutionalized for every five years. The review period is designated to take five months. The technical committees responsible for an issue area – ISO/TC 207 for environmental issues – are also primarily responsible for regularly evaluating the standard[814].

In the first step of developing a new standard, the respective technical committee, prepares "a strategic plan for its own specific field of activity", "giving a prospective view on emerging needs"[815]. When developing the work program, the TC takes the business environment in which it is operating into account. In the context of preparing the strategic plan, the TC must also "evaluate revision work needed"[816]. The strategic plan must be formally agreed upon within the TC 207. The strategic plan is also included in the technical committee's report for review and approved by the technical management board on a regular basis[817].

809 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14000_essentials.htm March 15, 2011

810 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14001_2000_and_smes.htm March 16, 2011

811 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management/iso_14001_2000_and_smes.htm March 16, 2011

812 ISO/TC 207 Environmental Management ISO/TC 207 N932 2009: 1

813 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/environmental_management.htm March 15, 2011

814 http://www.iso.org/iso/standards_development/technical_committees.htm March 16, 2011

815 ISO/IEC Directives, Part 1 2004: 19

816 ISO/IEC Directives, Part 1 2004: 19

817 ISO/IEC Directives, Part 1 2004: 19

The actual project stages in the ISO standard development process commence first after the strategic plan has been passed. The project stages comprise five stages; preliminary stage, proposal stage, preparatory stage, committee stage and enquiry stage[818]. The proposal stage refers to the proposal of a new item in form of a new standard, a new part of an existing standard, revision of an existing standard or part, an amendment to an existing standard or part, or a technical specification or a publicly available specification[819].

What are the evaluation procedures for the ISO/TC 207 global standard?

- – regular evaluation through autonomous body
- ✓ regular evaluation through management, members and stakeholders
- – "spontaneous" evaluation through management, members and stakeholders

7.3.2 Actors responsible for initiating revision of the ISO/TC 207 global standard

In the ISO system, stakeholders can also influence the introduction of a new standard or the initiation of its revision.

Proposals for new work items can be made by a national body, i.e. an ISO member body, the secretariat of the ISO/TC 207 or respective subcommittees, another technical committee or subcommittee, an organization in liaison, the technical management board or one of its advisory groups, and the chief Executive officer[820]. The Business Council for Sustainable Development e.g. induced the ISO to create an environmental management standard resulting in the ISO 14000 series.

In the case of systemic reviews of ISO standards, the secretariat of the responsible committee, here the TC 207 secretariat is responsible for formally initiating the review process at the specified time. The ISO central secretariat takes this task upon itself if the TC secretariat fails to do so. Reviews can also be initiated at the request of one or more national body, or at the request of the ISO chief executive officer[821]. Stakeholders are indirectly included in the process via their representation in the respective ISO national member body.

In the context of the ISO as a whole, the development of new standards is initiated in response to sectors and stakeholders that express a clearly established need for them. An industry sector or other stakeholder group will communicate its requirement for a standard to the ISO as a whole which then proposes the new work item to the relevant ISO technical committee developing standards in that area. New work items may also be proposed by organizations in liaison with such committees. When work items do not relate to existing committees, proposals may also be made by ISO members to set up new technical committees to cover new fields of activity[822]. In case the work item does not demand for the installment of a permanent or long term technical committee but rather of a one time working group *project committees* are established for the cause. Project committees work according to the same principles and rules as the technical committees but are not allowed to approve new work and are disbanded once the international standard for which it was established is published[823].

818 ISO/IEC Directives, Part 1 2004: 20
819 ISO/IEC Directives, Part 1 2004: 23
820 ISO/IEC Directives, Part 1 2004: 23
821 ISO/IEC Directives, Supplement – Procedures specific to ISO 2011: 8
822 http://www.iso.org/iso/about/how_iso_develops_standards.htm March 16, 2011
823 http://www.iso.org/iso/standards_development/technical_committees.htm March 16, 2011

Who can initiate revisions of the ISO/TC 207 global standard?

- – only scheme management
- – also members
- ✓ also stakeholders

7.3.3   Actors responsible for preparing the ISO/TC 207 global standard

The ISO/TC 207 members are responsible for preparing the standards constituting ISO 14000. Stakeholders are represented through the ISO member bodies.

The ISO Technical Committee 207 is responsible for developing standards on environmental management systems, greenhouse gas accounting and verification, environmental auditing, environmental labeling, life-cycle assessment, and environmental performance evaluation. The most recent work of ISO/TC 207 relates to issues such as carbon footprint quantification[824]. From the start ISO/TC 207 cooperated closely with ISO/TC 176 responsible for ISO 9000 quality management. The actors participating in ISO/TC 207 come from broad and diverse backgrounds including national delegations from over 100 countries[825].

Generally, for developing new ISO standards, experts are drawn upon on loan from the industrial, technical and business sectors which have asked for the standards and which subsequently put them to use. Thus, these experts constitute stakeholders and include ISO members. "These experts may be joined by other stakeholders such as representatives of government agencies, testing laboratories, consumer associations and academia, and by nongovernmental or other stakeholder organizations that have a specific interest in the issues addressed in the standards"[826]. In regards to the *Knowledge base of standards*, academia has criticized that "an ideal, rather than the findings of scholarly research, has been established as a standard and […] what laymen are currently saying, rather than what managers are actually doing, has been formally codified"[827].

On a more general level in the ISO, a number of policy development committees exist in order to provide strategic guidance for the standards' development work on cross-sectoral aspects under the council. They are: the committee on conformity assessment; committee on consumer policy, and the committee on developing country matters. The policy development committees are open to all member bodies and correspondent members[828].

Who is preparing the content of the ISO/TC 207 global standard?

- – technical bodies of external experts
- – scheme management
- ✓ members and stakeholders

---

824 ISO Environmental Management 2009: 8
825 ISO Environmental Management 2009: 4
826 ISO Environmental Management 2009: 2
827 Furusten 2000: 84
828 http://www.iso.org/iso/about/governance_and_operations.htm March 16, 2011

7.3.4 Stakeholder consultation on the ISO/TC 207 global standard

Stakeholder consultation in the ISO is institutionalized and is open to selected stakeholders.

The respective technical committees, in the context of the ISO 14000 family ISO/TC 207, hold annual meetings serving also as a forum for stakeholder consultation. 2009, ISO/TC 207 held its 16th annual plenary meeting. 250 participants from 45 member bodies and eleven liaison organizations convened for the event, held in Cairo, Egypt, hosted by the Egyptian Organization for Standardization[829].

The *ISO technical enquiry* is a public comment phase also part of stakeholder consultation on the ISO global standard[830]. It is one out of five stages constituting the ISO standard development process. The draft of the ISO global standard in development is circulated for enquiry – once or more times – for a voting period of two respectively five months depending on the significance of the changes to the document. The ISO has a special form, *Form 13*, for submitting the revised standard to the ISO central secretariat including "a detailed indication of the decisions taken for each comment"[831].

Stakeholders are involved in the development of the ISO standards on a national level via their national ISO member bodies. All ISO members are invited to respond to reviews of an ISO standard[832]. As a general rule for the ISO and its technical committees such as the ISO/TC 207, "the ISO member bodies are ultimately responsible for communication in their respective countries"[833]. ISO organizes consultation with stakeholders on the basis of the national delegation principle. National delegations are required to bring to the work of ISO/ TC 207 national consensus derived from a process of consultation with interested parties and stakeholders in each country[834]. The strategic plan for the current five-year period 2011 – 2015 outlines several actions related to stakeholder consultation. They constitute guidelines for the member bodies on how to provide for broad and relevant stakeholder inclusion in their national countries in the process of standard development[835]. The first of the *actions* entailed in the chapter holds, "[i]dentify, develop and promote best practice for effective guidance and monitoring tools that assist ISO members and liaisons in engaging stakeholders from each of the relevant stakeholder groups"[836]. Delegating stakeholder consultation primarily to the authority of the national member standardization body has the consequence that the quality of the stakeholder consultation process of the ISO as a whole depends on the motivation of the individual national members. To counteract the contingency of national members or liaison organizations disrespecting the ISO principle of stakeholder participation entailed in its Code of Ethics[837], ISO issued two publications on guidance for enhancing stakeholder consultation in the process of standard development within liaison organizations and respectively the national standardizing bodies in 2010[838]. Besides reviewing the current situation, another core task of the process evaluation group established for the exercise relates precisely to assessing the stakeholder consultation processes carried out within the national members and liaison organizations[839]. The evaluation brought about several principles and respective guidance relating to stakeholder engagement for approved ISO projects, stakeholder engagement and consensus decision-making on ISO work, participation at ISO standards development meetings, and the establishment and operations of internal mirror committees[840].

---

829 ISO/TC 207 Environmental Management ISO/TC 207 N932 2009: 1
830 ISO/TC 207 Draft BP – Version 3-2005-06-28: 2
831 ISO/IEC Directives, Supplement – Procedures specific to ISO 2011: 7 – 8
832 ISO/IEC Directives, Supplement – Procedures specific to ISO 2011: 8
833 http://www.tc207.org/faq.asp?Question=13 April 21, 2011
834 ISO Environmental Management 2009: 5
835 ISO Strategic Plan 2011–2015: ch. 4
836 ISO Strategic Plan 2011–2015: ch. 4
837 ISO 2004 Code of Ethics
838 http://www.iso.org/iso/free_pubs#STANDARDS_DEVELOPMENT March 17, 2011
839 ISO 2010 Guidance for ISO Liaison Organizations
840 ISO 2010 Guidance for ISO Liaison Organizations

The annual general assembly can also serve as a forum for stakeholder consultation. Direct participation in this convention is albeit limited to the ISO principal officers and delegates nominated by the member bodies. Correspondent members and subscriber members may attend as observers. The agenda of the meeting includes actions related to the ISO annual report, the *strategic plan* with financial implications, and the treasurer's annual financial status report on the ISO central secretariat[841].

How is the process of stakeholder consultation organized?

- – ad hoc; not institutionalized
- ✓ institutionalized, open to selected stakeholders
- – institutionalized, open to all interested stakeholders

7.3.5   Final decision-making on the ISO/TC 207 global standard

Final decisions on the standard are made by voting among the members of the ISO/TC 207.

A decision upon a new work item proposal for further development into a new ISO global standard can be taken either by correspondence or at a meeting of a technical committee or subcommittee. In case the decision is taken by correspondence votes must be returned within three months after circulation of the proposal. A simple majority of the participating members of the technical committee or subcommittee voting is necessary for approval of the new work item proposal[842]. The ISO technical committee verifies, among other criteria, the "global relevance" of the proposed item – this means that it responds to an international need and is suitable for implementation on a broad basis worldwide. ISO offers guidance on how to evaluate the global relevance of a proposed standard[843].

Once a new work item has been decided upon and further developed in a new ISO standard the process of standard development concludes with the final phase of formally approving the resulting draft international standard. Two-thirds approval of the ISO/TC members participating actively in the standards development process as well as 75% approval of all ISO full members with the right of vote are necessary for publishing the agreed text as an ISO international standard. Subsequently, in ISO final decisions on developing certain standards are made by the members of the technical committee responsible for developing the standard as well as by the member bodies of the overall organization. This had been considered "a double level of consensus – among market players and experts at the drafting stages of the standards, and among countries at the formal voting stages of the standards" but has lately been subject to critique resulting in an evaluation of the respective processes[844].

How are final decisions on the ISO/TC 207 global standard made?

- – near consensus among members
- ✓ voting among members
- – decision by scheme management (board decision)

841 http://www.iso.org/iso/about/governance_and_operations.htm March 16, 2011
842 ISO/IEC Directives, Part 1 2004: 24
843 http://www.iso.org/iso/standards_development/governance_of_technical_work/global_relevance_policy.htm March 16, 2011
844 ISO 2010 Guidance for ISO Liaison Organizations

7.4   Conformity assessment in the context of the ISO/TC 207 global standard

7.4.1   Auditing in the context of the ISO/TC 207 global standard

In the context of ISO, auditing is carried out by independent third party bodies outside of the international standardizing body.

On ISO's own account, certification, by definition, "refers to the issuing of written assurance (the certificate) by an *independent external body* that it has audited a management system and verified that it conforms to the requirements specified in the standard" (emphasis added)[845]. Furthermore, ISO 19011 defines an audit "as a systematic, independent and documented process for obtaining *audit evidence* and evaluating it objectively […]"[846]. Auditing and certification of ISO's management systems are carried out independently of ISO by more than 2,500 certification bodies issuing certificates under their own responsibility and not under ISO's name[847]. "ISO has no authority to control their activities"[848]. On the ground, ISO does not influence the respective company's choice of certification body. Notwithstanding this, ISO has extended its responsibility to the process of conformity assessment by developing guidelines for auditing environmental and respectively quality management systems in the common standard ISO 19011:2002 *guidelines for quality and/or environmental management systems auditing*[849]. The document serves as guidance for auditors and certification bodies and relates to principles of auditing, managing audit programs, the conduct of audits and to the competence of auditors[850].

The ISO defines itself solely as a standard setting body, elements relating to the process of conformity assessment lie beyond its reach and responsibility[851]. This applies even more so for the ISO technical committees like the ISO/TC 207. The ISO itself does not carry out audits of environmental management systems nor does it issue certificates. ISO's activities are limited to operations relating to "developing, maintaining and publishing the ISO 9000 and ISO 14000 families of standards"[852].

Certification of the ISO 14001:2004 based environmental management system is voluntary and not required by the standard itself. Nevertheless, the ISO managerial standards emphasize the importance of audits as a management tool for monitoring and verifying effective implementation[853]. Despite it lying outside of ISO's direct responsibility, ISO pro-actively markets the process of conformity assessment, "[c]onformity to, and assessment based on, International Standards give confidence and facilitate access to world markets" and encourages companies to employ the process within its standard implementation through the ISO committee on conformity assessment[854].

845 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification.htm March 17, 2011
846 ISO UNIDO The Conformity Assessment Toolbox: 37
847 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/iso_does_not_carry_out_certification.htm March 15, 2011
848 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/iso_does_not_carry_out_certification.htm March 15, 2011
849 http://www.iso.org/iso/search.htm?qt=ISO+19011&published=on&active_tab=standards March 17, 2011
850 ISO Environmental Management 2009: 6
851 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/iso_does_not_carry_out_certification.htm March 15, 2011
852 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/iso_does_not_carry_out_certification.htm March 15, 2011
853 ISO UNIDO The Conformity Assessment Toolbox: 36
854 ISO and Conformity Assessment 2005

Which actor carries out the auditing against the ISO/TC global standard?

- – standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- ✓ independent third party

7.4.2 Monitoring actors in the context of the ISO/TC 207 global standard

As with auditing, monitoring compliance of the ISO environmental management standard is carried out by an independent third party.

As with auditing, monitoring also lies beyond ISO's scope of activities which directly relate to the standard setting process. If a client seeks certification, the same stipulations in regards to third party independence in the conformity assessment process described above will apply here also.

Which actor monitors compliance with the ISO/TC global standard?

- – standard setting body on global level (centralized structure)
- – standard setting body on regional or national level (federal structure)
- ✓ independent third party

7.4.3 Modes of monitoring in the context of the ISO/TC 207 global standard

Evidence of all *determination activities*, i.e. all activities undertaken to develop information regarding conformity such as testing or inspection is required, usually in the form of a report or a *technical file*. Assessing the report is one component of monitoring in ISO[855].

Which mode of monitoring is institutionalized in the context of the ISO/TC 207 global standard?

- • fire alarm
- • police patrol
- • company reporting

7.4.4 Accreditation in the context of the ISO/TC 207 global standard

The ISO does not require accreditation. In the case of accreditation, national accreditation bodies are consulted but these are independent of the standard setting body.

Like certification, accreditation also lies beyond the responsibility of ISO. ISO offers services only relating to standard development and does not offer accreditation services. The enterprise or organization seeking

---

855 ISO UNIDO The Conformity Assessment Toolbox: 40

certification decides individually if it specifically chooses a certification body that is accredited at a national accreditation body. Nevertheless ISO deals with the issue of accreditation and explains the concept: "accreditation, in simple terms, means that a certification body has been officially approved as competent to carry out certification in specified business sectors by a national accreditation body"[856] – not acknowledging the validity of international accreditation agencies. The focus on national accreditation bodies is explained by the weight and autonomy of the individual member bodies each representing one nation-state and their autonomy in deciding upon the question of certification and respectively accreditation. Furthermore, ISO offers recommendations on steps for companies or organizations seeking certification of a management system developed by ISO, such as "to clarify is whether or not the certification body has been accredited and, if so, by whom", or "the fact that a certification body is not accredited does not, by itself, mean that it is not a reputable organization", or "[t]hat said, many certification bodies choose to seek accreditation, even when it is not compulsory, in order to be able to demonstrate an independent confirmation of their competence"[857].

> – Who is responsible for accreditation in the context of the ISO/TC 207 global standard?
>
> – standard setting body on global level (centralized structure)
> – standard setting body on regional or national level (federal structure)
> ✓ independent third party

7.4.5   Dispute-settlement in the context of the ISO/TC 207 global standard

Dispute-settlement in the ISO can also include adjudication by an independent judicial body.

Like in regards to all aspects of conformity assessment ISO also offers recommendations in regards to dispute settlement. According to ISO's recommendations, in case evidence of conformity is incomplete the report will be returned to the person responsible for the determination activities for him/her to take remedial action[858]. In this case, the company is prompted to make necessary changes in order to achieve conformity[859]. In its recommendations, ISO brings in administrative sanctions as one necessary component in the process of conformity assessment. Furthermore, in case administrative sanctions fail to bring about the desired effects ISO also advances the utilization of courts of law as an ultimate means for bringing about compliance with the standard[860].

Due to the complete outsourcing of the auditing, monitoring and certification processes beyond the responsibility of the ISO, dispute-settlement will differ depending on the procedures installed in the respective bodies involved in the various stages of conformity assessment.

---

856 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/choosing_a_certification_body.htm
      March 15, 2011
857 http://www.iso.org/iso/iso_catalogue/management_and_leadership_standards/certification/choosing_a_certification_body.htm
      March 15, 2011
858 ISO UNIDO The Conformity Assessment Toolbox: 41
859 ISO UNIDO The Conformity Assessment Toolbox: 42
860 ISO UNIDO The Conformity Assessment Toolbox: 113

How is dispute-settlement organized in the ISO?

- – only bargaining between disputants
- – also mediation by "political" body
- ✓ also adjudication by independent judicial body

7.4.6   Means of enforcement in the context of the ISO/TC 207 global standard

The ISO encourages sanctions as a means of enforcement in the case of non-compliance.

ISO provides for extensive information and guidance on how compliance should be attained, verified and respectively on how eventual non-compliance can be dealt with. ISO brings in sanctions as a core element of conformity assessment in the context of legal metrology. In regards to the legal metrology regime, the "national measurement system", central to the process of conformity assessment ISO states, "will only be as effective as the way in which sanctions are applied"[861] (emphasis added). Administrative *sanctions* are first and foremost implied.

How is non-compliance dealt with?

- – no means of enforcement
- – withdrawal of privileges
- ✓ sanctions

---

861   ISO UNIDO The Conformity Assessment Toolbox: 131

8 REFERENCES

Scholarly references

Auld, G.; Gulbrandsen, L. H.; McDermott, C. L. (2008): Certification Schemes and the Impacts on Forests and Forestry. In: Annual Review of Environment and Resources, volume 33: 187 – 211.

Auty, R. M. (2007): Natural Resources, Capital Accumulation and the Resource Curse. Special Issue on Environmental Accounting: Introducing the System of Integrated Environmental and Economic Accounting 2003 – SEEA-2003 S.I. In: Ecological Economics, volume 61, issue 4: 627 – 634.

Auty, R. M.; Le Billon, P. (2007): Managing Revenues from Natural Resources and Aid. In: Oli Brown (Hg.): Trade, Aid and Security. An Agenda for Peace and Development. London; Sterling, VA: Earthscan, 158 – 189.

Bartley, T. (2003): Certifying Forests and Factories: States, Social Movements, and the Rise of Private Regulation in the Apparel and Forest Products Fields. In: Politics and Society, volume 31, issue 3: 433 – 464.

Bartley, T. (2007a): How Foundations Shape Social Movements: The Construction of an Organizational Field and the Rise of Forest Certification. In: Social Problems, volume 54, issue 3: 229 – 255.

Bartley, T. (2007b): Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions. In: American Journal of Sociology, volume 113, issue 2: 297 – 351.

Basedau, M.; Lay, J. (2005): Conceptualising the „Resource Curse" in Sub-Saharan Africa: Affected Areas and Transmission Channels. In: Basedau, M.; Mehler, A. (eds.): Resource Politics in Sub-Saharan Africa. Hamburg African Studies, 14: 9 – 24.

Bernstein, S.; Cashore, B. (2004): Non-State Global Governance: Is Forest Certification a Legitimate Alternative to a Global Forest Convention? In: Kirton, J. J.; Trebilcock, M. J. (eds.): Hard Choices, Soft Law; Voluntary Standards in Global Trade, Environment, and Social Governance. Aldershot [i.a.], Ashgate: 33 – 63.

Boström, M.; Klintman, M. (2008): Eco-Standards, Product Labelling and Green Consumerism. Houndmills [et al.]: Palgrave Macmillan.

Cashore, B.; Auld, G.; Bernstein, S.; McDermott, C. (2007): Can Non-state Governance 'Ratchet Up' Global Environmental Standards? Lessons from the Forest Sector. In: Review of European Community & International Environmental Law, volume 16, issue 2: 158 – 172.

Conroy, M. E. (2007): Branded! How the Certification Revolution is Transforming Global Corporations. Gabriola Island, New Society Publishers.

Correia, D. (2010): The Certified Maine North Woods, Where Money Grows from Trees. Critical Review Forum: Behind Enemy Lines: Reflections on the Practice and Production of Oppositional Research. In: Geoforum, volume 41, issue 1: 66 – 73.

Dingwerth, K. (2007): The New Transnationalism: Transnational Governance and Democratic Legitimacy. Basingstoke, Hampshire: Palgrave Macmillan.

DINGWERTH, K. (2008a): North-South Parity in Global Governance: The Affirmative Procedures of the Forest Stewardship Council. In: Global Governance, volume 14: 53 – 71.

DINGWERTH, K. (2008b): Private Transnational Governance and the Developing World: A Comparative Perspective. In: International Studies Quarterly, volume 52, issue 3: 607 – 634.

DINGWERTH, K.; PATTBERG, PH. (2009): World Politics and Organizational Fields: The Case of Transnational Sustainability Governance. In: European Journal of International Relations, volume 15, issue 4: 707 – 743.

DOMASK, J. (2003): From Boycotts to Global Partnership: NGOs, the Private Sector, and the Struggle to Protect the World's Forests. In: Doh, J. P; Teegen, H. (eds.): Globalization and NGOs: Transforming Business, Government, and Society. Westport, Connecticut, Praeger: 157 – 185.

EDEN, S.; BEAR, CH. (2010): Third-Sector Global Environmental Governance, Space and Science: Comparing Fishery and Forestry Certification. In: Journal of Environmental Policy and Planning, volume 12, issue 1: 83 – 106

FREER-SMITH, P.; CARNUS, J. M. (2008): The Sustainable Management and Protection of Forests: Analysis of the Current Position Globally. In: AMBIO, volume 37, issue 4: 254 – 262.

FURUSTEN, ST. (2000): The Knowledge Base of Standards. In: Brunsson, N.; Jacobsson, B. (eds.): A World of Standards. Oxford: Oxford University Press: 71 – 84.

GARSTEN, CH.; LINDH DE MONTOYA, M. (2008): Introduction: Examining the Politics of Transparency. In: Garsten, Ch.; Lindh de Montoya, M. (eds.): Transparency in a New Global Order; Unveiling Organizational Visions. Cheltenham [et al.], Elgar: 1-

GOOCH, T. M. (2008): Conflict Diamonds or Illicit Diamonds: Should the Difference Matter to the Kimberley Process Certification Scheme? In: Natural Resources Journal, volume 48, issue 1: 189 – 214.

GOYERT, W.; SAGARIN, R.; ANNALA, J. (2010): The Promise and Pitfalls of Marine Stewardship Council Certification. In: Marine Policy, volume 34, issue 4: 1103 – 1109.

GROSSMAN, E.; LUQUE, E.; MUNIESA, F. (2008): Economies through Transparency. In: Garsten, Ch.; Lindh de Montoya, M. (eds.): Transparency in a New Global Order; Unveiling Organizational Visions. Cheltenham [u.a.]: Elgar: 97 – 121.

GUENÉAU, ST. (2009): Certification as a New Private Global Forest Governance System: the Regulatory Potential of the Forest Stewardship Council. In: Peters, A.; Koechlin, L.; Förster, T. (eds.): Non-State Actors as Standard Setters. Cambridge, Cambridge Univ. Press: 379 – 408.

HAUFLER, V. (2009): The Kimberley Process Certification Scheme: An Innovation in Global Governance and Conflict Prevention. In: Journal of Business Ethics, volume 89, supplement issue 4: 403 – 416.

HAUFLER, V. (2010): Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World. In: Global Environmental Politics, volume 10, issue 3: 53 – 73.

HENS, L.; NATH, BH. (eds.) (2005): The World Summit on Sustainable Development. The Johannesburg Conference. Dordrecht, Springer.

Hilson, G.; Clifford, M. J. (2010): A „Kimberley Protest": Diamond Mining, Export Sanctions, and Poverty in Akwatia, Ghana. In: African Affairs, volume 109, issue 436: 431 – 450.

Hilson, G.; Maconachie, R. (2009): "Good Governance" and the Extractive Industries in Sub-Saharan Africa. In: Mineral Processing and Extractive Metallurgy Review: An International Journal, volume 30, issue 1: 52 – 100.

Hughes, T. (2006): Conflict Diamonds and the Kimberley Process: Mission Accomplished or Mission Impossible. In: South African Journal of International Affairs, volume 13, issue 2: 115 – 130.

Jojarth, Ch. (2009): Crime, War and Global Trafficking. Designing International Cooperation. Cambridge (et al.), Cambridge University Press.

Klooster, D. (2006): Environmental Certification of Forests in Mexico: The Political Ecology of a Nongovernmental Market Intervention. In: Annals of the Association of American Geographers, volume 96, issue 3: 541 – 565

Koechlin, L.; Calland, R. (2009): Standard Setting at the Cutting Edge: an Evidence-Based Typology for Multi-Stakeholder Initiatives. In: Peters, A.; Koechlin, L.; Förster, T. (eds.): Non-State Actors as Standard Setters. Cambridge, Cambridge University Press: 84 – 112.

Kolstad, I.; Wiig, A. (2009): Is Transparency the Key to Reducing Corruption in Resource-Rich Countries? In: World Development, volume 37, issue 3: 521 – 532.

Le Billon, Ph. (2001): The Political Ecology of War: Natural Resources and Armed Conflicts. In: Political Geography, volume 20, issue 5: 561 – 584.

Le Billon, Ph. (2006-2007): Securing Transparency: Armed Conflicts and the Management of Natural Resource Wars. In: International Journal, volume 62: 93 –

Overdevest, Ch. (2010): Comparing Forest Certification Schemes: the Case of Ratcheting Standards in the Forest Sector. In: Socio-Economic Review, volume 8, issue 1: 47 – 76.

Paes, W.-Ch. (2005): „Conflict Diamonds" to „Clean Diamonds": The Development of the Kimberley Process Certification Scheme. In: Basedau, M.; Mehler, A. (eds.): Resource Politics in sub-Saharan Africa. Hamburg African studies, 14: 305 – 323.

Pattberg, Ph. (2006): Private Governance and the South: Lessons from Global Forest Politics. In: Third World Quarterly, issue 27, issue 4: 579 – 593.

Perez, O.; Amichai-Hamburger, Y.; Shterental, T. (2009): The Dynamic of Corporate Self-Regulation: ISO 14001, Environmental Commitment, and Organizational Citizenship Behavior. In: Law and Society Review, volume 43, issue 3: 593 – 629.

Ross, M. L. (2001): Does Oil Hinder Democracy? In: World Politics, volume 53: 325 – 361.

Sachs, J. D.; Warner, A. M. (December 1995): Natural Resource Abundance and Economic Growth, National Bureau of Economic Research. Cambridge, Massachusetts (NBER Working Paper Series, 5398).

Schepers, D. (2010): Challenges to Legitimacy at the Forest Stewardship Council. In: Journal of Business Ethics, volume 92, issue 2: 279 – 290.

Schieritz, M. (2009): Unternehmen oder Staat? Der Beitrag der Corporate Social Responsibility zur Transparenz in der Rohstoffindustrie. In: Bleischwitz, Raimund (ed.): Globale Rohstoffpolitik. Herausforderungen für Sicherheit, Entwicklung und Umwelt. Baden-Baden, Nomos: 113 – 125.

Smillie, I. (2005): What Lessons from the Kimberley Process Certification Scheme? In: Ballentine, K.; Nitzschke, H. (eds.): Profiting from Peace; Managing the Resource Dimension of Civil War. Boulder, Colorado [et al.], Lynne Rienner: 47 – 67.

Tamm Hallström, K. (2000): Organizing the Process of Standardization. In: Brunsson, N.; Jacobsson, B. (eds.): A World of Standards. Oxford, Oxford University Press: 85 – 99.

Tamm Hallström, K.; Boström, M. (2010): Transnational Multi-Stakeholder Standardization. Organizing Fragile Non-State Authority. Cheltenham [et al.]: Edward Elgar Publishing.

Thies, W.; Pfeil, E. von; Reiche, M. et al. (2006): Forest Strategy of German Development Cooperation with Africa. In: International Forestry Review, volume 8, issue 1: 167 – 176.

Vogel, D. (2005): The Market for Virtue: The Potential and Limits of Corporate Social Responsibility. Washington, DC: Brookings Institution Press.

Vogel, D. (2009): The Private Regulation of Global Corporate Conduct. In: Mattli, W.; Woods, Ng. (eds.): The Politics of Global Regulation. Princeton, New Jersey, Princeton University Press: 151 – 188.

Zimmer, M. (2010): Oil Companies in Nigeria: Emerging Good Practice or Still Fuelling Conflict? In: Deitelhoff, N.; Wolf, K. D. (eds.): Corporate Social Responsibility? Corporate Governance Contributions to Peace and Security in Zones of Conflict. Houndmills [et al.], Palgrave Macmillan: 58 – 84.

Zulu, L. C.; Wilson, S. A. (2009): Sociospatial Geographies of Civil War in Sierra Leone and the New Global Diamond Order: Is the Kimberley Process the Panacea? In: Environment and Planning C, volume 27, issue 6: 1107 – 1130.

Gray literature

Advancing EITI in the Mining Sector 2009, http://eiti.org/files/MINING%20Compressed.pdf last consulted April 30, 2011.

Aguilar, S.; Ashton, M.; Cosbey, A.; Ponte, St. (2009): Environmental Goods and Services. Negotiations at the WTO: Lessons from Multilateral Environmental Agreements and Ecolabels for Breaking the Impasse. Draft for discussion, International Institute for Sustainable Development, Winnipeg, Manitoba.

Bundesverband der Deutschen Industrie (2006): Bericht zur Verfügbarkeitssituation metallischer Rohstoffe und ihren Auswirkungen auf die deutsche Wirtschaft, BDI: Berlin.

Business Plan ISO/TC 207 2005, http://isotc.iso.org/livelink/livelink/fetch/2000/2122/687806/ ISO_TC_207__Environmental_management_.pdf?nodeid=999214&vernum=-2 last consulted April 18, 2011.

DIN EN ISO 14001:2009-11 Umweltmanagementsysteme – Anforderungen mit Anleitung zur Anwendung (ISO 14001; 2004 + Cor 1:2009); Deutsche und Englische Fassung EN ISO 14001:2004 + AC 2009, eingesehen im Deutschen Patent- und Markenamt München, 24.02.2012.

EIGEN, P. (2006): Extractive Industries Transparency Initiative. In: Oil for Development: Proceedings of the Panel Discussion on Getting Poor by Oil? February, Berlin: 57 – 63.

EITI Constituency Guidelines 2011, http://eiti.org/files/Process%20for%20EITI%20Constituency %20Selection%202011.pdf last consulted April 29, 2011.

EITI Policy Note #3 2008, http://eiti.org/files/document/PolicyNoteNo03.pdf last consulted April 29, 2011.

EITI Rules 2010, http://eiti.org/files/2010-02-24%20EITI%20Rules.pdf last consulted April 17, 2011.

EITI Rules 2011, http://eiti.org/files/EITI_Rules_2011.pdf last consulted April 17, 2011.

EITI Workshop Report 2003, http://collections.europarchive.org/tna/20070701080507 /http://www.dfid.gov.uk/pubs/files/eitiworkshopreportfeb03.pdf last consulted April 28, 2011.

FLO Annual Report 2006/2007, http://www.fairtrade.net/fileadmin/user_upload/content /Final_FLO_AR_2007_03.pdf last consulted April 30, 2011.

FLO Annual Report 2009/2010, http://www.fairtrade.net/fileadmin/user_upload/content/ 2009/resources/FLO_Annual-Report-2009_komplett_double_web.pdf last consulted April 30, 2011.

FLO Development of Fairtrade Standards 2011, http://www.fairtrade.net/fileadmin/user_ upload/content/2009/standards/documents/20110110_SOP_Development_Fairtrade_Standards.pdf last consulted March 24, 2011.

FLO Fairtrade and Fairmined Standard for Gold 2010, http://www.fairtrade.net/fileadmin/ user_upload/content/2009/standards/documents/Gold_Standard_Mar2010_EN.pdf last consulted April 29, 2011.

FLO Geographical Scope 2009 http://www.fairtrade.net/fileadmin/user_upload/content/ 2009/standards/documents/Aug09_Geographical_scope.pdf last consulted April 29, 2011.

FLO List of all FLO Standards 2011, http://www.fairtrade.net/fileadmin/user_upload/content/ 2009/standards/documents/2011-03-15_LIST_OF_FLO_Standards.pdf last consulted April 30, 2011.

FLO-Cert Appeal and Review 2010, http://www.flo-cert.net/_admin/userfiles/file/Downloads/QM %20Appeal&Review%20SOP%2025%20en.pdf last consulted April 29, 2011.

FLO-Cert Certification 2011, http://www.flo-cert.net/_admin/userfiles/file/CERT%20Certification %20SOP%2021%20en.pdf last consulted April 29, 2011.

FLO-Cert Complaints 2010, http://www.flo-cert.net/_admin/userfiles/file/Downloads/QM% 20Complaints%20SOP%2014%20en.pdf last consulted April 29, 2011.

Friendship Among Equals 1997, http://www.iso.org/iso/work.pdf last consulted April 29, 2011.

FSC Annual Report 2005, http://www.fsc.org/fileadmin/web-data/public/document_center /publications/Annual_Reports/Annual_Report_2005.pdf last consulted April 30, 2011.

FSC Annual Report 2007, http://www.fsc.org/fileadmin/web-data/public/document_center /publications/Annual_Reports/Annual_Report_2007.pdf last consulted April 30, 2011.

FSC Annual Report 2008, http://www.fsc.org/fileadmin/web-data/public/document_center /publications/Annual_Reports/Annual_Report_2008.pdf last consulted April 19, 2011.

FSC Annual Report 2009, http://www.fsc.org/fileadmin/web-data/public/annual_report_2009/ index.html last consulted April 30, 2011.

FSC By-Laws 2009, http://www.fsc.org/fileadmin/web-data/public/document_center/institutional _documents/1_1_FSC_By-Laws_2009.pdf last consulted April 30, 2011.

FSC Development and Approval of FSC Social and Environmental International Standards 2006, http://www.fsc.org/fileadmin/web-data/public/document_center/Standard_development/FSC_PRO _01_001_V2_0_EN_ Development_and_Approval_of_FSC_Social_and_Environmental_Int_Stds.pdf last consulted April 30, 2011.

FSC Dispute Resolution System 2009, http://www.fsc.org/fileadmin/web-data/public/document_ center/international_FSC_policies/standards/FSC-STD-01-005_V1-0_EN_Dispute_resolution_system_ 01.pdf last consulted April 30, 2011.

FSC Financial Report 2003, http://www.fsc.org/fileadmin/web-data/public/document_center /publications/Annual_Reports/Financial_Report_2003.pdf last consulted April 30, 2011.

FSC Financial Report 2004, http://www.fsc.org/fileadmin/web-data/public/document_center /publications/Annual_Reports/Financial_Report_2004.pdf last consulted April 30, 2011.

FSC General requirements for FSC accredited certification bodies – application of ISO/IEC Guide 65: 1996, http://www.fsc.org/fileadmin/web-data/public/document_center/accreditation_documents/ certification_bodies/FSC-STD-20-001_V3-0_EN_General_Requirements_for_FSC_CBs.pdf last consulted April 30, 2011.

FSC Glossary of Terms 2009, http://www.fsccanada.org/docs/fsc-std-01-002%20.pdf?LanguageID= EN-US last consulted April 30, 2011.

FSC Membership List 2009, http://www.fsc.org/fileadmin/web-data/public/document_center/ institutional_documents/FSC_Membership_List_-_ENG.pdf last consulted April 14, 2011.

FSC Principles and Criteria 1996, http://www.fsc.org/fileadmin/web-data/public/document_center /international_FSC_policies/standards/FSC_STD_01_001_V4_0_EN_FSC_Principles_and_Criteria.pdf last consulted April 30, 2011.

FSC Standard for Chain of Custody Certification 2004, http://www.fsc.org/fileadmin/web-data/public/document_center/international_FSC_policies/standards/FSC_STD_40_004_V2_0_EN_Standard_for_CoC_Certification_2008_01.pdf last consulted April 30, 2011.

FSC Statutes 2009, http://www.fsc.org/fileadmin/web-data/public/document_center/institutional_ documents/1_3_FSC_Statutes_2009.pdf last consulted April 30, 2011.

GARRETT, N. (2008): Certified Trading Chains in Mineral Production & the Extractive Industry Transparency Initiative. Synergies and Scope for Collaboration, Resource Consulting Service: London.

GRI Annual Report 2008/2009, http://www.globalreporting.org/NR/rdonlyres/E8B6ED9E-1A29-4154-A6DA-F14E6F71A2C9/3830/GRI_Year_In_Review_241209.pdf last consulted April 30, 2011.

GRI Board Resolutions 2002, http://www.globalreporting.org/NR/rdonlyres/87D87506-55D9-48E7-A027-79127D50BE52/0/2002_GRI_Board_Resolutions.pdf last consulted April 6, 2011.

GRI G3.1 2000-2011, http://www.globalreporting.org/NR/rdonlyres/660631D6-2A39-4850-9C04-57436E4768BD/0/G31GuidelinesinclTechnicalProtocolFinal.pdf last consulted April 6, 2011.

GRI Rotation of Stakeholder Council Members 2011, http://www.globalreporting.org/AboutGRI /WhoWeAre/GovernanceBodies/StakeholderCouncil/ last consulted April 18, 2011.

GRI Rules and Procedures for the GRI Stakeholder Council 2009, http://www.globalreporting.org /NR/rdonlyres/A68B0C2B-1487-4080-81B6-80604925F073/5381/SC_ RulesProcedures2009.pdf last consulted April 18, 2011.

GRI Small, Smart and Sustainable 2008, http://www.globalreporting.org/NR/rdonlyres/13865428-9EAC-4EB0-A8E3-A31AA2F5C38C/3473/GRISSSReport.pdf last consulted April 29, 2011.

GRI Sustainability Report 2008/2009, http://www.globalreporting.org/NR/rdonlyres/41AED497-2BB5-4E7A-9D4A-F52B17B36967/0/SR2009FINALNEW.pdf last consulted April 5, 2011.

Guesnet, L.; Müller, M., Schure, J. (2009): Natural Resources in Côte d'Ivoire: Fostering Crisis or Peace? The Cocoa, Diamond, Gold and Oil Sectors, BICC Brief 40.

Implementing the EITI 2008 http://siteresources.worldbank.org/INTOGMC/ Resources/implementing_eiti_final.pdf last consulted April 29, 2011.

ISEAL Emerging Initiatives Module 2 Setting Standards 2007, http://www.isealalliance.org/sites /default/files/E025_ISEAL_Emerging_Initiatives_Module_2.SettingStandards_July07_318KB.pdf last consulted April 30, 2011.

ISEAL Emerging Initiatives Module 3 Models of Verification 2007, http://www.isealalliance.org/sites /default/files/E026_ISEAL_Emerging_Initiatives_Module_3.Verification_July07_315KB.pdf last consulted April 30, 2011.

ISEAL Emerging Initiatives Module 4 Models of Governance 2007, http://www.isealalliance.org/sites /default/files/E027_ISEAL_Emerging_Initiatives_Module_4.Governance_July07_524KB.pdf last consulted April 30, 2011.

ISEAL Emerging Initiatives Module 6 Engaging Stakeholders 2007, http://www.isealalliance.org/sites/ default/files/E029_ISEAL_Emerging_Initiatives_Module_6_Engaging_Stakeholders_Feb08_318KB.pdf last consulted April 30, 2011.

ISEAL Standard-Setting Code 2010, http://www.isealalliance.org/content/standard-setting-code last consulted April 29, 2011.

ISO 2001, http://www.iso.org/iso/search.htm?qt=statutes&published=on&active_tab=standards last consulted March 16, 2011; http://www.iso.org/iso/about/iso_members/member_bodies.htm March 14, 2011.

ISO 2001, http://www.iso.org/iso/search.htm?qt=statutes&searchSubmit=Search&sort=rel&type=simple&published=on last consulted March 16, 2011.

ISO 2004 Code of Ethics, http://www.iso.org/iso/codeethics_2004-en.pdf last consulted April 30, 2011.

ISO 2010 Guidance for ISO Liaison Organizations, http://www.iso.org/iso/guidance_liaison-organizations.pdf last consulted April 29, 2011.

ISO and Conformity Assessment 2005 http://www.iso.org/iso/search.htm?qt=ISO+19011&published=on&active_tab=standards last consulted March 17, 2011.

ISO Annual Report 2009, http://www.iso.org/iso/annual_report_2009.pdf last consulted April 30, 2011.

ISO Environmental Management 2009, http://www.iso.org/iso/theiso14000family_2009.pdf last consulted April 29, 2011.

ISO Strategic Plan 2011-2015, http://www.iso.org/iso/iso_strategic_plan_2011-2015.pdf last consulted April 30, 2011.

ISO UNIDO The Conformity Assessment Toolbox: 37, http://www.iso.org/iso/casco_building-trust.pdf last consulted April 29, 2011.

ISO/IEC Directives, Part 1 2004, http://publicaa.ansi.org/sites/apdl/Documents/Standards %20 Activities/International%20Standardization/ISO/ISO_IEC_Directives_Part1.pdf last consulted April 29, 2011.

ISO/IEC Directives, Supplement – Procedures specific to ISO 2011, http://isotc.iso.org/livelink/livelink/fetch/2000/2122/3146825/4229629/4230450/4230452/Supplement_%2D_Procedures_specific_to_ISO_%28the__ISO_Supplement_%29_2nd_edition_%28PDF_format%29_.pdf?nodeid=10579742&vernum=-2 last consulted April 30, 2011.

ISO/TC 207 Draft BP – Version 3-2005-06-28, http://isotc.iso.org/livelink/livelink/fetch/2000/2122/687806/ISO_TC_207__Environmental_management_.pdf?nodeid=999214&vernum=-2 last consulted March 17, 2011.

ISO/TC 207 Environmental management ISO/TC 207 N932 2009, http://www.tc207.org/PDF /N932Communique_16_207PlenaryCairo.pdf last consulted March 17, 2011.

KPCS Document 2002, http://www.kimberleyprocess.com/home/index_en.html last consulted April 29, 2011.

KPCS Final communique – Plenary 2003, http://www.kimberleyprocess.com/ documents/plenary_intersessional_meeting_en.html last consulted April 30, 2011.

KPCS Final communique – Plenary 2009, http://www.kimberleyprocess.com/ documents/plenary_intersessional_meeting_en.html last consulted April 30, 2011.

KPCS Participation Committee Interim Measures 2008, http://www.kimberleyprocess.com/structure /working_group_en.html#5 last consulted April 30, 2011.

KPCS Rules of Procedure 2003, http://www.kimberleyprocess.com/ structure/working_group_en.html#7 last consulted April 30, 2011.

KPCS Rules of Procedure Amendment 2003 http://www.kimberleyprocess.com/ structure/working_group_en.html#7 last consulted April 29, 2011.

KPCS Terms of Reference Ad hoc Working Group on the Review of the KPCS 2005, http://www.kimberleyprocess.com/documents/third_year_view_en.html last consulted April 30, 2011.

KPCS Third Year Review 2006 http://www.kimberleyprocess.com/documents /third_year_view_en.html last consulted April 30, 2011.

KPCS WGAAP Terms of Reference 2007, http://www.kimberleyprocess.com/structure /working_group_en.html#7 last consulted April 30, 2011.

MSC Annual Report 2009/2010, http://www.msc.org/documents/msc-brochures/annual-report-archive/MSC_AnnualReview_final_web.pdf/view last consulted March 28, 2011.

MSC Articles of Association, http://www.msc.org/documents/institutional/MSC-Articles-of-association.pdf/view last consulted March 28, 2011.

MSC Fisheries Assessment Methodology 2010, http://www.msc.org/about-us/standards/ methodologies/fam/msc-fishery-assessment-methodology#download-the-fisheries-assessment last consulted March 30, 2011.

MSC Fisheries Certification Methodology 2010, http://www.msc.org/about-us/standards/methodologies/msc-fishery-certification-methodology last consulted March 30, 2011.

MSC Fishery Standard 2010, http://www.msc.org/documents/scheme-documents/msc-standards/ MSC_environmental_standard_for_sustainable_fishing.pdf last consulted March 29, 2011.

MSC Joint Marketing 2010, http://www.msc.org/documents/msc-brochures/MSC_Joint_Marketing _Case_Study_EN.pdf/view last consulted April 29, 2011.

MSC Policy Development Cycle Work Plan 2011, http://www.msc.org/documents/consultations /MSC_Policy_Development.pdf last consulted March 29, 2011.

MSC Standard Setting Procedure 2.0, http://www.msc.org/documents/consultations last consulted April 28, 2011.

Partnership Africa Canada Annual Report 2009, http://www.pacweb.org/Documents/ year_in_review/YinR-2009-eng.pdf last consulted April 30, 2011.

SHAXSON, N. (2009): Nigeria's Extractive Industries Transparency Initiative. Just a Glorious Audit? Chatham House (the Royal Institute of International Affairs), http://eiti.org/files/NEITI%20 Chatham%20house_0.pdf last consulted April 30, 2011.

United Nations General Assembly resolution A/RES/55/56, http://undemocracy.com/A-RES-55-56.pdf last consulted April 30, 2011.

USGS Minerals Yearbook Ghana 2009, http://minerals.usgs.gov/minerals/pubs/country/2009/myb3-2009-gh.pdf last consulted April 29, 2011.

YATES, J. et al. undated, http://www.iso.org/iso/about/the_iso_story/iso_story_founding.htm last consulted April 29, 2011.

DERA Deutsche
Rohstoffagentur

Bundesanstalt für Geowissenschaften und Rohstoffe