

# The Institutionalization of Private Governance: How Business and Nonprofit Organizations Agree on Transnational Rules

PHILIPP PATTBURG\*

*This article assesses the recent trend of cooperation among antagonistic private actors that results in the creation and implementation of issue-specific transnational norms and rules and the subsequent shift from public to private forms of governance. Many political scientists agree that authority also exists outside of formal political structures. Private actors increasingly begin to make their own rules and standards that acquire authority beyond the international system. This observation is often referred to as private transnational governance as opposed to public or international governance. Although the concept of private governance gains prominence in academic debates, it is not clear how private governance on the global scale is constructed and maintained or what specific or general conditions are necessary for private governance to emerge. Based on the review of common theoretical propositions, this article develops an integrated model along which the necessary conditions for the emergence of private governance can be assessed and understood. As most research has hitherto focused on institutionalized cooperation between business actors (self-regulation), this article takes a closer look at those transnational systems of rule that result out of the enhanced cooperation between profit and nonprofit actors (coregulation).*

## INTRODUCTION

The privatization of world politics is a much-debated issue in contemporary academic discourse (Brühl 2002; Cashore 2002; Clapp 1998; Savas 2000). However, whereas the provision of services by private actors such as military companies or bond-rating agencies, and the implementation and monitoring of international agreements have already been at the center of debate for a while, the parallel development of cooperative rule making by private actors, both from the profit and nonprofit camp, has not received comparable attention.

As far as rules and norms are concerned, studies in international relations (IR) in general and global environmental politics in particular have primarily focused on international regimes and intergovernmental organizations that have been designed to address transboundary problems.

\*Freie Universität Berlin

*Governance: An International Journal of Policy, Administration, and Institutions*, Vol. 18, No. 4, October 2005 (pp. 589–610). © 2005 Blackwell Publishing, 350 Main St., Malden, MA 02148, USA, and 9600 Garsington Road, Oxford, OX4 2DQ, UK. ISSN 0952-1895

Nonstate actors have figured prominently on the research agenda of political scientists for more than three decades and scholars have studied in detail their role and function in agenda setting, lobbying governments, and implementing international agreements (Arts 1998; Keck and Sikkink 1998; Raustiala 1997; Rowlands 2001; Weiss and Gordenker 1996). However, still little is known about the institutionalization of governance by private, often antagonistic actors. Research has either focused on interfirm cooperation as a source of private authority in the global political system (Cutler, Haufler, and Porter 1999a; Hall and Biersteker 2002) or addressed partnerships between different actors from all segments of society in general, including business, civil society, and governments (Austin 2000; Hemmati 2001; Willetts 2000).

As a result, the debate about nonstate actors and their new roles in governance has been limited to public-private partnerships and global public-policy networks (Dingwerth 2005; Witte, Reinicke, and Benner 2000). It has, to a large extent, neglected far-reaching institutionalizations among private actors without the involvement of governments, government agencies, or intergovernmental organizations. The underlying assumption of this article is that the current process of private institutionalization among a wide variety of business and nonprofit actors signifies more than a greening of industry based on rationalistic interest calculations. Instead, we witness the emergence of transnational organization, resulting from a variety of norm and rule systems on the global level, from reporting schemes to certification and environmental management standards, that exist primarily outside the international context. Consequently, the impact of private actors on world politics has changed as well. They have developed from being an intervening variable of the international system to establishing rules that exist mainly outside of it.

But what explains this recent transformation? I argue that the conditions for private governance to emerge can be assessed along two interconnected lines of argumentation; focusing on the macrolevel of conditions, including global economic transformations and contextual factors on the international level; and the microlevel, including the specific structure of the problem as well as available organizational resources of actors involved. The two condition levels are understood to form an integrated model of private institutional emergence. Therefore, it is possible to highlight the actual linkages between the conditions in a more process-oriented way than single-factor accounts usually display. The theoretical and analytical significance of this article derives from the basic questions it sets out to answer: First, how could we conceptualize the novel phenomenon of private governance in world politics? Second, how could we explain its existence? And third, given the rich literature on questions of institutional formation, which analytical model is most appropriate to do so?

Consequently, the article proceeds in three analytical steps. First, it analyzes the shift from public to private governance and the corre-

sponding institutionalization of cooperation between different private transnational actors. Second, it seeks to establish a common framework of analysis to understand the conditions of emergence of private institutions based on common propositions found in the literature on (private) regimes and private cooperation. Third, it introduces two empirical cases to further substantiate the theoretical claims made in the preceding part. The Forest Stewardship Council (FSC) provides an illustrative example of transnational coregulation in the forest sector. In contrast to the Sustainable Forest Initiative and the Pan European Forest Certification Scheme, which both have been influenced by industry and public actors and only recently are moving toward more organizational independence, the FSC constitutes a genuine cooperative effort of profit and nonprofit actors from its very beginning. The Coalition for Environmentally Responsible Economies (CERES), the second case presented in this article, displays a different organizational form of private regulation. Here the rules do not govern a specific issue area but are targeted toward the everyday operations of companies in general. Achieving a better understanding of private rule making as one of the emerging phenomena in world politics will not only broaden our theoretical understanding of global governance but will also contribute to the much-needed institution building for effective sustainable development.

#### FROM PUBLIC TO PRIVATE GOVERNANCE: THE INSTITUTIONALIZATION OF PRIVATE REGULATION

The last decade of the twentieth century has been called an era of partnership (Murphy 1998). Innovative forms of collaboration can be observed in a range of different organizational settings and issue areas. Firms may engage in strategic alliances with suppliers and competitors and develop informal industry norms and practices or even formal private regimes, regulating the behavior of a wide range of business actors in sectors ranging from insurance to minerals and mining (Cutler, Haufler, and Porter 1999a). International organizations seek the assistance of corporations to implement universal social and environmental norms (U.N. Global Compact), or engage in partnership with business actors and non-governmental organizations (NGOs) to introduce a globally applicable scheme for sustainable corporate reporting (Global Reporting Initiative [GRI]). Civil society representatives on their term take part in negotiations involving corporations, governments, and international organizations with a view to establishing a sustainable framework for the planning and operation of large-scale dams (World Commission on Dams).

These examples indicate at least three substantive shifts within world politics. First, the locus of authoritative problem solving does not rest with governments and their international organizations alone. Authority is indeed relocated in many different settings, involving public-private as well as purely private actor constellations. Second, the predominantly

confrontational relation between companies, governments, and civil society has been complemented by partnership as one possible mode of interaction.<sup>1</sup> And third, cooperation is getting more and more institutionalized, resulting in social practices that effectively govern specific issue areas. The term private governance encapsulates these important shifts within one conceptual framework. It emphasizes the role of private actors, both profit and nonprofit, in the establishment and maintenance of issue-specific transnational rule systems in contrast to either private agenda setting and lobbying or international rule making. Therefore, private governance could be understood as a functional equivalent to public forms of global governance involving states and intergovernmental institutions.

Global governance is generally believed to encompass different systems of rule on different levels of human activity as an organizing social principle beyond hierarchical steering and the sovereign authority of nation-states. As James Rosenau (1997, 27) notes, "global governance is the sum of myriad—literally millions of—control mechanisms driven by different histories, goals, structures, and processes." The phenomenon therefore not only covers "the activities of governments, but it also includes the many channels through which 'commands' flow in the form of goals framed, directives issued, and policies pursued" (Rosenau 1995, 14).

One of these possible channels is the realm of private governance. A closer look at this phenomenon reveals that private governance consists of at least three analytical dimensions: first, the procedural dimension of governance, which emphasizes the activities of private transnational actors; second, the structural dimension of governance, which highlights the distinct "architecture" of a governance arrangement, including norms and rules, networks and actor constellations, as well as formal or informal links to other areas of governance; and third, the functional dimension of governance, which focuses on the material and ideational outcome of a private governance arrangement as a functional equivalent to forms of national or international public governance. This three-dimensional perspective on private governance is reflected in Falkner's (2003, 72–73) assumption that private governance "emerges at the global level where the interactions among private actors . . . give rise to institutional arrangements that structure and direct actors' behavior in an issue-specific area."

Consequently, the recent trend of private governance goes beyond the phenomenon of privatization of world politics (Brühl, Debiel, Hamm, Hummel, and Martens 2001), which, to a large extent, has been analyzed as service provision and rule implementation by private actors. In addition, private governance includes new actor constellations and uncommon alliances between a wide range of actors that go beyond coordination or cooperation. Following Robert Keohane, cooperation can be defined as adjustments of behavior toward mutual goals that contain some degree

of obligation for all participants and thus extend cooperation into the future (1984). In contrast:

governance . . . emerges out of a context of interaction that is institutionalized and of more permanent nature. In a system of governance, individual actors do not constantly decide to be bound by the institutional norms based on a calculation of their interest, but adjust their behavior out of recognition of the legitimacy of the governance system. (Falkner 2003, 73)

Therefore, cooperation and forms of private governance also differ according to the authority involved in a specific actor constellation:

Cooperation that derives primarily from rational calculation of the direct payoff from adjusting one's behavior in a particular strategic situation may not involve authority. Authority requires a basis in trust rather than calculation of immediate benefit, and therefore cooperation must involve the development of habits, norms, rules, and shared expectations—cooperation must be institutionalized. (Cutler, Haufler, and Porter 1999b, 334–335)

The emerging private institutions that result from enhanced cooperation between antagonistic private actors can be understood as “social practices consisting of easily recognized roles coupled with clusters of rules or conventions governing relations among the occupants of these roles” (Young 1989, 32). From a functional perspective, private institutions govern a distinct issue area through the development and subsequent implementation of regulations directed at the behavior of various actors. Therefore, they can be qualified as private regulative institutions. The resulting regulative rules take different forms, ranging from management standards to codes of conduct and detailed global certification schemes.

Next to setting detailed regulative rules, private institutions are generally believed to fulfill additional functions within the context of private governance (Pattberg 2004). By providing a forum for deliberation and conflict resolution, by producing and disseminating valuable knowledge and information, by providing opportunities for organizational learning, and by securing independent verification of norm compliance, private institutions effectively provide an institutionalized response to intertwined environmental, social, and economic problems. It is precisely through these distinct functions that private institutions exercise authority within a given issue area and beyond. These observations are in line with the assumption that private governance is a functional equivalent of international governance. Similar to regimes established by states, private institutions might provide collective goods, reduce transaction costs, and decrease uncertainty (Keohane 1984).

In sum, private regulative institutions play an important role in shaping the realm of private governance in issue areas ranging from labor rights and fair trade, to forest politics and biodiversity conservation. Next to private forms of coordination and rule implementation, the phenomenon of rule making by private actors gains prominence among IR scholars. But research on these *private regimes* (Haufler 1993) has almost

exclusively focused on institutionalizations among firms and business associations, neglecting far-reaching developments of institutionalization between former adversaries such as environmental and social NGOs, investors, transnational corporations, and a variety of local or regional business actors. The corresponding question is why, how, and under what conditions private actors from different segments of transnational society, following different organizational and functional logics, engage in close cooperation that produces transnational regulation beyond the international political system.

#### EXPLAINING THE EMERGENCE OF PRIVATE INSTITUTIONS IN GLOBAL GOVERNANCE: REVIEWING COMMON PROPOSITIONS

This section discusses three theoretical literatures that can all be related to the problem of private institutionalization but represent three different theoretical backgrounds: first, the concept of private interfirm regimes that is building on general regime literature; second, the literature on partnership and collaboration between different actors on the global level in general; and third, the debate about macrotransformation in the context of globalization.

Regime literature is interested in, among other questions, explaining the formation of “normative institutions” that are “based on a persistent and connected set of rules” (Mayer, Rittberger, and Zürn 1993, 393). The object of regime analysis is “voluntarily agreed-upon, issue-area specific normative institutions created by states and other international actors, which are studied as the mainstay of establishing intentional social order by self-regulation in international relations” (Mayer et al. 1993, 393). Therefore, as Haufler argues, “neither the common definition of ‘regime’ nor the fundamental assumptions made about regimes suggest that there can be no such thing as a purely private regime” (1993, 96). Consequently, the regime literature is a valuable starting point for theorizing about the possible causes and conditions of the emergence of private regulatory institutions.

The puzzle of regime formation has been explored basically along three lines of argumentation (Hasenclever, Mayer, and Rittberger 1997) that are not mutually exclusive but rather work in tandem. Power-based explanations highlight the importance of power resources, both in monetary and nonmonetary terms, in bringing about cooperation. The basic premise is that institutions are structured by and reflect the distribution of power within a given social system, be it international and public or transnational and private. Interest-based explanations focus on the interactions of self-interested parties coordinating their behavior to reap joint gains. The basic premise is that in order to reach cooperation there must be a zone of agreement or contract, a possible realm of joint gains for all the participants. The third line of argumentation is labeled knowledge-based and revolves around the importance of ideas, arguments, and social iden-

tities. The basic premise holds that the different interests determining a specific zone of agreement are not exogenously given but subject of cognitive processes and developments such as scientific information and convergence or general framing of issues.

Recent case studies on private authority have revealed—based on the classic regime literature—three possible explanations for the emergence of private interfirm cooperation. Contextual factors and systemic changes are identified to have a major influence on private institutionalization. Haufler (2000, 122), for example, argues that the globalization of economic activities has resulted in “a mismatch between markets and politics in terms of governance.” Consequently, the “demand for rules to govern commerce has given rise to a variety of sources of supply, and one of the most significant . . . is the private sector itself” (Haufler 2000, 121). But growing private institutionalization of rule making can be explained not only in terms of macrosystemic transformations, discernible in the recurrent failure of governments worldwide to cope with transboundary problems, but also by applying rationalistic approaches that focus on utility-maximizing actors as the fundamental heuristic units. Efficiency-gains approaches analyze cooperation and subsequent institutionalization in terms of a possible reduction of transaction costs (Cutler et al. 1999b, 338). In this view, interfirm regimes may reduce costs associated with information and uncertainty, costs related to negotiations and consensus seeking, and costs related to the enforcement of regulations. A second type of rationalistic explanation centers on the factor of power. From this perspective, institutions are predominantly established because they enhance the capacity of some actors to exercise power over others in a given field of competition. These considerations seem to substantiate the propositions discussed under the framework of international regimes. But although rationalistic and contextual explanations seem to have some merits in the case of private institutions, even leading scholars of the field suggest that it is difficult to disentangle them in practice (Cutler et al. 1999b). Therefore, an integrated approach to the emergence of private institutions may prove superior to single-factor accounts of formation (Efinger, Mayer, and Schwarzer 1993, 272–274).

What can be learned from the general regime literature and the more specific debate about private interfirm regimes for our puzzle of emerging private regulative institutions as a form of private governance? From a single-factor perspective, we can assume distinct empirical observations to substantiate the individual propositions. For power-based assumptions to be true, they must produce strong leaders in each network who influence the outcome of the negotiations to their own benefit, or at least a group of actors who have considerably more power than others in shaping the outcome of the cooperation, in most cases the rules governing their own behavior. For the interest-based and efficiency-gains approach to be proven valid, they must result in reduced transaction costs, better positions in the market, and reputation gains. These objectives should be

identified by the partnering organizations before the establishment of the institution and not just occur as the unintended result of cooperation. Furthermore, a possible zone of agreement should be imaginable for all the participants of the arrangement before the actual institutionalization. For contextual factors to be decisive, there must be evidence for large-scale transformation or eruptive events within a given policy field. Observations could include a new influential discourse, absence or inadequacy of governmental and intergovernmental regulation, the emergence of new scientific knowledge, or an environmental catastrophe. We should keep in mind that although regime theory provides us with a range of possible propositions, a simple application of findings from either the international regimes literature or the interfirm and business regimes perspective to the case of private regulatory institutions seems to be at least problematic.

A second approach to the question of private institutionalization can be found in the growing literature on "partnership politics" (Eisler 1996, 565). Next to studies on public-private partnerships and interorganizational collaboration, researchers started to address business-NGO partnerships in the mid-1990s. This research strategy is action-oriented but nevertheless provides useful insights into the specific types and rationales of business-NGO partnerships (Heap 1998; Long and Arnold 1995; Murphy and Bendell 1997). The existing policy-oriented studies on partnerships identify four preconditions for business actors and NGOs to engage in cooperation. The first precondition is perceived or actual decline in the effectiveness of state regulation with regard to the enforcement of environmental and social regulation, both on the national and international level. The second precondition is acknowledgment on the part of the NGOs that large transnational corporations are both cause and possible solution of global problems, while the third is the impact of new NGO campaigning strategies that focus on corporate brand reputation and thus threaten the market position of companies. The fourth precondition is the recognition on the part of the companies that NGOs have acquired power and legitimacy as agents of social change, thus presenting themselves as potential partners for solving pressing business problems.

The third broad theoretical approach considered here focuses on the global political economy as an explanatory factor for large-scale transformations. The debate about globalization and the changing role of the nation-state in addressing transboundary problems makes three claims regarding the relation between globalization and the rise of private forms of global governance (Falkner 2003, 74).

The first claim stresses the relationship between globalization and the perceived decline of the nation-state system. From this perspective, private governance is an indicator for a long-term shift in the locus of authority, especially within the realm of the global economy. Private actors have become the "real players" in issue areas ranging from financial stability and foreign investment (e.g., bond-rating agencies) to



industrial standard setting (e.g., International Organization for Standardization). As a result, "the powers of most states have declined still further, so that their authority over the people and their activities inside their territorial boundaries has weakened" (Strange 1996, xi).

The second claim addresses the hypothetical link between the growth of civil society and the emergence of private governance. In this view, civil society pressure exerted on corporations, accompanied by far-reaching media coverage, is seen as a main cause for the emergence of institutionalized responses to the growing demand for corporate social and environmental accountability (Wapner 1997).

The third claim is closely related to the work of Antonio Gramsci. In this view, novel relations between states, business actors, international organizations, and civil society institutions signify a shift from more traditional forms of politics to market-oriented, corporate-sponsored regimes that clearly benefit corporate interests (Falkner 2003, 75). The applicability of this concept to the realm of private governance stems from the particular importance of business and civil society as central categories within the framework of private institutionalization. Neo-Gramscian theory seems capable of explaining the current transformation of the economic arena, which is driven by a hegemonic bloc of business and society elites, resulting in a new approach to regulation such as market-driven self-regulation. Within this institutional setting, a managerial elite from multinational corporations, transnational NGOs, academia, and governmental agencies comprises a transnational historical bloc, exercising leadership as a consequence of individual and collective human acts (Cox 1987; Germain and Kenny 1998, 6; Pijl 1997). In this view, NGOs are not natural adversaries of business interests but play a dual role as "arenas of cultural and ideological struggle, and also as key allies in securing hegemonic stability" (Levy and Newell 2002, 90).

The aforementioned three broad theoretical approaches toward the phenomenon of private institutions in global governance—regime theory, partnership politics, and studies in global political economy—contain valuable propositions with regards to the emergence of private institutions. Four recurrent aspects seem to be important, although they receive different degrees of attention in the respective literatures: (1) macrosystemic transformations such as globalization or hegemonic reconfiguration as well as contextual factors on the macrolevel, (2) problem structure, characterized by interdependent interests as well as different levels of information and knowledge, (3) organizational resources that enable actors to reduce transaction costs or improve their strategic position, and (4) ideas, knowledge, and information. For analytical purposes, these aspects can be grouped into two broad categories, one containing the microlevel conditions, the other those observable on the macrolevel. Microlevel conditions contain the problem structure and organizational resources because these are dependent on the specific issue area and the actors involved. Macrolevel conditions relate to large-scale trans-

formations in the structure of the international system as well as to the emergence and dissemination of ideas and knowledge.

#### PRIVATE RULES IN PRIVATE NETWORKS: UNDERSTANDING THE FSC AND CERES

The following section considers two empirical cases from the field of environmental politics in the light of the aforementioned theoretical propositions. After briefly discussing the institutional setup and rules established, I turn to the enabling factors for institutionalization of private regulation involving companies and civil society organizations. I assess the conditions for institutionalization along the four recurrent themes identified in this section. The two case studies are based on expert interviews with staff members, board representatives, and a range of additional stakeholders as well as on written documentation and secondary sources.

#### **The Environment at Risk: CERES**

CERES started operating in 1989 with publishing the so-called Valdez principles, utilizing the huge public outrage around the Exxon Valdez oil spill, which occurred on March 24. A group of socially responsible investors that was mainly organized in the Social Investment Forum and 15 large environmental groups started discussing the possibility of using the power of investors (shareholder resolutions) against the power of the boardroom. The idea behind CERES is to engage companies in dialogue and work toward the subsequent endorsement of environmental principles that establish a long-term corporate commitment to a continual progress in environmental performance. The 10-point code of corporate environmental conduct establishes "an environmental ethic with criteria by which investors and others can assess the environmental performance of companies" (CERES 2002b, 31). Principle 10 requires an annual self-evaluation by the endorsing company based on the CERES reporting form by which the required continual progress toward environmental responsibility can be measured. As a result, environmental improvements, lowered investment risks, and positive corporate performance go hand in hand.

To date, more than 70 companies have endorsed the CERES principles, including the annual reporting commitment. Among the CERES endorsers are large multinational corporations such as American Airlines, Bank of America, Coca-Cola U.S.A., Ford Motor Company, General Motors (GM), and Sunoco, as well as small and medium-sized firms, including environmental frontrunners such as The Body Shop International or Aveda Corporation. The second pillar that supports CERES is the CERES coalition, a network of around 90 organizations, including environmental advocacy groups, public interest and community groups, as well as an

array of investors, analysts, and financial advisers representing more than \$300 billion in invested capital. A board of 21 distinguished individuals governs CERES. The day-to-day operations are supervised by an executive director and carried out by a staff of 16 people located in Boston, MA. Although endorsing companies are not directly represented on the CERES board, corporate representatives participate in various committees set up by the board to develop and implement programs and project and in this function regularly attend CERES board meetings. A further avenue of influence for corporations is the annual CERES conference that draws together almost all coalition members and endorsers to discuss the issue of corporate environmental commitment from a long-term perspective. As William Clay Ford, chairman of the board of Ford Motor Company, noted, "[t]he CERES annual conference is helping to establish not only the agenda of the next century, but also the relationships we will need to solve some very daunting issues" (CERES 2001, 9).

The regulatory dimension of CERES as an institution contains two related aspects: The first aspect refers to the principles that establish a normative framework for companies to operate in. The second aspect pertains to a standardized format for corporate environmental reporting that prescribes the form and content of public disclosure (CERES 1999a). Each aspect can be considered a major success. Many companies have published an environmental mission statement drawing on the original Valdez principles. To date, more than 2,000 companies worldwide regularly publish environmental reports. The CERES report form gained so much credibility that it provided the basis for the global sustainability reporting guidelines operated by the GRI, a tripartite network of NGOs, corporations, and the United Nations Environment Program (UNEP). CERES not only provided substantial knowledge and information but also served as the secretariat and organizational driver until the GRI became an independent organization in 2000.

When institutional investors and representatives of major environmental organizations convened at Chapel Hill, North Carolina, in April 1989 to discuss ways of improving the environmental and social impacts of investments, a whole range of controversial issues waited to be solved. For social investors and their clients, the lack of information about the environmental performance of companies was a real risk for their business. Information came either from the companies themselves that display advanced public relations skills rather than substantial information, or from advocacy groups addressing their specific constituencies. Neither companies nor advocacy groups served the need of a growing social investment community. Little help came from governmental regulation at that time because measures focused on specific substances, like in the case of the Toxic Release Inventory established in 1987, rather than on environmental performance in its entirety. NGOs for their part began to realize that conventional lobbying strategies aimed at governments were becoming less efficient, while at the same time business actors emerged

as major threats to the environment. The catastrophe of Bhopal in 1984 and the Exxon Valdez oil spill of 1989 had brought corporate misbehavior to the forefront of public concern. As a result, companies, although reluctant in the beginning, started to look for credible ways to secure brand reputation and profits in the midst of a hostile public environment. In sum, interdependent stakeholders having vested interests in the problem, disproportional levels of expertise and information as well as different perspectives resulting in an adversarial relationship characterized the problem structure.

After two more meetings among the original coalition members, the negotiations led to the formulation and public announcement of the Valdez principles on September 7, 1989, resulting in considerable media coverage and public attention. Already this early phase of negotiations showed an interesting feature. Debates were not based on positional negotiation and confrontational strategies but on a common framework of reference from where future visions could develop.

Two ideas, one practical, the other more visionary, served as influential institutional models. The first idea is that the system of standardized financial accounting that emerged in collaboration between public and private actors in the U.S. is controlled and monitored by the Financial Accounting Board. The second idea, which had a considerable impact on the coalition members' ability to identify a common platform for action, was to use shareholder petitions to challenge corporate behavior, as in the case of the Sullivan principles applied to U.S. companies operating in South Africa under the apartheid regime. The Sullivan principles originated in 1977, when Reverend Leon Sullivan, a Baptist minister, issued his code of conduct in an attempt to end discrimination against black workers in South Africa oppressed by the country's policy of apartheid. This initiative helped to focus attention on the issue of racial injustice in South Africa within the international business by promoting criteria for socially responsible investment practices. The Sullivan principles are even credited for having contributed to the end of apartheid. Both the idea of financial accounting and the Sullivan principles have been of considerable importance in the process of institutionalization because they created a common framework of reference under which adversarial standpoints could be integrated into a shared practical vision.

Shortly after the public announcement of the Valdez principles, coalition members engaged in an intense dialogue with corporations in order to test their willingness to adopt the principles and commit themselves to periodical reporting. However, although the Aveda Corporation became the first signatory to the Valdez principles on November 22, 1989 (CERES 1999b), it took another three years to institutionalize the cooperation with a wide range of corporate actors. After several rounds of talks with companies the principles were amended and renamed in 1992. Sunoco became the first Fortune 500 company to endorse the new CERES principles in February 1993. GM followed in 1994. Several contextual

factors can be identified that affected the early process of institutionalization between investors, advocacy groups, and corporations. First, environmental catastrophes, especially the Exxon Valdez incident, have triggered widespread public concern about the environmental integrity of major companies. Second, the beginning information revolution and increasing business activities on the global level radically changed both the importance and availability of information. As Joan Bavaria recalls in retrospective:

this need [for principles and reporting] arose just as an information revolution was starting to race around the world. We sensed that this was a real revolution, with implications for our economy, environment, and culture as sweeping as those that accompanied the agricultural revolution or the industrial revolution. (CERES 1998, 2)

As a third contextual factor, the rhetorical as well as practical support that the Clinton administration gave to cooperative approaches, voluntary initiatives, and partnership concepts seemed to have played a role.

When CERES became more institutionalized, neither the investment community and the environmental organization nor the endorsing companies knew exactly what the outcome would be of that process in terms of joint gains and mutual benefits. This does clearly contradict standard transaction cost explanations for cooperation. A good example in case is the engagement with GM, the world's largest automobile corporation. The CERES performance review of GM, conducted in 2001 and covering the first five years of institutional cooperation, notes:

The world's largest corporation was joining hands with a relatively unfamiliar, yet potentially very influential, coalition of environmental groups and socially responsible investors. . . . The outcomes were uncertain, and there were many skeptics on both sides. . . . Together GM and CERES hoped to harvest potential benefits in admittedly unknown and probably rough terrain. (CERES 2002a, 5)

What has been more important than a clear perception of future gains were four distinct organizational resources available in the process of institutionalization: the ability to frame the problem in a way that is meaningful to other stakeholders, the information necessary to solve it, the impact to make an actual difference in the given issue area, and the credibility to construct a joint solution acceptable to all the participants. Social investors were able to address the problem of corporate environmental performance because they represented not only social visions but substantial capital interests as well. By filing shareholder petitions, they made companies aware of the growing demand for environmental disclosure. But investors needed the support of nonpartisan environmental organizations to offer corporations the reputation benefit and added value necessary to engage them in cooperation. The companies, for their part, provided the information requested by investors and the commitment envisaged by the NGOs to make a real difference on the ground.

In sum, the CERES case confirms the importance of private demand for a certain regulatory framework in the absence of appropriate governmental or international responses. A distinct problem structure creates demand from different sides of the stakeholder spectrum. What seems important is that one actor holds the leverage to make the problem a business issue, in this case the social investors through the intense use of shareholder petitions. Furthermore, ideas seem to matter in allowing different actors to agree on a mutual frame of reference as the basis for future action. Although the environmental community did reject the approach in the very beginning, the idea of environmental principles, coupled with standardized reporting provided a common point of reference that was used as a strong long-term vision to bridge existing differences. The macrolevel of conditions plays a twofold role in the case. First, contextual factors such as the Exxon Valdez catastrophe provided an additional impulse for successful private regulation. Second, macroshifts in the economic realm drove corporate actors to the forefront of public attention. What could not be confirmed was a simple power or interest-based explanation. What rather seem to be influential are available organizational resources that can be exchanged to create a zone of joint gains. Although companies did achieve gains such as positive brand reputation, the initial cooperation process was marked by uncertainty with regard to the possible outcome. What seems to be of further importance is the existence of an institutional entrepreneur, a committed individual generating momentum for the respective idea, similar to the concept of a norm entrepreneur as discussed by Finnemore and Sikkink (1998). These findings indicate that an integrated model, combining micro and macrostructures, is better equipped to understand the emergence of private regulatory institutions than a single-factor account.

### **Certifying Sustainability: The FSC**

The FSC was founded in 1993 by a general assembly of interested parties in Toronto, Canada. Among the 126 participants from 26 countries were concerned individuals and representatives from a wide range of organizations, including environmental NGOs, retailers, trade unions, and indigenous interest groups. Although consultations among forest producers, retailers, and environmental and social interest groups had been going on since 1990, it was not until 1994 that the founding members of FSC agreed upon the "FSC Standards and Principles," the substantive basis of FSC's work with regard to the definition and operationalization of sustainable forestry (FSC 2000). The idea behind the FSC is to certify forest-management operations according to a detailed standard. Certification and continual verification of commitment is carried out by independent certification organizations that are accredited by the FSC according to specific rules.

In contrast to CERES, FSC, being a network of coalition members and endorsing companies, is constituted as a membership organization. The General Assembly (GA), a tripartite body that represents business, social, and environmental interests within three chambers, governs the FSC. The GA elects a board of directors that mirrors the principal governance structure. Each chamber sends three members to the board for a three-year term. The board decides on all issues of major importance, from approving national representatives and initiatives of the FSC, to allocating the annual budget, to approving new standards. The operational work of the FSC is handled by the FSC international secretariat located in Bonn, Germany, and supervised by an executive director who is appointed by the board. Whereas the day-to-day operations of the FSC are in the responsibility of the international secretariat and its executive director, and questions of major importance are decided by the board of directors, only the GA is authorized to change the fundamental "standards and principles" as well as the statutes of the FSC. Currently, the FSC incorporates about 600 individual and organizational members, 36 national initiatives, and 15 independent certification organizations within its network. Member organizations include large economic actors such as IKEA, The Home Depot, and B&Q; national and international environmental advocacy groups, for example Greenpeace, the World Wide Fund for Nature (WWF), and Friends of the Earth; and a wide range of social advocacy groups, including the German trade union IG Bau and indigenous campaigns within their scope.

As a private regulatory institution, the FSC produces three different basic types of standards: (1) global forest-management standards that form the basis for national and regional standards development, (2) chain of custody standards prescribing detailed rules along the production chain, and (3) standards for accreditation. The standards are developed and drafted by the standards and policies unit within the international secretariat and later approved by the board of directors. To date, more than 52 million hectares of forests worldwide are certified according to FSC standards, amounting to 5% of trade in forests products. From 1996 to 2005, the FSC has issued 4,500 certificates, both for forest management and chain of custody.

In March 1991, a group of timber users, traders, and representatives of social and environmental organizations convened in California to discuss the need for a credible system for identifying well-managed forests as an acceptable resource of forest products (FSC and WWF-Germany 2002, 6). One year later, WWF had teamed up with major retailers in the U.K. to form the U.K. Forest and Trade Network. In October 1993, the FSC held its first general assembly after an 18-month intense consultation period in 10 countries, including the U.S., Canada, Sweden, and Peru. Several distinct features characterize the problem structure that underlay this process of institutionalization. Media coverage on tropical deforestation and related social issues such as the Amazonian rubber tappers' protest

against illegal logging and the subsequent investment in cattle quickly turned “tropical timber” into a negative synonym for environmental degradation and human exploitation. Buying mahogany furniture had become a critical issue among northern consumers by the late 1980s. With environmental organizations organizing boycotts against tropical-timber retailers, and some governments discussing the possibility of banning timber import, companies were looking for new ways to protect their profits. Major business players quickly realized that in fact they could not account for the origin and nature of their raw materials. This created a need for transparent product labels, which were nonexistent at that time. Some NGOs for their part were unhappy with the debate focusing only on timber boycott, which the WWF especially saw as contraproductive. Instead, WWF-U.K. conducted a seminar on the forest problem entitled “Forests Are Your Business,” resulting in the WWF 95 group. Ten major do-it-yourself and furniture companies agreed to phase out by 1995 the purchase and sale of nonsustainable wood and wood products (Bendell and Murphy 2000, 70). The competing needs of the major stakeholders became evident at that point in time. An increasingly competitive global market for timber products drove large multinational corporations while at the same time brand reputation became a major topic of concern. Small forest owners wanted their share of the market but to maintain independence; communities relied on forests to finance community infrastructure; indigenous people demanded the recognition of fundamental rights, while workers sought to secure employment and fundamental labor standards. Environmental organizations in their term focused on protecting and preserving the integrity of the forest ecosystems.

Around the same time, the ongoing negotiations on an international agreement on the world’s forest raised expectations among NGOs and corporations for a credible solution to their problems. Although the first international response to the problem of deforestation, the International Tropical Timber Agreement focusing on trade in tropical-timber products, was already agreed on in 1983, it was not until the late 1980s that the international community reached a consensus on the necessity to consider a global approach to the forest problem. In the end, it was the failure of the intergovernmental process that gave an additional burst to the idea of private forest certification. For Timothy Synnott, FSC’s first executive director until January 2001, it is evident that “[a] clear impulse for the formation of FSC in 1993 came out of the failure of the Rio conference in 1992 and its failure to produce a legally binding forestry element” (FSC and WWF-Germany 2002, 8). And Francis Sullivan, member of WWF-U.K. and involved in the WWF 95 group and FSC, argued that one cannot sit back and wait for governments to agree. Instead, working with people and companies who might get things done could be the right thing to do (Bendell and Murphy 2000, 69).

Although the United Nations Conference on Environment and Development (UNCED) was unable to deliver a binding agreement on the



world's forests, it nevertheless provided important guidance for the FSC process. The Rio conference was the place where the concept of sustainability rose to its greatest appreciation. Based on the 1987 Brundtland Report, UNCED agreed on the Agenda 21 as the blueprint for sustainability in the 21<sup>st</sup> century. The document calls on governments to identify appropriate national strategies for the sustainable use of forest resources, acknowledging the crucial contribution of nongovernmental actors and business interests. For Peter Prokosch, chief executive officer of WWF-Germany, the FSC constitutes the "archetype of the participatory process envisioned by Agenda 21" (FSC and WWF-Germany 2002, 3). The idea of participation and equal representation based on the general assumption of the sustainability discourse that environmental, social, and economic interests are of the same value has been an important prerequisite for cooperation between the different stakeholders. Especially the unique tripartite governance structure, ensuring equal representation of all interests, has served as an early point of reference and a common ground for future negotiations. Although difficult to measure, individual commitment seems to have played a decisive role in the emergence of the FSC. As interviews with current staff members of FSC indicate, special credit for getting the FSC started is given to individuals at WWF who approached British companies with a view to partnership and not conflict.

Similar to the CERES case, available organizational resources played a greater role in the process of institutionalization than strategic reduction of transaction costs. Although companies were able to minimize cost, for example by eliminating intermediate traders based on information they obtained through the cooperation with local NGOs, this has been an unintended consequence rather than a clear strategic vision on the part of the companies. More decisive was the fact that NGOs were perceived as legitimate social actors by the public and thus could deliver the much needed credibility to forest certification systems. Furthermore, NGOs provided expert knowledge on many complex issues related to the technical aspects of certification as well as to their ecological functions. Retailers for their part could exercise pressure on the forest industry by demanding certified raw materials and products, inducing change in the actual practices of forestry. Forest managers perceived the chance to increase their profit margins by positioning themselves on the newly emerging market for sustainable timber.

In sum, the case of the FSC seems to confirm the importance of a distinct problem structure creating demand for regulation that cannot be met by an international agreement. With NGOs making timber trade a real consumer issue and governments unable to agree on binding regulations, companies sought new allies to save their core business interests. NGOs emerged not only as corporate critics but also as possible solutions to the problem. An integrative idea based on the norms embodied in the Brundtland Report and Agenda 21 served as the common point of

reference within the negotiations. In addition, individual commitment was crucial to realize cooperation when the opportunity occurred.

#### CONCLUSION: UNDERSTANDING PRIVATE GOVERNANCE IN WORLD POLITICS

This article argues that the recent phenomenon of private governance in world politics goes beyond common forms of private cooperation because it involves not only adjustments of behavior toward mutual goals but also shared norms, principles, and roles. As a result, private governance is believed to include private systems of rule that exist mainly outside of the international system of governance. The article further suggests that the explanatory factors for the emergence of private systems of rule are best thought of as a set of four conditions—two on a macrolevel and two on a microlevel of political structures. In this view, macrosystemic transformations, resulting in perceived or actual decline of public regulatory power, the emergence of civil society as a legitimate and credible actor, and increased environmental and social impact of corporate players, as well as powerful ideas that serve as common points of reference constitute the macrolevel of necessary conditions. On the microlevel, the structure of the problem and the available organizational resources of the actors involved constitute the necessary conditions for private regulatory institutions to emerge.

The two condition sets are supposed to be interconnected and form an integrated model of private regulatory institutions' emergence because distinct variables are systematically interacting with each other and thus jointly producing a certain result (Efinger et al. 1993, 273). It is further assumed that the distinct interplay between the macro- and the microlevel of conditions creates a window of opportunity for the emergence of private regulatory institutions. Institutionalization is thus understood to be a dynamic process.

The advantage of analyzing private governance along a macrolevel/microlevel distinction is twofold: First, the systematic interactions of factors as well as the specific mechanisms operating therein become evident. Consider, for example, the proposition that public pressure can explain the emergence of coregulative systems of rule. The empirical cases analyzed in this article have shown that pressure is a decisive factor but operates through different pathways—publicly orchestrated boycott or more clandestine shareholder petitions—that are dependent on the problem structure and organizational resources. Second, the proposed model allows for a systematic treatment of major factors by offering a structured approach to the analysis of private governance. A consecutive treatment of the macro- and microstructures in the analytical process could assure researchers that no major factor has gone unnoticed.

Drawing on the two cases, a common narrative can be presented. In this view, distinct problem structures, different levels of information and

knowledge as well as adversarial relationships among stakeholders create demand that is not met by public regulation. The ability to create private demand for regulation and to find a common solution rests on the organizational resources of distinct actors. These resources are a result of rather large-scale transformations. NGOs and other social actors have emerged as an accepted corrective to public actors while at the same time corporations acquired both greater environmental impact and public visibility. In this situation, ideas can help to integrate these resources (civil society pressure, public acceptance, and environmental impact) for a joint solution. In short, when private regulatory demand, being a result of strategy and macrosystemic transformations, is not met by adequate public supply, a broad inclusive idea can help to integrate resources that can be mutually exchanged to solve the multiparty problem.

In sum, an integrated model, combining the macrolevel and microlevel of political structures, has proved helpful in the analysis of private governance. This approach is helpful because it draws attention to a variety of interlinkages between different conditions that would not be observable using a single-factor account. First, the relation between shifts on the macrolevel and new resources for organizational actors, leading to new strategic choices; second, the relation between resources and the problem structure, addressing the ability of actors to construct a problem in the first place; and third, the relation between ideas that emerge and diffuse on the macrolevel and the subsequent integration of competing perspectives in the actual negotiations.

#### NOTE

1. Judith Richter has pointed to the fact that the term partnership represents a policy paradigm based on the assumption of trust, shared benefits, and an underlying win-win situation, concealing the fundamentally different goals and power resources of the actors involved (Richter 2001). This article uses the concept of partnership as a value neutral term, equivalent with cooperation.

#### REFERENCES

- Arts, Bas. 1998. *The Political Influence of Global NGOs: Case Studies on the Climate Change and Biodiversity Conventions*. Utrecht, The Netherlands: International Books.
- Austin, James E. 2000. *The Collaboration Challenge: How Nonprofit and Business Succeed through Strategic Alliances*. San Francisco: Jossey-Bass.
- Bendell, Jem, and David F. Murphy. 2000. *Planting the Seeds of Change: Business-NGO Relations on Tropical Deforestation*. In Jem Bendell, ed., *Terms for Endearment: Business, NGOs and Sustainable Development*. Sheffield, UK: Greenleaf Publishing.
- Börzel, Tanja A., and Thomas Risse. Forthcoming. *Public-Private Partnerships: Effective and Legitimate Tools of International Governance*. In Edgar Grande and Louis W. Pauly, eds., *Complex Sovereignty: On the Reconstruction of Political Authority in the 21st Century*.

- Brühl, Tanja. 2002. The Privatization of International Environmental Governance. In Frank Biermann, Rainer Brohm, and Klaus Dingwerth, eds., *Proceedings of the 2001 Berlin Conference on the Human Dimensions of Global Environmental Change: Global Environmental Change and the Nation State*. Potsdam, Germany: Potsdam Institute for Climate Impact Research.
- Brühl, Tanja, Tobias Debiel, Brigitte Hamm, Hartwig Hummel, and Jens Martens, eds. 2001. *Die Privatisierung der Weltpolitik. Entstaatlichung und Kommerzialisierung im Globalisierungsprozess [The Privatization of World Politics: Globalization, Denationalization and Commercialization]*. Bonn, Germany: Dietz.
- Cashore, Benjamin. 2002. Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (NSMD) Governance Systems Gain Rule-Making Authority. *Governance* 15:503–529.
- CERES. 1998. *Annual Report 1997*. Boston: CERES.
- . 1999a. *CERES Report Standard Form 1998*. Boston: CERES.
- . 1999b. *Tenth Anniversary Report 1998*. Boston: CERES.
- . 2001. *Drawing on the Wisdom of Us All: Annual Report 2000*. Boston: CERES.
- . 2002a. *CERES Performance Review of General Motors Corporation*. Boston: CERES.
- . 2002b. *Life in the Edge Environment: Annual Report 2001*. Boston: CERES.
- Clapp, Jennifer. 1998. The Privatization of Global Environmental Governance: ISO 14000 and the Developing World. *Global Governance* 4:295–316.
- Cox, Robert W. 1987. *Production, Power, and World Order*. New York: Columbia University Press.
- Cutler, A. Claire, Virginia Haufler, and Tony Porter, eds. 1999a. *Private Authority and International Affairs*. Albany: State University of New York Press.
- . 1999b. The Contours and Significance of Private Authority in International Affairs. In Claire A. Cutler, Virginia Haufler, and Tony Porter, eds., *Private Authority and International Affairs*. Albany: State University of New York Press.
- Dingwerth, Klaus. 2005. The Democratic Legitimacy of Public-Private Rule-Making: What Can We Learn from the World Commission on Dams? *Global Governance* 11:65–83.
- Efinger, Manfred, Peter Mayer, and Gudrun Schwarzer. 1993. Integrating and Contextualizing Hypotheses: Alternative Paths to Better Explanations of Regime Formation? In Volker Rittberg, ed., *Regime Theory and International Relations*. Oxford: Clarendon Press.
- Eisler, Riane. 1996. Creating Partnership Futures. *Future* 28:563–566.
- Falkner, Robert. 2003. Private Environmental Governance and International Relations: Exploring the Links. *Global Environmental Politics* 3:72–87.
- Finnemore, Martha, and Kathryn Sikkink. 1998. International Norm Dynamics and Political Change. *International Organization* 52:887–917.
- FSC. 2000. *FSC Principles and Criteria*. Oaxaca, Mexico: FSC A.C.
- FSC, and WWF-Germany. 2002. *Forest Stewardship Council: Political Instrument, Implementation and Concrete Results for Sustainability since 1993*. Frankfurt, Germany: FSC/WWF-Germany.
- Germain, Randall D., and Michael Kenny. 1998. Engaging Gramsci: International Relations Theory and the New Gramscians. *Review of International Studies* 24:3–21.
- Hall, Rodney Bruce, and Thomas J. Biersteker, eds. 2002. *The Emergence of Private Authority in Global Governance*. Cambridge, UK: Cambridge University Press.
- Hasenclever, Andreas, Peter Mayer, and Volker Rittberger. 1997. *Theories of International Regimes*. Cambridge, UK: Cambridge University Press.

- Haufler, Virginia. 1993. *Crossing the Boundary between Public and Private: International Regimes and Non-State Actors*. In Volker Rittberg, ed., *Regime Theory and International Relations*. Oxford: Clarendon Press.
- . 2000. *Private Sector International Regimes*. In Richard A. Higgott, Geoffrey R. D. Underhill, and Andreas Bieler, eds., *Non-State Actors and Authority in the Global System*. London: Routledge.
- Heap, Simon. 1998. *NGOs and the Private Sector: Potential for Partnerships?* Oxford: INTRAC.
- Hemmati, Minnu, ed. 2001. *Multi-Stakeholder Processes for Governance and Sustainability: Beyond Deadlock and Conflict*. London: Earthscan.
- Keck, Margaret E., and Kathryn Sikkink. 1998. *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell University Press.
- Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, NJ: Princeton University Press.
- Levy, David L., and Peter J. Newell. 2002. *Business Strategy and International Environmental Governance: Toward a Neo-Gramscian Synthesis*. *Global Environmental Politics* 2:84–100.
- Long, Frederick J., and Mathew B. Arnold. 1995. *The Power of Environmental Partnerships*. Fort Worth, TX: Dryden Press.
- Mayer, Peter, Volker Rittberger, and Michael Zürn. 1993. *Regime Theory: State of the Art and Perspectives*. In Volker Rittberger, ed., *Regime Theory and International Relations*. Oxford: Clarendon Press.
- Murphy, David F. 1998. *Business and NGOs in the Global Partnership Process*. Paper presented at the United Nations Conference on Trade and Development, Lyon, France, November 9–12.
- Murphy, David F., and Jem Bendell. 1997. *In the Company of Partners: Business, Environmental Groups and Sustainable Development Post Rio*. Bristol, UK: The Policy Press.
- Pattberg, Philipp. 2004. *Private Environmental Governance and the Sustainability Transition: Functions and Impacts of Business-NGO Partnerships*. In K. Jacob, M. Binder, and A. Wiczorek, eds., *Proceedings of the 2003 Berlin Conference on the Human Dimension of Global Environmental Change: Governance for Industrial Transformation*. Berlin, Germany: FFU.
- Pijl, Kees van der. 1997. *Transnational Class Formation and State Forms*. In Stephen Gill and James H. Mittelman, eds., *Innovation and Transformation in International Studies*. Cambridge, UK: Cambridge University Press.
- Raustiala, Kal. 1997. *States, NGOs, and International Environmental Institutions*. *International Studies Quarterly* 41:719–740.
- Richter, Judith. 2001. *Holding Corporations Accountable: Corporate Conduct, International Codes, and Citizen Action*. New York: Zed Books.
- Rosenau, James N. 1995. *Governance in the Twenty-First Century*. *Global Governance* 1:13–43.
- . 1997. *Global Environmental Governance: Delicate Balances, Subtle Nuances, and Multiple Challenges*. In Mats Rolén, Helen Sjöberg, and Uno Svedin, eds., *International Governance on Environmental Issues*. Dordrecht, The Netherlands: Kluwer Academic Publishing.
- Rowlands, Ian H. 2001. *Transnational Corporations and Global Environmental Politics*. In Daphné Josselin and William Wallace, eds., *Non-State Actors in World Politics*. London: Palgrave.
- Savas, E. S. 2000. *Privatization and Public-Private Partnerships*. New York: Chatham House.
- Strange, Susan. 1996. *The Retreat of the State: The Diffusion of Power in the World Economy*. Cambridge, UK: Cambridge University Press.

- Wapner, Paul. 1997. Governance in Global Civil Society. In Oran Young, ed., *Global Governance: Drawing Insights from Environmental Experience*. Cambridge, MA: MIT Press.
- Weiss, Thomas G., and Leon Gordenker, eds. 1996. *NGOs, the UN, and Global Governance*. Boulder, CO: Lynne Rienner.
- Willetts, Peter. 2000. From "Consultative Arrangements" to "Partnership": The Changing Status of NGOs in Diplomacy at the UN. *Global Governance* 6:191–212.
- Witte, Jan Martin, Wolfgang H. Reinicke, and Thorsten Benner. 2000. Beyond Multilateralism: Global Public Policy Networks. *Internationale Politik und Gesellschaft* 2:176–188.
- Young, Oran R. 1989. *International Cooperation*. Ithaca, NY: Cornell University Press.