The politics of norm domestication in private transnational business regulation: a typology and illustrations

Abstract
Scholars and practitioners of global private business regulation have often recognised the importance of political and institutional dynamics ‘on the ground’, in shaping the degree to which social and environmental regulatory norms are institutionalised or resisted at the local level. Local dynamics of norm contestation generate dilemmas for global regulators who aspire to be responsive to varied contexts in producing countries without ‘watering down’ global regulatory agendas. Drawing on a range of empirical illustrations from Southeast Asia and Latin America, this paper develops a typology of domestication strategies currently being used by global private regulators and examines the effects of these strategies on supporting or undermining the overall values and purposes of global regulatory agendas. In the presence of pervasive local contestation surrounding global regulatory norms, norm domestication strategies are shown to offer important means of countering challenges to the power and legitimacy of global regulators. Nonetheless, the effects of such strategies remain highly contingent on path-dependent contests between competing regulatory coalitions at both local and global levels.

Keywords
Private regulation; global environmental governance; norm domestication; supply chain governance.
Introduction

Private regulatory standards have become an increasingly important tool for promoting social and environmental sustainability norms in many sectors of the global economy. A bewildering array of non-state regulatory systems have been established in recent decades—bringing together varying groupings of companies, NGOs and other stakeholders to negotiate regulatory standards, and facilitate their implementation ‘on the ground’. Some commentators have emphasised the central role of private regulatory schemes in assuring consumers that global regulatory norms have been adhered to within the specific supply chains through which their products have been sourced (Locke, 2013). Others have placed greater emphasis on the potential of private regulation to catalyse transformation of production and regulatory systems in support of social and environmental sustainability, often in interaction with state regulators in production locations (Bernstein and Cashore, 2012). In practice, most private regulatory systems pursue both objectives, albeit with varying emphasis.

Scholars and practitioners of private regulation have often recognised the importance of contextually variant social and institutional conditions as factors shaping “‘on the ground’ operation and impacts” of private regulation in producing countries (Bartley, 2011, p.519). Such recognition has been associated with increased attention to contestation over the interpretation and implementation of global regulatory norms, as regulatory processes become “deeply intertwined with durable domestic configurations of power” (Bartley, 2011, p.522; Schouten et al., 2016). Although dynamics of norm contestation within producing countries have thus been widely recognised as important mediating factors shaping the effectiveness of global regulatory projects, opinion has been divided regarding what strategies of contextual accommodation global regulators should adopt in response. Some have advocated efforts by regulators to adapt regulatory standards and processes in ways that more readily accommodate local contextual variation, while others have portrayed local dynamics of norm contestation as a threat to global regulatory processes. This paper constitutes a response to such debates.

The paper’s focus is primarily theoretical—examining both the character and consequences of norm domestication strategies adopted by global private regulators. Domestication strategies are understood as deliberate efforts by global regulators to strengthen the effectiveness of global regulatory processes via attempts to increase the technical, cultural or political ‘fit’ of their standards with local contexts, and to counter discursive or political resistance to global regulatory agendas from local political actors (Wiener, 2004).¹ The paper asks two inter-connected questions: (1) What kinds of domestication strategies are currently being used by global private regulators?; and (2) What are the consequences of these strategies for the regulatory influence of global private

¹ The term ‘local’ is used throughout this paper to refer to a range of domestic (national and sub-national) scales. This broad use of the term recognises the contingent and contested character of political scales (Hameiri and Jones, 2017; Wissen 2009), and the variety of sub-national, national or other local spatial categories based around shared places or practices that can be salient in particular contexts, while sustaining an analytical distinction between local scales linked to sites of regulatory implementation, and transnational or global sites of rule-making.

² The concept of domestication contrasts in subtle but important ways with the commonly used concept of localization. Localization generally refers to less strategic, more organically evolving processes of adaptation at the local level, despite recognition of the importance of local agents in shaping localization processes (Acharya 2004; Levitt and Merry, 2009). Some analyses of localization also carry subtle normative implications that localization processes entail greater appropriateness or legitimacy at the local level—an assumption this paper seeks to avoid, since the question of whether such processes strengthen or weaken institutionalization of global regulatory norms is a central empirical question for investigation.
regulators, understood as their capacity “to steer policy and behaviour” in local production sites in line with intended trajectories of regulatory change (Bernstein & Cashore, 2012, p.586)? Analysis draws for illustrative purposes on a range of cases of global private regulation documented in existing scholarship, with particular focus on illustrations drawn from agribusiness and garment sectors in Southeast Asia and Latin America (reflecting the author’s research focus over the last 15 years).

The paper first develops a typology of domestication strategies used by global private regulators, explaining how this typology builds on recent global regulatory theory. Analysis then works in turn through the identified domestication strategies, explaining how each can be understood as a function of both the ‘regulatory logic’ (Auld et al., 2015) being employed by a given private regulator (where a regulatory logic is understood to entail a particular set of causal assumptions about regulatory processes and their effects), and the distinctive challenges of power and legitimacy that global regulators encounter at the local level. In the presence of pervasive local contestation surrounding global regulatory norms, the paper demonstrates that norm domestication strategies can offer important means of countering challenges to the power and legitimacy of global regulators. Nonetheless, the effects of these strategies remain highly contingent on path-dependent contests between competing regulatory coalitions at local and global levels.

Domestication through contrasting regulatory logics

Domestication strategies are linked in important ways to the broader regulatory logics they aim to support—assisting global regulators to adapt regulatory strategies to context-specific opportunities and constraints in sites of regulatory implementation. In order to make sense of the diversity of domestication strategies used by global regulators, it is therefore helpful to first highlight some key distinctions between regulatory logics that have attracted attention in recent regulatory scholarship.

‘Regulatory logics’ can be understood as frameworks for conceptualising the causal mechanisms through which a given regulatory process influences regulatory targets and associated regulatory fields. A given regulatory logic is based on a set of assumptions about the micro-mechanisms through which institutional structures and processes can alter the behaviour of regulatory targets—drawing on assumptions about instrumental, cognitive or moral drivers of individual behaviour, and distributions of power and agency at global and local levels. In this sense, regulatory logics are described by Auld et al. (2015, p.108) as problem-oriented logics that provide “explanations for how institutions will solve problems”. Because such logics “shape actors’ ideas” (Auld et al., 2015, p.108) about causal processes underpinning the operation and effects of private regulatory mechanisms, they are an important influence on global regulators’ choices regarding regulatory strategy. This paper’s theorization of norm domestication in transnational private regulation thus links analysis of the characteristics and effects of domestication strategies to the underlying regulatory logics and strategies that they are intended to support.

In an important recent intervention into the scholarship on regulatory approaches to global environmental governance, Auld et al. (2015) distinguished between regulatory logics of ‘control’ and ‘empowerment’. According to these authors, a logic of control “encompasses a belief that without prescriptive rules, compliance audits, and incentives for compliance, operators would be

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3 Understood in this way, regulatory influence may be observable in the form of effects on the ultimate “collective outcomes” (Young, 1999, p.249) targeted by the intervention (Kutting, 2000), or may only be observable (at least initially) via changes in intermediate variables such as beliefs, capacities, or relationships of targeted actors and institutions, or to wider discourses and policies that are supportive of regulatory aims without in themselves constituting solutions to designated problems.
enticed to join certification programs and then do nothing to change their behaviour – leading to ‘green washing’ and/or ineffectiveness” (p.109). In contrast, a logic of empowerment “captures ideas about the exclusion of marginalized actors in the global economy”, and “advances prescriptions for how institutions can improve the socio-economic situation of the direct targets of private governance, for example, small farmers from the global South” (p.109). The framework developed in this paper takes as a central jumping-off point these authors’ distinction between control and empowerment, which they use to highlight the potentially significant distributional consequences of different regulatory logics for wealth, power and regulatory capabilities. Analysis further highlights the significance of this distinction for contrasts between varying distributions of agency within regulatory processes: while top down processes of control are typically associated with centralised control by regulators, a bottom-up empowerment approach emphasises the agency of regulatory targets and beneficiaries—particularly those who are structurally marginalized within global supply chains.

This two-way distinction is then extended (see Table 1) to generate a four-way typology of regulatory approaches, drawing on an additional distinction between regulatory strategies that focus on achieving regulatory compliance internal to the supply chain (on which Auld et al (2015)’s typology most explicitly focuses), and strategies that are oriented towards targets of regulatory change in the wider regulatory field. Introduction of this second distinction enables more explicit analysis of regulatory strategies oriented towards field-level regulatory transformation—a focus that resonates with important sections of the global regulatory scholarship (e.g. Bartley, 2011).4

These contrasting regulatory approaches are associated with different distributions of control amongst regulatory actors, require mobilization of different kinds of power and resources, and tend to confront different local challenges in the form of functional capacity barriers, or resistance from local actors to global regulatory agendas. Systematic analysis of the effects of contrasting approaches on distributions of regulatory influence demands a multi-dimensional approach to analysing power struggles within contested regulatory processes. This paper’s analysis of such processes is informed in part by insights from scholarship on business and value chain power, which highlights the multiple forms of discursive and material power through which global regulatory standards can be asserted and resisted—either directly via interactions between actors, or through the constitution of broader social networks and structures.5 Important insights are also drawn from analyses of power within socio-legal traditions of regulatory scholarship, which tend to focus on organizational or institutional capacities and authority as key power resources (Hall & Biersteker 2002; Haines and Macdonald, 2019). The implications of contrasting regulatory approaches for distributions of regulatory influence are summarized in Table 2, which links each regulatory logic (and associated domestication strategies) to particular patterns of local resistance to global regulatory influence, and wider regulatory power struggles.

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4 As with Auld et al.’s original typology (2015), these distinctions between regulatory logics and corresponding domestication strategies should be understood as highly stylised. In practice, the logics are combined in the rationale and design of any given regulatory institution, and they interact in shaping resulting effects.

5 Here, material power is broadly understood as based on access to economic and organizational resources or a dominant structural position within wider systems of social, economic or organizational relationships, while discursive power is embodied within particular normative and cognitive orders, and expressed through a variety of communicative practices, discourses or narratives (Cheynes and Riisgaard 2014; Fuchs and Lederer 2007; Holzscheiter 2005). Both kinds of power can be wielded purposively through the exercise of observable power relations between agents. Both can also operate through networked relationships (van der Ven 2018) or take more structural forms, whereby power is constituted within broader socio-economic or discursive orders and relationships (Fuchs and Lederer 2007).
The analysis that follows is organised around the four-way typology of regulatory logics, showing how domestication strategies used by global regulators vary with the underlying regulatory logics and strategies they aim to support. Discussion of each regulatory logic examines in turn the micro-mechanisms of regulatory influence underpinning each regulatory logic, the local politics of power and legitimacy that these strategies must navigate to achieve desired regulatory influence, and corresponding strategies of domestication. Analysis then explores how different regulatory logics evolve and interact, highlighting the potential not only for complementarities but also tensions between contrasting approaches.

**Top-down supply chain compliance**

*The regulatory logic*

Discussion begins with the first of the top-down or ‘control’ based regulatory logics—focused on promoting compliance with global standards within specific supply chains. This logic reflects ‘classic’ top-down regulatory strategies involving the hierarchical exercise of regulatory authority by a designated regulator, and is influential amongst a wide range of voluntary standard-setting schemes such as Fairtrade International, the Forest Stewardship Council and the Fair Labor Association.

This logic views regulatory influence as resting centrally on the regulator’s capacity to perform core regulatory functions such as standard-setting, monitoring and enforcement (Abbott and Snidal, 2009). The capacity of regulators to establish *authority* over regulatory targets is often viewed as a central requirement for regulatory influence, though the sources of such authority have been theorized in a variety of ways. Some have stressed the importance of the regulator’s material leverage as a basis for establishing authority, whether based in coercive enforcement capacity or the ability to enlist market pressure in support of regulatory goals (e.g. Abbott and Snidal, 2009; Vogel, 2010). Others have emphasized the significance of moral or epistemic authority (Krisch, 2017), understood broadly as uncoerced recognition by addressees of the regulator’s rightful authority, based on moral or cognitive grounds (Hall and Biersteker 2002). The capacity of regulatory targets to comply with required standards is also often recognised as an important condition for achievement of compliance (Parker, 2000). To the extent that that authority can be established and sustained, a regulatory logic of control can enable global regulatory norms to influence the behaviour of regulatory targets located *within the specific supply chains* that are directly regulated by the relevant private standard-setting scheme.

*Challenges of power and legitimation at the local level*

Because this regulatory logic relies on both the capacity of regulatory targets to comply with global standards, and the ability of global regulators to establish some combination of material leverage and moral or epistemic authority over regulatory targets, this regulatory approach is vulnerable to local challenge on each of these fronts.

Resistance to global regulatory agendas is often justified on the basis of concerns about compliance capacity, in the form of technical barriers to compliance, excessive compliance costs associated with demanding prescriptive rules, or strict auditing procedures involving costly data or auditing requirements (Auld, et al, 2015). For example, in the Indian tea sector, representatives of the Planters’ Association have challenged the feasibility of compliance with both Rainforest Alliance and Fairtrade standards, claiming that: “certain provisions are impractical, creating problems for citizens,...”

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6 Such leverage often depends not only on a regulator’s direct access to organisational and financial resources, but also their capacity to harness the structural power of ‘lead firms’ who operate as gatekeepers of wider production networks (van der Ven 2018; Dauvergne and Lister 2010; Fuchs and Kalfagianni 2010; Fuchs et al 2009).
even law-abiding citizens”. In other contexts, such capacity issues have been characterised as problems of ‘spatial discrimination’ with regard to the participation in certification programs of countries with weaker capacity to comply with demanding social and environmental standards (Auld et al, 2015; Strambach and Surmeier, 2018).

Claims that global regulatory standards are infeasible for regulatory targets are often tied to broader claims about the inappropriateness or insensitivity of the standards to local cultural contexts, and the inability of foreign standard-setting bodies to properly understand the ‘local context’—linking practical debates about feasibility of compliance to broader struggles over the epistemic and moral authority of global standards and standard-setting bodies (Halliday and Osinsky, 2006; Levitt and Merry, 2009). Such dynamics can lead producer organisations to walk away from participation in global regulatory schemes when they are dissatisfied with responses to demands for ‘locally appropriate’ standards, as in the cases of the Indonesian palm oil association GAPKI’s exit from the Roundtable on Sustainable Palm Oil (RSPO) in 2011, or the exit of prominent Brazilian soy producer associations from the Roundtable on Responsible Soy (RTRS) in 2009 (Schleifer 2017).

Resistance to global standards is often particularly strong when the issues being regulated have high political salience at the local level, or where global standards challenge deeply entrenched local practices; in such cases, global regulation can provoke sensitivities concerning external ‘interference’ in local political processes, and associated questions of legitimacy, particularly within post-colonial settings. For example, to continue the earlier example of the Indian tea sector, planter associations have claimed that foreign regulatory schemes should not impose standards regarding issues such as living wages on local estates, because such issues: “have to be raised by the union with the industry as a whole … according to the existing labour laws only”. In such cases, while global norms may not be openly contested, demands for sensitivity to local context in interpreting general principles create spaces within which implementation can be resisted.

Domestication strategies and their effects

In response to such challenges from local actors, many have concluded, with Strambach and Surmeier, (2018, p.353), that “To promote sustainable development processes locally, it is essential for global standards to accommodate the context-specific needs of actors in developing countries”. Accommodating the values and interests of regulatory targets can make rules more functionally accessible or achievable, while also supporting behavioural change via stronger alignment with regulatory targets’ prior values and motivations. Reconciling such processes of domestication with a regulatory logic of control requires that global regulators retain significant levels of strategic control over processes of local contextual accommodation—a goal that has been pursued via several strategies.

One common means of accommodating varying local contexts has been provision of direct capacity support to regulatory targets to assist compliance with global norms. For example, Rainforest Alliance standards require buyers to provide some training and technical assistance to producers lacking capacity, while Fairtrade International offers programs to assist producers with compliance in cases of demonstrated need. Such strategies facilitate norm domestication by acknowledging

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7 These views were expressed at a Rainforest Alliance local stakeholder forum that included 20 or so tea plantation managers held in Ooty (a major tea growing district of Tamil Nadu), 16th July, 2010 (Haines et al., 2012).

8 Author interview with planter representative, March 2013.

9 Auld et al. (2015) offer further examples of capacity support being provided by Foundations and development assistance agencies, while in the garment sector, the multi-stakeholder Fair Labor Association
responsibilities of global regulators to share burdens of regulatory compliance with targets in producer countries.

Local capacity constraints can also sometimes be accommodated via flexibilities in the form of provisions for progressive compliance over extended timelines. Such provisions try to avoid problems of empty symbolism and ritualism when standards are infeasible, or illegitimacy when standards are perceived to be unreasonably demanding. For example, Fairtrade International and Rainforest Alliance have developed separate minimum and ‘progress’ standards, laying out defined timelines over which processes of capacity building and organisational change can be undertaken to overcome internal and external constraints to compliance.

Another common domestication strategy has involved the incorporation of local interpretations into global standards. The Forest Stewardship Council (FSC) has often been highlighted for its approach to negotiating local standards, through which overarching objectives codified within “principles and criteria” are defined through top-down global processes, while specific ‘verifiers and indicators’ are developed by working groups at the national level, to help balance global and local concerns (Cashore et al, 2006). Even where local interpretations are addressed primarily towards supporting local compliance capacity, they also have the symbolic function of recognising an historical context of post-colonial structural relations, and ongoing global north-south divides (Haines et al., 2011). Such local interpretations have played an important role in securing support and legitimacy from many local actors, though they have continued to be critiqued by observers concerned that such provisions may limit the capacity of certification processes to support substantive changes in production practices (see for example Moog et al., 2015).

Such strategies tend to accommodate rather than challenge the interests of established local powerholders; they are most likely to reinforce global regulatory influence where targeted businesses already have strong incentives for improved performance, and where compliance gaps are grounded in capacity rather than motivational factors. Such conditions help to explain for example why these domestication strategies have proved more effective in supporting global regulatory influence over local production practices in garments or palm oil sectors (where global regulators have been backed by strong market leverage from European buyers) than in sectors such as soy in Brazil, where the leverage of European buyers has been increasingly undermined by growing Chinese demand for Brazilian soy (Schleifer 2017).

Elite-led Socialization

The regulatory logic

Also highly influential, particularly within collaborative, multi-stakeholder models of private governance, has been a regulatory logic that stresses the value of network-building, socialization and learning within the wider regulatory field. Such a view downplays the role of global regulatory systems as enforcers of fixed, authoritative standards, instead highlighting their contributions to wider processes of social and environmental change. This view emphasises not only the strength of internal regulatory procedures and structures, but also the capacity of regulators to draw support

(FLA) has increasingly embraced a range of capacity-building initiatives as means of countering perceived failings of an exclusively audit-based approach (Koenig-Archibugi and Macdonald, 2013; Locke, 2013). Similarly, the RSPO and RTRS have sought to build legitimacy amongst local producers through development of national interpretations of global standards established through multi-stakeholder working groups in key producing countries (Schleifer 2017; de Waroux et al. 2017).
from wider networks of public and private actors (Bernstein and Cashore, 2012; Bartley, 2011). Such field-level processes of regulatory influence rest on multiple sources of institutional capacity, moral and epistemic authority and structural power—enabling them to convene and steer wider networks of actors in support of global regulatory agendas.

Analysis of regulatory diffusion via complex socialization is often linked to an understanding of global regulatory systems as catalysts and enablers for broader systems of networked learning—a view that has been articulated explicitly in the context of Multi-Stakeholder Initiatives (MSIs) such as the Global Compact, Ethical Trading Initiative (ETI), and multi-stakeholder commodity roundtables (Ruggie, 2002). For example, RSPO Working Group processes have supported broader sectoral dialogue and learning in relation to specific policy issues such as Free, Prior and Informed Consent (FPIC) of communities in relation to land transfers, recognition of collective land title, and protection of High Conservation Value areas—helping to initiate broader sectoral and policy initiatives within the wider regulatory field. Sometimes, field-level collaborative initiatives extend beyond the boundaries of individual MSIs or certification schemes, as reflected in sector-level partnerships such as the Ethical Tea Partnership (ETP), or learning networks promoted by umbrella organisations such as ISEAL (see also Rasche, 2010). Such networked approaches to promoting socialization and learning can be particularly important when they involve collaboration with governments, as documented in a number of cases of networked labour regulation (Locke, 2013).

Challenges of power and legitimation at the local level
While powerful local actors can play a central role in facilitating socialization and norm diffusion when they are successfully enlisted in support of global regulatory projects, such actors can also constitute powerful points of resistance—challenging the moral or epistemic authority of global regulators. In this context, power derived from centrality or connectedness within networked production systems can be exercised not only by global regulators and the international buyers that support them, but also by state and business elites in sites of production whose capacity to control the uptake of competing international standards at the local level empowers them to resist global standards perceived to threaten entrenched local interests (e.g. see Peña 2014; Selfa et al. 2014).

One resistance strategy often adopted by local elites has involved invoking discourses of national sovereignty as a means of challenging the legitimacy of global regulatory authority. According to one observer in the Indonesian palm oil sector: “this is a huge challenge, to avoid any perception that the North is trying to increase pressure to the South”,” and both government and industry actors have explicitly invoked discourses of state sovereignty to challenge the authority of global regulators (Macdonald, 2020). The RSPO tries to manage such threats by highlighting the subordination of its own authority to that of sovereign host state governments—demanding sensitivity when engaging with government on relevant policy issues. While local elites sometimes seek overtly to delegitimize global regulatory norms, resistance strategies commonly take more subtle forms involving assertion of rival sources of regulatory authority, for example from national certification schemes (Hospes, 2014). To the extent that such processes undermine both support from key elites and broader field-

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11 The core assumptions about micro-mechanisms of behavioural change that underpin socialization-based logics of regulation resonate strongly with broader scholarship on norm diffusion and transnational legal change. Such approaches commonly highlight complex socialisation processes involving strategic bargaining, moral consciousness-raising and persuasion, complex learning and associated processes of habitualisation and institutional change (Finnemore and Sikkink, 1998; Risse-Kappens et al. 1999). Literature on legal globalization has similarly highlighted processes of socialization within elite policy-making networks, and field-level processes of change (Halliday and Osinsky, 2006).

12 Author interview, NGO representative, Jakarta, September 2012.
level legitimacy, this creates greater room for manoeuvre for local actors seeking to cherry-pick which elements of global regulatory agendas to accommodate and which to resist.

**Domestication strategies and their effects**

Where global regulators are able to navigate such resistance by enlisting support from local powerholders, such support can play an important role in enabling wider institutionalization of global regulatory norms. Local intermediaries play a central role “in mediating norms that are globally authorized and locally enacted or implemented” (Halliday and Osinsky, 2006), helping to build “congruence between transnational norms ... and local beliefs and practices” (Acharya, 2004, p.241; Levitt and Merry, 2009). Engagement of supportive local elites can be particularly important in enabling domestication strategies to tackle challenges to the legitimacy of transnational regulators on the basis of their status as outsiders (Benhabib, 2009; Bernstein and Cashore, 2012).

Regulatory strategies of elite socialization have thus tended to be particularly successful where they have mobilized coalitions involving established powerholders in local regulatory fields. For example, in the Indonesian palm oil sector local policy coalitions have sometimes supported the institutionalization of global regulatory norms via government policy change on targeted issues such as protection of High Conservation Value (HCV) land (Macdonald, 2020). Nonetheless, such approaches are highly vulnerable to reversal, and in the case of Indonesian palm oil were wound back under President Joko Widodo’s administration, which sought to assert visible government control over the terms of initiatives designed to combat deforestation. Moreover, reliance of such strategies on support from established local powerholders has often entailed the privileging of regulatory agendas that are viewed as less threatening to the interests of established political and economic elites—reflected for example in the greater frequency of socialization efforts around issues such as health and safety improvements or strengthened social infrastructure, compared with more contentious issues such as freedom of association for workers. Such challenges highlight the deeply political and often unpredictable character of the processes through which effects of domestication strategies on the implementation of global norms are determined (Levy and Scully, 2007).

**Participatory Supply-Chain Compliance**

**The regulatory logic**

The third regulatory logic remains focused on regulatory targets within the supply chain, but with a ‘bottom-up’ emphasis on sharing control over regulatory processes with regulatory targets and beneficiaries—particularly those who are structurally marginalised within global supply chains. This logic maps onto key elements of Auld et al. (2015)’s account of regulatory empowerment, insofar as it advocates the inclusion of marginalised groups in regulatory processes and highlights the potential for regulatory processes to be strengthened by drawing on the local knowledge of these groups. The focus of this third regulatory logic is on empowerment within supply-chain regulatory schemes; broader structural forms of empowerment are considered separately below.

According to this logic, harnessing local knowledge through participation of directly-affected regulatory stakeholders can help bolster the influence of regulatory processes, both by developing more locally-appropriate standards, and by harnessing local information and knowledge to strengthen monitoring and grievance-handling processes. This orientation finds support in literatures on participatory governance (e.g. Chambers, 1994), and in broader analyses of collaborative governance and regulation. These have stressed the epistemic virtues of participatory processes to harness diffuse expertise (Cohen and Fung, 2004), the agility of participatory processes in responding to complex regulatory problems (Fung and Wright, 2001), and the potential for
participatory practices to mobilize complex processes of socialization in support of compliance (Ruggie, 2002). Viewed from this perspective, such strategies are likely to be particularly fruitful in the presence of diffuse expertise and capacities amongst participants, enabling meaningful participation from a range of stakeholders.

Empowering regulatory targets and beneficiaries in the governance of regulatory schemes has also often been identified as an important means of strengthening the ‘input’ legitimacy of these schemes amongst key audiences (Bennett, 2017; Koenig-Archibugi and Macdonald, 2013, 2017). Examples such as democratic governance processes within the FSC (Meidinger, 2011), and efforts by Fairtrade International to create more balanced structures of representation between consuming and producing groups (Macdonald, 2013), have been viewed as potential means of persuading stakeholders of global regulatory schemes that they are worthy of support. Participatory processes have also sometimes been represented as means of supporting compliance—facilitating complex socialization of global norms via promoting stakeholder ‘ownership’ of standards and compliance systems (O’Rourke, 2006).

Challenges of power and legitimation at the local level
In order for participatory regulatory processes to realise such potential benefits, principled recognition of the value of dispersed knowledge and stakeholder inclusion must be translated into concrete distributions of power within a regulatory scheme’s governance arrangements. The process of operationalizing broad commitments to participatory processes often generates significant contestation surrounding which local stakeholders should be included in what ways—complicating efforts of global regulators to establish both epistemic and representative sources of authority.

Discursive contestation over the epistemic authority of global regulators has often centred on disputes about how contextual knowledge possessed by different regulatory targets and beneficiaries should be recognised within processes of standard setting, monitoring, audit and grievance-handling. Disparities between the capacities of competing regulatory actors to have their knowledge-claims recognised within transnational governance processes have sometimes weakened the epistemic legitimacy of global regulatory schemes in the eyes of observers critical of the privileging of written evidence and scientific modes of expertise (Cheyns & Riisgaard, 2014). Participatory regulatory approaches have also encountered significant local contestation surrounding disputed approaches to representation of competing stakeholders (Bennett, 2017; Meidinger, 2011), including competing claims of producers, workers, trading organisations, retailers and other supply chain stakeholders, and tensions between the representative claims of different regional (geographical) or north-south stakeholder groupings. Even when formal representation is extended to structurally marginalized stakeholders, imbalances in access to financial, technical and organisational resources often produce persistent over-representation of stakeholders such as large producers or internationally-networked NGOs who occupy privileged positions in their local context (Bennett, 2017). Ongoing critiques over the distortions created by such local power imbalances frequently weaken the authority claims of global regulators.

Domestication strategies and their effects
In view of such challenges, participatory regulatory governance approaches are often accompanied by domestication strategies that seek to strengthen legitimacy of global regulatory processes by empowering structurally marginalised regulatory targets and beneficiaries at the local level. Such efforts can take various forms.

Formal provisions to ensure representation of stakeholders from producing countries have been adopted by a number of multi-stakeholder regulatory schemes. For example, Fairtrade International
provides formal representation for Fairtrade certified producer organisations on the organisation’s international Board and on the Standards Committee, the body to which the organisation’s standard-setting functions are delegated. Further opportunities for producer engagement come through the operation of a biannual Fairtrade Forum, and regional Producer Assemblies and Networks. The RSPO likewise holds designated places on its Board for specific categories of palm oil growers, which in turn are differentiated from palm oil processors, consumer goods manufacturers, retailers, and banks/investors. Such fine-grained approaches to stakeholder representation contrast with looser, corporatist structures of multi-stakeholder representation which simply seek to balance representation between broad categories of business, NGO and government participants.

While such provisions can help to counter structural power imbalances, they do not directly counter legitimacy challenges associated with disputes regarding who can legitimately speak on behalf of marginalised stakeholders within a specific local context. Such challenges demand domestication strategies that encompass more localised processes of deliberation through which shared accounts of representative legitimacy can be negotiated. For example, extended processes of local deliberation and cross-chamber dialogue have often been supported by the FSC within individual participating countries, facilitating the emergence of representative structures that are unique to a particular context, such as deviations from the tripartite representative structure of the global organisation to accommodate a fourth, indigenous, chamber in Canada and New Zealand (Cashore et al., 2004; Gale & Haward, 2011).

While such localized agreements can sometimes be reached through processes of cross-group dialogue, at other times persistent disagreements prove protracted and highly politicized—threatening to undermine local participation in voluntary regulatory schemes (Moog et al., 2015). One domestication strategy that has sometimes been used to try and confront these challenges has involved increased empowerment of local ‘regulatory intermediaries’ to exercise interpretive discretion (Abbott et al., 2017, p.14-15). For example, FLOCERT (the body responsible for auditing Fairtrade standards) attempts to use auditors based in the country or region of production to support responsiveness to the local cultural and legal context, while the FSC sometimes extends authority to accredited auditors to articulate local interpretations of global standards in cases where national standards have not been established. Such domestication strategies have not always proved successful in supporting the legitimacy of global regulatory processes; decisions regarding appropriate auditors have often attracted controversy, in part due precisely to the persistent tendency for audit processes to remain dominated by large global companies (see for example Auld, 2014). Nonetheless, some extension of interpretative discretion to local audit assessors continues to be widespread, reflecting an effort to facilitate at least minimal inclusion of on-the-ground perspectives within processes of standard interpretation and implementation, while sidestepping more overtly political contests between stakeholders over competing knowledge- or representative-claims.

The effects of such domestication strategies ultimately depend on how participatory processes distribute control between local regulatory actors. While participatory regulatory logics aim in part

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13 These include one from Indonesia, one from Malaysia, one from ‘the rest of the world’, and one for a smallholder representative.
14 https://rspo.org/about/who-we-are/board-of-governors
15 Many certification schemes also more informally accommodate some experimentation and discretion on the part of audit assessment teams and company managers in interpreting formal standards and indicators (Gulbrandsen, 2010; Malets, 2013; 2017).
to empower structurally marginalised stakeholders, the tendency of associated domestication strategies to avoid overt conflict with established powerholders is often associated with persistent exclusion of epistemic and representative claims of more marginalised groups. In particular, such approaches have frequently been criticised for excluding adversarial worker or producer organisations and failing to provide meaningful opportunities for stakeholder influence over more contentious issues (Anner, 2011; Macdonald, 2013).

Field-level structural transformation

The regulatory logic

The final regulatory logic combines an empowering, bottom-up view of regulatory agency with a field-level perspective on transformative regulatory change. Such a ‘structural’ empowerment lens begins by highlighting “vast differences in the opportunities available to economic actors”. In response it advocates structural transformation of wider social fields within which regulatory problems are constituted. A transformative logic of empowerment is thus informed “by an explicit aim to redistribute power, control, and resources to marginalized actors in global supply chains” (Auld et al., 2015, p.111). This entails not only institutional and policy change within interacting state and non-state regulatory systems, but also change to broader market structures through which marginalised groups can “enhance their market position”, and to social and political networks through which they can “advocat[e] for their interests on the global stage” (Auld et al, 2015, p.109).

Global regulators embracing a transformative empowerment logic often stress the need to transform injustices within global commodity markets and trading systems, reflected in “longstanding concerns about the declining terms-of-trade for primary products in global trade” (Auld et al, 2015, p.111). Some also emphasise local barriers to empowerment—exploring how injustices within global production and trading systems are embedded in structurally and historically entrenched power relations in producing countries (Henderson et al., 2002). This diagnosis of the regulatory problem is then associated with regulatory strategies that seek to support structural transformation of power relations within markets (Nelson & Tallontire, 2014; Raynolds & Murray, 2007). For example, a central contribution of Fairtrade’s support for cooperatives has focused on the “empowerment” of marginalised producers (Fairtrade International, 2015, p.8), through provision of support to small producer and worker organisations to build financial, technical and commercial capacities, while also building expanded networks of business relationships and trading opportunities beyond the fair-trade system (Nicholls & Opal 2005).

A focus on field-level structural transformation is also often associated with an emphasis on the empowerment of pro-regulatory coalitions involving grassroots social movements and their networks of supporters. On this view, regulatory change demands broad-based processes of social contestation and power struggle, through which grassroots mobilization and societal pressure on elites can reshape power relations within contested regulatory fields (de Sousa Santos & Rodriguez-Garavito, 2005). The fair trade system embraces an explicit focus on advocacy and network building, incorporating into its ‘theory of change’ the idea that empowerment of small producers and workers can be facilitated by “supporting them to organise and network at local, national and global levels, and to gain greater collective influence and power within the supply chains they are part of” (Fairtrade International, 2015, p.11). Such approaches emphasize the collective action capacity of worker and producer organisations—providing support to strengthen their networks, alliances and
lobbying capacities, and in turn aiming to facilitate enhanced influence over national and/or international policy forums (Nelson et al, 2016, p.139).

More indirectly, private regulatory systems can also sometimes facilitate field-level regulatory change through provision of an opportunity structure that enables marginalised regulatory stakeholders to enhance the visibility or credibility of their grievance claims in the eyes of other local or transnational actors. Complaint-handling mechanisms administered by private regulatory schemes play a particularly important role in enabling bottom-up processes of claim-making to be used as vehicles for promoting wider regulatory change. There are also examples in which the outcomes of audit-processes, formally designed to be used as within-supply chain regulatory systems, can be used as instruments of broader struggle, as NGOs highlight non-conformities with regulatory commitments as a basis for advocating wider sectoral change (author self-reference).

Challenges of power and legitimacy at the local level

At the local level, such efforts by global regulators to promote field-level structural transformation often encounter significant resistance from established economic and political powerholders. The structural marginalization of many workers, smallholder producers and affected communities generates significant barriers to the promotion of global regulatory agendas. In many agricultural sectors, workers are structurally disempowered as a result of persistent post-colonial land-labour relations, in which paternalistic organisational structures and cultures established during the colonial period generate ongoing dependence of workers and families on employment, social services and infrastructure provided by estate-owners. Such historically entrenched relationships are often reproduced by elite commitment to contemporary models of market- and growth-based capitalist development, which are actively promoted and defended by powerful networks of political and business actors (Macdonald, 2013). Such structural features of local socio-economic and political systems place important constraints on the ability of supply chain regulatory schemes to promote field-level regulatory transformations.

Such structural features of the wider regulatory field can also present significant challenges to regulatory compliance within certified supply chains, as local powerholders resist transnational regulatory agendas around issues such as freedom of association protections, which are perceived as threats to prevailing power relations. In such cases, resistance to global norms frequently involves challenging the moral or political legitimacy of global regulatory authorities. Cases have been documented in which local producer organisations, or even auditors, have tried to resist implementation of freedom of association standards on the basis that global regulatory norms fail to properly recognise historical conflicts between landowners and trade unions, amidst violent histories of conflict over distributions of land (Macdonald, 2013).

In response to such delegitimizing claims, global regulators sometimes attempt to make themselves smaller targets for such criticisms by restricting the scope of their own regulatory mechanisms—particularly in relation to more overtly political mechanisms such as bottom-up grievance-handling systems. For example, within Fairtrade International’s complaint system, ‘allegations’ are only accepted for any matter “that imposes stricter requirements than national legislation” (FLO-CERT 2013, p.3)—a condition that attempts to avoid overlap or conflict with the jurisdiction of national regulatory processes. In practice, however, this limits the ability of marginalised groups to use such

16 While such forms of empowerment have generally been less developed in relation to worker organisations, Fairtrade has placed increased emphasis in recent years on strengthening protections for union organising and linking fair trade worker organisations with broader trade union networks.
mechanisms as instruments in broader struggles for field-level transformation, when confronted by weak implementation of formally mandated regulations.

While such effects on the depoliticization of regulatory processes may be unintended, in other cases, local powerholders seek actively to depoliticize transnational regulatory interventions—constraining their effects on broader power struggles. For example, while Fairtrade ‘Joint Bodies’ (worker committees) must be established on Fairtrade certified plantations as a condition of certification, in some plantation sectors they have been shown to be closely linked to management, with weak or non-existent links to trade unions (Nelson and Tallontire, 2014; Raynolds et al. 2007; Besky, 2014). Such dynamics—whether actively promoted as means of elite resistance, or more passively reflecting structural power relations—serve to depoliticise regulatory mechanisms that have been designed to promote goals of empowerment, pushing an empowerment logic back towards a logic of control (Cheynes & Riisgaard, 2014).

**Domestication processes and their effects**

Because transformative regulatory approaches challenge the interests of established local powerholders much more directly than other regulatory approaches, a key task of associated domestication strategies is to help defend regulatory interventions against local political resistance. One important means of building local support for transformative approaches involves efforts by global regulators to support capacity-building amongst local grassroots organisations—enabling marginalized regulatory actors to play an active role in steering regulatory coalitions in support of empowering dynamics of field-level change.

In some cases, global regulators promote such domestication processes via support for local coalitions that are attempting to appropriate supply chain regulatory mechanisms as instruments for field-level transformation. For example, use of private regulatory grievance mechanisms by local NGOs or grassroots organizations can sometimes help to build rights-consciousness and mobilization capacity amongst workers or community members, support networking and relationship-building between organizations, or assist local groups to gather and mobilize evidence to support their claims (Sundstrom & Henry, 2017; Overdevest & Zeitlin, 2014). The same is true of processes in which evidence gathered through closed audit or investigation processes are then deployed as advocacy tools in broader struggles for improved labour standards or claims over contested land (Haines & Macdonald, 2019). In these ways, supply chain-oriented regulatory processes can be harnessed by grassroots coalitions in support of wider efforts to bring about field-level transformation—bringing national and international attention to ongoing disputes.

The extent to which such empowering dynamics translate into concrete regulatory change depends both on the nature of efforts to facilitate processes of consciousness-raising, capacity-building or evidence-gathering amongst grassroots members of pro-regulatory coalitions, and on the strength of resistance from established national or sub-national elites. Such ongoing dynamics of contestation heighten the importance of adaptive strategies of transformation—whereby patterns of grassroots confrontation or accommodation of elite power structures can shift over time in response to varying political opportunities and constraints at the local level. For example, advocacy strategies within the Fairtrade movement have sometimes shifted attention between efforts to target market actors or government policy change, in response to shifting political opportunities presented by changing national administrations (Macdonald, 2013). It is through such struggles to expand and contain the transformative effects of global regulatory systems that the local politics of transformative regulatory logics play out ‘on the ground’.
Interaction and evolution of domestication strategies

The above analysis has explored the distinctive effects of separate domestication strategies on supporting or undermining the overall values and purposes of global regulatory norms, yet in practice regulatory organisations often deploy more than one approach simultaneously, and the mix used evolves over time. While it is beyond the scope of this paper to provide a comprehensive account of how regulatory logics are chosen, such choices can be broadly understood as shaped both by beliefs of program founders and other key stakeholders about features of the regulatory problem and the likely effects of available regulatory strategies,17 and expectations of decision-makers regarding the distributional effects of competing options. Choices of regulatory strategies are then likely to evolve over time in response to shifting beliefs and power dynamics (Eberlain et al. 2014; Auld et al. 2015; Auld, 2014; Gulbrandsen, 2014; Fransen, 2011).

In turn, interactions between different regulatory approaches are likely to be driven not only by functional synergies or tensions between strategies, but also by political processes of contestation between competing stakeholders. Both functional and political tensions between approaches frequently arise, particularly in relation to the use of more empowering variants of bottom-up regulatory strategies that challenge established power relations. As the paper’s earlier analysis has explored, the regulatory logics vary significantly in the extent to which they challenge or accommodate the interests of established local powerholders (see Table 2, column 3). Such distributional consequences are in turn associated with contrasting patterns of local resistance (Table 2, column 1), and correspondingly varied domestication strategies seeking to counter such resistance (Table 2, column 2). Within these broader dynamics of regulatory interaction, domestication strategies play a small but potentially significant role— influencing processes of feedback and learning about the functioning of regulatory strategies in a given context, supporting the development of functional capacities to facilitate operation of a given logic, and shaping power struggles between stakeholders of the regulatory schemes.

Such interactive processes play an important role in determining what mix of regulatory strategies is used by any given regulatory scheme, how this mix evolves over time, and associated effects on the scope and limits of global regulatory influence. It is possible to identify numerous examples in which contrasting regulatory logics are used together, variously combining: supply chain with field-level top-down logics; the two top-down logics with participatory supply chain logics; and all four regulatory logics. Differing dynamics of regulatory contestation play a central role in shaping the varied trajectories of regulatory interaction that emerge. These contrasting pathways are explained in more detail below and summarized in Table 3.

Combining top-down logics

One frequent combination of regulatory approaches involves a mix of the two top-down approaches. For example, a range of regulatory schemes established with a central focus on supply chain certification have increasingly incorporated efforts to promote broader policy change on specific issues. Examples of such efforts include RSPO initiatives to collaborate with sub-national governments in strengthening HCV land protections, the work of the RTRS in combating illegal deforestation, and MSC initiatives to collaborate with national governments in supporting the development of sustainable fisheries.

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17 Such beliefs are likely to be shaped by historical practices of regulation in a particular place or sector (Bloomfield and Schleifer, 2017), and also evolve through processes of learning and feedback based on experiences with the effects of a given approach in varied contexts (Cashore et al. 2004; Gulbrandsen, 2014).
Such strategies can be readily combined as a result of both functional and political synergies, which domestication strategies can help to enhance. For example, to the extent that domestication strategies associated with the elite socialization logic can harness support from existing powerholders in the local regulatory field, this can help to manage potential legitimacy challenges for private regulators, thus also supporting the effectiveness of within-supply chain top-down logics. Conversely, the within-supply chain domestication strategy of adapting standards to the local context can make it easier to build field-level coalitions with elite actors in the first place, reinforcing complementarity of these approaches.

Combining top-down with participatory supply chain logics
There are also numerous examples in which top-down regulatory logics have incorporated strengthened participatory processes associated with the third regulatory logic—often through an evolutionary pathway in which top-down approaches have later expanded opportunities for stakeholder participation in response to civil society pressure. For example, the FLA has evolved over time towards increased transparency and stakeholder engagement in supply chain monitoring and audit processes, the MSC, RSPO and FSC have all introduced mechanisms to support participation of small-scale producers, and numerous schemes have introduced and progressively strengthened independent grievance-handling mechanisms to manage complaints from workers, producers or other excluded stakeholders.

Such mixed approaches are facilitated by significant functional complementarities between top-down regulatory strategies and certain participatory practices. For example, worker participation has been shown to strengthen supply chain compliance systems through increasing information-flows and accessing dispersed knowledge about context-specific practices and constraints (Anner, 2011; Sabel et al., 2000). Nonetheless, significant political tensions can arise where participatory mechanisms provide voice or representation to trade unions or other stakeholder groups with ideologies, organizational competencies, repertoires of action or external support bases that are more strongly oriented towards conflictual than collaborative modes of participation (Fung, 2003; Fransen, 2011). Such conflictual modes of engagement can challenge the control of dominant stakeholders and undermine the authority of private regulatory processes.

As a result, business stakeholders often strongly resist participatory processes that would empower adversarial groups to organise against them or weaken their control over auditing and public reporting processes. Instead, they seek to depoliticize participatory mechanisms—containing participatory processes within top-down logics. For example, in the case of the FLA, demands from student movements, trade unions and the rival organisation the Worker Rights Consortium (WRC) to give more control to organised workers were resisted in favour of more circumscribed processes of stakeholder participation, which provided some opportunities for increased stakeholder ‘voice’ without ceding significant control to more oppositional worker organisations (Koenig-Archibugi & Macdonald, 2013). Such processes of de-politicization can be supported by domestication strategies that seek to curate participatory processes in ways that protect established power relations. Conflicts between stakeholders over issues such as the design and operation of grievance-handling systems or the role of trade-unions in processes of standard-setting or monitoring frequently reflect such struggles to control who participates and on what terms.

Combining all four regulatory logics
The potential for all four regulatory logics to co-exist is illustrated by examples such as FLO and the FSC, both of which have incorporated transformative strategies into their regulatory repertoires.
since their initiation. Such combinations are facilitated by the potential for functional complementarities between the first three regulatory logics and more transformative bottom-up approaches, as arrangements that prioritize inclusion and associated capacity-building for marginalized workers or small producers have been shown not only to support more effective monitoring and compliance systems, but also to help counter wider field-level power imbalances that contribute to recurring regulatory violations on issues such as freedom of association or living wages (Koenig-Archipugi & Macdonald, 2013).

Nonetheless, tensions associated with the participation of adversarial stakeholder groups are intensified by transformative approaches, which aim explicitly to disrupt or challenge established power relations. Such tensions are often present not only between business and civil society groupings, but also between different labor or environmental organizations whose activities build on contrasting cognitive frames and sources of solidarity (Fung, 2003; Raynolds et al., 2007). Both FSC and FLO have experienced significant tensions of these kinds. Such dynamics help to explain why the co-existence of all four regulatory logics remains relatively rare, and why regulatory schemes encompassing all four approaches tend to have incorporated transformative approaches from the outset rather than incorporating them later in the scheme’s evolution.

While these interactive pathways can move in either top-down or bottom-up directions in response to endogenous pressures and wider field-level interactions (Smith and Fischlein, 2010; Auld et al. 2015), in practice the direction of such pluralisation thus appears somewhat asymmetric: those schemes that started with more empowering strategies (FSC and Fair Trade) have pluralized to encompass top-down alongside bottom-up strategies, while schemes with more top-down origins have tended to resist pressures to diffuse regulatory control towards stakeholders likely to challenge established interests.

Conclusions

There is now widespread recognition amongst global private regulators of the potential value of adapting global regulatory strategies to varied local contexts. Although transnational companies are key players in global supply chains, sustained improvement of social and environmental production practices depends critically on the responses of local companies and government officials. When outside regulatory actors seek to challenge local practices in ways that established powerholders find disrespectful or threatening, local actors are often quick to challenge the legitimacy of external regulatory agendas.

In response, global regulators have adopted a range of domestication strategies. The variety of strategies used, and their effects on regulatory compliance and change, have not previously been systematically theorized; this paper has provided some initial steps in this direction—developing an extended typology of regulatory logics and associated domestication strategies through which regulators have attempted to align regulatory interventions with dynamics of local accommodation and resistance. While these strategies are sometimes synergistic, there are often significant tensions between approaches, reflecting not only varied behavioural and causal assumptions but also contrasting distributional effects. While domestication strategies are frequently harnessed as means of reinforcing or legitimizing established power relations, they can also provide vehicles through

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18 Whereas the FSC embraced a fully diversified set of regulatory strategies from the outset, FLO shifted from an initial focus on bottom-up approaches towards a more diversified approach, through initiatives such as increased formal representation of smallholders on the FLO Board, and strengthened regional producer networks.
which such power can be resisted, contested, or actively appropriated in support of strengthened social and environmental regulation. Effects on the strengthening or weakening of global regulatory standards then depend on path-dependent processes of local contestation, through which normative disputes over epistemic and representational legitimacy interact with power struggles between competing actors at the local level.

Although the empirical examples explored in this paper have been primarily illustrative in character, the paper’s theoretical analysis provides the basis for broader conjectures regarding how domestication strategies and their effects are likely to vary across different sectors, supply chains, locations and regulatory issues. Because domestication strategies play an important role in countering local challenges to the power and legitimacy of global regulators, such variation is in turn likely to track distributions of material, discursive and institutional power. Such power dynamics vary across industries and supply chains as a function of factors such as sector-specific production technologies and patterns of geographical and firm-level concentration in global value chains, which influence distributions of bargaining power (Gereffi 2014; Schleifer 2017; Gale and Haward 2011; Lee et al. 2012; van der Ven 2018). Such power dynamics also vary between production locations, reflecting factors such as varied state-business relations, distributions of asset ownership, patterns of social interest organisation, economic dependence on particular sectors, and the structural position of a country or region in the global economy (Bloomfield & Schleifer, 2017; Cashore et al. 2004).

Further research could conduct more systematic cross-case analysis to explore the effects of these variables in shaping both influence of and resistance to global regulatory agendas, and the contingency of such effects on path-dependent contests between competing coalitions of regulatory actors. It is such contested, dynamic, and often unpredictable interactions that ultimately shape the effects of regulatory strategies of norm domestication on competing agendas of both global and local regulatory change.

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MacDonald, K

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