Under the banner of sustainability: The politics and prose of an emerging US federal seafood certification

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A B S T R A C T

Growing interest in sustainable seafood has led to the proliferation of third-party certifications and eco-labels. This paper examines the ongoing debate that has surrounded a potential government-operated certification program for federally managed fisheries in the United States. Drawing on an analysis of transcripts from the Marine Fishery Advisory Committee meetings between 2007 and 2014, the paper considers the ways the proposed program was justified and how the multi-year discussion led to recommendations that encourage the National Marine Fisheries Service to create a framework for a certification program based on the principles defined in the Magnuson-Stevens Fishery Conservation and Management Act. It is through this discussion that it becomes apparent that sustainability claims extend beyond the scientific domain, making them fruitful grounds for understanding the emergence of policy and how power and legitimacy are negotiated and maintained through the process.

1. Introduction

Over the 27 years since Our Common Future was published, the concept of sustainability has permeated most dimensions of natural resource management. No more evident is the quest for sustainability than within the realm of fisheries management. Fisheries have long been cast as a poster child of failed governance and of the tragedy of the commons. Indeed, overharvesting [18], poverty and poor international governance [42], habitat destruction [43], and mismanagement [25] continue to be cited as perennial threats to the long-term viability of many living marine resources, including fisheries. However, to focus solely on the shortcomings of management is to fail to acknowledge long-term successes and recent improvements in many fisheries worldwide [16].

In the United States (US), as with many other countries, the policies of the past decades that led to overfishing have given way to a new era of fisheries management defined by increased regulation and accountability. Provisions added to the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) during the 2006 reauthorization have driven this new conservation focus, in part. Under the new statute, the National Marine Fisheries Service (NMFS) and Regional Fishery Management Councils have established concrete annual catch limits to end and prevent overfishing within their jurisdiction. NMFS tracks the success of these efforts on an annual basis, using the Fish Stock Sustainability Index (FSSI) as a proxy for the status of federally managed fisheries in the US. Since establishing the index, fisheries in the US have continued to improve, climbing from 375.5 in 2000 to 631.5 in 2014 [34].

Despite all efforts to set biologically appropriate catch limits, however, some stocks are not rebuilding and others continue to decline (e.g., [40]). The inconsistency and unevenness of fishery management outcomes have added fuel to the polemic debate about the sustainability of fisheries. Without complete knowledge of each fishery and its relationship to the broader social and natural system within which it exists, some level of uncertainty is unavoidable and socially constructed concessions are necessary [36]. It is precisely for this reason that the concept of sustainability is often so contested. Who decides what these concessions should be is the result of continual negotiations between stakeholders. These brokers – which often include scientists, managers, academics, non-governmental organizations, and resource users – use policy, politics, and prose to settle on socially acceptable levels of use and exploitation that incorporate various levels of scientific information [21]. As Robinson ([37], p. 379–380) has observed:

Sustainability is ultimately an issue of human behavior, and negotiation over preferred futures, under conditions of deep contingency and uncertainty. It is an inherently normative concept, rooted in real world problems and very different sets of values and moral judgments.

Therefore, sustainability claims extend beyond the scientific domain, making them fruitful grounds for studying the emergence
of policy and how power and legitimacy are produced and negotiated among stakeholders through the process.

This paper examines the federal government’s path towards a sustainability certification and eco-label for US managed fisheries in the Exclusive Economic Zone that extends from 3 to 200 miles offshore. Although the federal government has considered developing a certification and eco-label multiple times in the last decade, the discussion has gone relatively unnoticed by the public. Here, a range of legislative and policy documents is analyzed to reconstruct the debate in the US over an eight-year period, from 2007 to 2014.

After describing the seafood certification and eco-label literature, this paper outlines the sequence of events from 2007 to 2014 that led to recommendations by a federal advisory committee to develop a framework for seafood certification and eco-label program based on the national standards outlined in the MSA. In particular, the analysis draws on transcripts from eight Marine Fisheries Advisory Committee (MAFAC) meetings in which the committee considered and then drafted recommendations to the Department of Commerce on the role that the National Oceanic and Atmospheric Administration (NOAA) should play in a federal seafood certification and eco-label program. The authors attended three of these meetings in person. These transcripts give context to the final recommendations, allowing for a richer understanding of the debate. An examination of the underlying motivations and justifications for a federal seafood certification and eco-label program reveal how these arguments emerged from efforts to reinforce boundaries between government and nongovernmental entities, rather than improve conservation outcomes. The movement towards a federal seafood certification and eco-label appears to be driven by internal and external pressures on the federal government to reinforce its jurisdiction. This territorialization has implications for conservation, as how the term is defined and operationalized will ultimately influence marine resources, and for the balance of authority between government and non-governmental entities.

2. Seafood certifications, eco-labels, and consumer guides

With at least 70 certifications and eco-labels [8] and another 200 consumer guides worldwide [38], the number of seafood certifications, eco-labels, and consumer guides far outnumbers the diversity of seafood on display in most supermarkets and grocery stores. Until recently, these programs primarily focused on wild-caught fisheries, but as aquaculture’s share in the global market continues to grow, several efforts have been waged to develop similar certifications for aquaculture [22]. The most well-known and largest certification program in the world is the Marine Stewardship Council (MSC), which began certifying fisheries in 1997 [19]. The MSC certification, like many others, is based on standards-based approach that defines “sustainability” in terms of the status of the fishery, impact to habitat, and the efficacy of the management system. MSC alone has certified (via third party certifiers) more than 170 fisheries worldwide [9], ranging from the Aker Biomarine krill fishery in Antarctica to the albacore tuna fishery in the North Pacific Ocean [27]. Despite the proliferation of seafood certifications and eco-labels worldwide, the credibility of these private initiatives is the source of ongoing debate [4].

As seafood certifications and eco-labels have matured, a growing body of literature has emerged that examines the extent to which these programs have changed fishing practices and altered consumers’ purchasing choices. Of particular interest is the extent to which these efforts, particularly MSC, have improved fisheries. This debate remains unresolved. In a recent article, Gutiérrez et al. [15] contend that MSC-certified fisheries have moved towards sustainability more quickly than non-MSC fisheries. Others provide a conflicting and less positive analysis of the effectiveness of MSC and certifications more broadly [9,20,24], and Froese and Proelss [12] argue that these programs have not entirely halted overfishing. More recently, Froese and Proelss’ claim has been contested [1] on the basis that the definition of overfishing they used in their analysis was not valid, but other potential shortcomings have also surfaced that call into question the conservation value of these programs. For example, Bush et al. [5] point to a catch-22 in the certification process, which they describe as a ‘devils triangle.’ To encourage ‘developing world’ and small-scale fisheries to participate in the certification process, MSC has started to certify fishing fleets that are involved in fisheries improvement projects (FIPs). While FIPs provide a mechanism for these fisheries to become more sustainable, these fleets do not meet the requirements that other MSC-certified fisheries need to achieve. As such, Bush et al. argue that there should be some way for consumers to distinguish between the different types of MSC-certified fisheries (e.g., MSC-plus versus MSC-minus).

There is also debate about the extent to which seafood certifications are creating sustainable market incentives via consumer demand and price premiums. Recently, a number of large buyers in the US (e.g., McDonald’s and Walmart) [28] and the European Union (EU) [44] pledged to buy MSC-certified seafood. Studies in the EU have also found evidence of a price premium [39] and an increased willingness to pay for certified seafood [3,10]. Nonetheless, willingness to pay appears to be variable across geographies and demographics [23] and others posit that the upfront cost of certification programs may exceed their benefit [13].

The socioeconomic and ecological utility of seafood certification and eco-labeling initiatives is not only being debated in the academic literature, among non-governmental organizations, and the private sector. In the absence of a clear consensus, the public sector has also started to evaluate the merits and shortcomings of these efforts. Understanding how and why the government has become engaged in this debate has the potential to reveal new insights about how the boundaries between government and non-governmental stakeholders are reinforced and enforced.

3. Overview: the federal government and seafood certifications

Senator Lisa Murkowski (AK, R) introduced a bill titled, Responsible Seafood Certification and Labeling Act (S. 1521) on September 18, 2013. The proposed legislation seeks to bar the federal government from: (1) granting contracts to any seafood vendors that require third party certification or identify seafood as sustainable; (2) promoting any label or certifying scheme for seafood based on criteria developed by a third party; and (3) upholding rules or guidelines that require or recommend third party certified seafood. As written, the legislation would not immediately affect much commerce, nor would it preempt existing state programs that promote the use of third party certifications (e.g., California’s AB 1217). Nevertheless, despite the relatively innocuous nature of the bill, it is as a bellwether that points towards an emerging tension between the federal government and those responsible for designing and implementing seafood certification and eco-labeling programs.

Although S. 1521 is the first bill to explicitly target third party seafood certifications, the action reflects a broader effort by Congress and the executive branch of the federal government to grapple with the costs and benefits of these burgeoning schemes. Arguably, the federal government has been involved in seafood certifications since the Department of Commerce established a pay-for-service seafood inspection program in 1957. Yet it has only been in the last 20 years, since Congress passed the Dolphin Protection and Consumer Information Act of 1990 [19], that the purpose of certifications and eco-labels appears to have shifted
from a focus on health and safety to sustainability. This discussion has predominantly occurred within NOAA and NMFS, which are responsible for the conservation and management of the nation’s natural and living marine resources from 3 to 200 miles offshore [Fig. 1].

NMFS’ stance on seafood certifications and eco-labels is embodied in the agency’s 2005 policy directive titled, “Private Sector Certification of Fisheries” (PD 30-122) [29]. The purpose of the directive is to “clarify the role and responsibility of the National Marine Fisheries Service relative to private sector certifications and sustainable harvest practices” ([29], p. 1). In the policy, the agency explicitly states its neutrality towards third party certifications, asserting that it will “neither endorse nor participate directly or indirectly in the private sector certification of fisheries” ([29], p. 1). The policy also clarifies the agency’s responsibilities and authorities as they relate to certification and eco-labeling programs. Key to this policy is that the agency outlines clear boundaries for how it will engage with third party certifiers, stating that it will continue to provide (limited) data for certifications, but it will not analyze its data or alter management, science, or budget priorities to accommodate a third party certifier.

Two years after PD 30-122 was created, in 2007, NMFS reached out to the Marine Fisheries Advisory Committee (MAFAC) for feedback on the policy and to discuss the broader policy issues related to seafood certifications. The impetus for this discussion, in part, was sparked by the concern that the original policy had not fully resolved the issue. MAFAC is a federal advisory committee, established under the Federal Advisory Committee Act of 1972, which serves the Department of Commerce (DOC), providing external input on national-level issues related to living marine resources. The committee is composed of 21 external stakeholders that represent a range of perspectives and geographies. MAFAC is responsible for making recommendations to DOC, but in practice its recommendations have historically been most relevant to NOAA and NMFS. Over the last decade, MAFAC has weighed in on a range of high-level policy issues, such as catch shares, MSA reauthorization, and domestic aquaculture.

To assist MAFAC in developing recommendations to the agency regarding a federal seafood certification and eco-label, NMFS provided a briefing to the committee that included a preview of a new website the agency was creating called FishWatch. The purpose of FishWatch was to give consumers access to information about federally managed fisheries. Based on the briefing, the committee recommended that the federal government develop a strategy for a certification or eco-labeling program [30]. The committee specifically recommended:

- NOAA provide a plan to provide a mark and/or other acknowledgment for use on or with domestic fisheries products that are sustainably managed in accordance with U.S. national standards.
- Further, that NOAA make a substantial effort to improve public education efforts through FishWatch and other means [30].

Rather than fully accepting the recommendation, the agency decided to “focus its resources on expanding and improving efforts to communicate and acknowledge the status of sustainability of US domestic fisheries in accordance with US national standards” ([31], p. 1). To demonstrate this focus, the agency revised the existing seafood certification policy. The language added to the new draft policy directive largely emphasized the extent to which fisheries in the US are “sustainably managed” [32], arguing that the national standards outlined in MSA provide a roadmap for sustainability that make domestic certification unnecessary. This change would have likely addressed some of the issues that prompted MAFAC’s recommendation; however, the revisions to PD 30-122 were never adopted because of concerns raised by NOAA’s General Council. In particular, the revisions were blocked because there is not a legal definition of sustainability in MSA and

![Fig. 1. Timeline illustrating key federal and congressional actions related to seafood certification and eco-labeling. Note: timeline not drawn to scale.](image-url)
thus the agency could not claim its fisheries were sustainable without risk of litigation.

Although the draft policy was never finalized, the agency took multiple steps to improve its communications and acknowledge the effectiveness of fisheries management in the US without directly claiming sustainability. Most of this effort has been coordinated through NMFS’ Office of Communications, which was established in 2012 under the direction of the then Assistant Administrator for NMFS, Eric Schwaab. Of particular note was the re-launch of NOAA’s FishWatch website, which “provides easy-to-understand science-based facts to help consumers make smart sustainable seafood choices” [33] and likely aims to augment similar efforts that were pioneered in the nongovernmental sector (e.g., Monterey Bay Aquarium, Blue Ocean Institute).

During this time, the agency also re-tasked MAFAC to analyze seafood certification and eco-labeling again, looking at both wild caught and aquaculture raised seafood. Others in the political sphere have also come forth with their own recommendations. For example, at the Managing Our Nation’s Fisheries III (MONFIII) Conference held in Washington, DC, five of the eight Regional Fishery Management Councils recommended some form of legislation or federal involvement in seafood certifications and eco-labeling [26]. These recommendations have been formally adopted by several of the councils.

MAFAC’s second review of seafood certifications was more extensive than its earlier examination. From May 2012 to April 2014, the committee was briefed by a range of stakeholders directly and indirectly involved in the third party certification process and created a working group made up of both committee members and NMFS staff. The committee also attended the Boston Seafood Show where representatives informally interviewed buyers, dealers, and fishermen to gather perspective on the issue. Through this iterative process, MAFAC produced a set of recommendations, again concluding that a federal seafood certification or eco-label would be advantageous to the commercial fishing industry.

The evolution of the certification debate, highlighted by S. 1521, offers an interesting glimpse at how policy topics emerge and transpire at the federal level. Although the debate is still unfolding, this short chronology of events points to near-term policy change. Unless the political landscape changes, a federal certification and eco-labeling program seems possible. Using the case study below, we argue that the shift towards a federal certification has little to do with fisheries conservation. Rather, building off the observation by Foley and McCay [11] that seafood certification and eco-labels are “a new form of exclusive rights or privileges,” we see this debate as being about efforts to reinforce boundaries between government and non-government entities.

4. Case study: understanding motivations and justifications

Drawing on the transcripts from MAFAC meetings between 2007 and 2014, this section provides a description of the underlying debate and the primary motivations and justifications that were used to frame the discussion. It is by exploring these reasons in depth that it becomes apparent how the seafood certification and eco-label discussion is being used to negotiate authority, power, and legitimacy, rather than ecological or biological limits.

4.1. Addressing misinformation

The first focused discussion between NMFS and MAFAC about seafood certifications and eco-labels occurred during a briefing about the agency’s FishWatch website in 2007. During this meeting, both agency and committee members expressed concerns about the rise and proliferation of seafood campaigns, including certifications and eco-labels. From the beginning, the agency asserted that outreach efforts, including FishWatch, were not intended to compete with private programs. Rather, the purpose was to provide factual, scientific, and unbiased information to inform consumers’ purchasing decisions. As the Assistant Administrator of NMFS described:

How do we get those facts out there to the public in an understandable and concise fashion? There’s a number of organizations and groups that have positions on whether or not you should eat one type of seafood or not eat another (2007).

NMFS leadership and staff repeatedly expressed views like this during the lengthy multi-year discussion that ensued. However, the idea that the agency could create an information portal, seafood certification or eco-label without competing with existing programs is somewhat unrealistic, particularly if one of the stated purposes is to correct misinformation that other entities are promoting. To down play the potential tension, NMFS staff often referred to its information and views as being neutral and therefore removed from controversy. This view was particularly evident during discussions about FishWatch, but was also repeated later as the conversation turned towards certification and eco-labels. As one NMFS staff explained, “One of the things in describing FishWatch, and kind of keeping it separate, [is that it is] kind of that neutral arbiter that’s not trying to be an advocate one way or the other (2007).” By contrast, other private programs were often described as issue advocates, pushing underlying political agendas. Describing the criteria used by other programs, one MAFAC committee member explained:

The rating altogether in these different systems are generally reflecting an organization’s policy stance. In other words, depending on who they are there’s additional information that they’re including in their value judgments about what defines a sustainable activity or a sustainable product (2012).

Thus, despite a stated desire to avoid competition, by virtue of questioning the legitimacy of other’s interpretation of sustainability, NMFS’ effort to provide a counter view is inherently competitive. Even agency staff occasionally acknowledged this in the way they talked about the FishWatch program:

The National Marine Fisheries Service is the US authoritative source for information related to sustainable seafood and fisheries... We're trying to win some of that ground back, in a way, to make sure that consumers understand that if they want to get the most accurate, precise and detailed information about sustainable seafood and fisheries, they need to come here (2007).

Statements like this reveal self-awareness on the part of the agency, making it difficult to view FishWatch as a “neutral” information hub. Instead, it seems more appropriate to conceptualize the program as a mechanism that the agency is using to counter claims it opposes and advance its own messages about fisheries and sustainability. Understanding FishWatch through this lens helps make sense of the otherwise discontinuous transition from a discussion about FishWatch to certifications and eco-labels. Rather than treating this progression as a potential shift in the agency’s position (from one trying to avoid competition to one that creates direct competition with existing certification and eco-label programs), it is useful to see it as an extension of the agency’s ongoing approach. Precisely who and what factors initially drove this shift is not entirely clear from the information available in the transcripts, but it is likely a combination of internal and external factors at play, including pressure from industry representatives themselves. As one industry representative on MAFAC told NMFS
during a meeting, “Stand with the fishermen. It’s as simple as that. Stand with the seafood producers whether you’re aquaculture or wild caught (2012).”

Faced with pressure from some industry representatives and the threat of push back from the environmental community, it is not surprising that the agency has moved towards a federal certification and eco-label while claiming to maintain neutrality through this process, even as competition is being created. Indeed, this situation reflects the broader and persistent challenge that government agencies, like NMFS, often face as they attempt to operate as both impartial boundary organizations responsible for protecting a diverse and often antithetical set of interests and self-advocates. Within this context, we examine in detail the motivations for creating this competition as articulated during discussions between MAFAC and NMFS. It is through this analysis that the ideas of power and legitimacy emerge as central themes, closely linked to the emergence of a federal certification.

4.2. Improving markets

Market access was among the most frequently cited benefits of a federal seafood certification and eco-label program identified during MAFAC meetings. In particular, some members of MAFAC (and others that offered public comment) felt that having a certification would help the US fishing fleet gain access to markets in the EU where certifications are often required. MAFAC members also felt that a federal certification would create more demand in US markets by giving consumers confidence in buying local product. As one committee member expressed:

I think it’s really more about getting the point out that all U.S. seafood is managed in a sustainable manner, even Atlantic Cod, it’s under a rebuilding program. It meets the standards of the land, meets the standards, the national standards and everything else... I think it’s really more about getting out the message that all U.S. seafood is managed in a sustainable fashion, that every U.S. consumer should feel comfortable buying any product that was landed by a U.S. fishery (2007).

From this perspective, a certification would create access to new markets, benefiting the US fleet. The benefit to NMFS is less obvious, but perhaps no less important for understanding the underlying motivations of a federal certification. NMFS has a long and torturous relationship with the commercial fishing industry and many coastal communities, which have gotten increasingly turbulent in many places, as ambitious conservation goals have been added to MSA over the last 10 years. Given this history, opportunities to potentially support the industry without compromising its management and conservation goals provide a means for NMFS to build credibility with the industry. However, as the discussion between MAFAC and NMFS progressed, some questioned whether or not a federal certification would be sufficient to meet the needs of European buyers, or if would it convince non-profit organizations and sway domestic consumers’ buying habits. As one MAFAC member noted, “I really don’t believe that just because NOAA decides or we decide to have NOAA make a label that NGOs or other environmental groups are going to accept it as a blanket (2012).” To this point another MAFAC member asserted:

Less than 3 percent of American consumers understand what sustainable seafood [is] or care. The whole process is being driven by the buyers who are being blackmailed by the environmental groups (2012).

These points are consistent with the literature on certification, which has shown that consumers have a preference for ‘sustainable’ products, including seafood, but that willingness to pay varies across regions and is linked to other factors including origin of catch, species, and cost [3,23]. These research studies were not unknown to MAFAC or the agency; they were discussed at length during a meeting in 2007. Thus, while some MAFAC members continued to argue that a federal certification would open access, the majority of the committee acknowledged that a government run certification would probably not provide value for fishermen or necessarily open access to new markets. This view is captured in MAFAC’s final recommendations.

According to many seafood sellers interviewed by MAFAC members, consumer-directed sustainability campaigns provide questionable value to consumers, because consumers tend to trust their sellers to make decisions on sustainability and then base their own purchase decisions on price (2014).

4.3. Protecting the industry

Another justification for creating a federal certification and eco-labeling program was to protect the commercial fishing industry from private third-party certifiers. Throughout the multi-year discussion, members of MAFAC, NMFS, and the public described an antagonistic relationship between third party certifiers and the fishing industry in which fishermen are at the mercy of certifiers’ unfair and burdensome demands. As one of the more vocal committee members described, “Fishermen are really looking to the Agency and to us for leadership here. How can we prevent this extortion, taxation, however you want to call it (2008)?”

In a later meeting, a fisherman on the committee added:

Let me suggest to you that we need to get real and protect sustainable small US fisheries from being discriminated against on purpose by NGOs who want to set a whole series of standards, many of which have nothing to do with sustainability whatsoever, but are all their social and other requirements that they change, that they have, and then they continuously change. They keep moving the goal post every year (2013).

These quotes give new meaning to the certification debate. No longer is it simply about clarifying misinformation and increasing markets for US fishermen. Clearly rooted in this debate is a tug-of-war between resource users and environmental community. This tussle creates space for NMFS to be an arbiter of conflict and protect the industry by creating its own federal certification and eco-label program. Given that the agency is often embroiled in conflict with the industry, viewing NMFS as an advocate may seem initially counter intuitive. However, this is not entirely new territory for the agency. For example, NMFS played a similar role as an advocate for fishermen during the marine spatial planning debate, actively lobbying to ensure that regional fishery management councils were represented on the regional planning bodies that were initiated in 2013 as part of the National Ocean Policy.

Although many argued that NMFS should create a federal certification or eco-label to protect the industry from “being held hostage,” those that dissented were vehemently opposed. During a fiery debate in which the chairman was accused of biasing the discussion, one industry representative stated:

I think that we have to recognize that this is not a national message from the commercial industry to NOAA. This is not a mandate from the industry (2013).

Thus, while many MAFAC members felt that a federal certification or eco-label would help protect the industry from third party certifiers, debate over this specific topic nearly ended this discussion and prevented the committee from settling on final recommendations. The turbulence surrounding this topic is reflected in
the final recommendations. In this document, the committee does not explicitly discuss industry protection. Instead, in a section titled “But what about...?” [35] the committee explicitly states that some commercial fishermen oppose the government’s involvement in a certification or eco-label:

> Some commercial fishermen disagree with the need for this program, oppose the government’s role in a certification program, and questions were raised whether this constituted a national mandate for industry.

4.4. Defining sustainable

Of the motivations for creating a federal certification and eco-labeling program, one of the most frequently cited reasons was that federally managed fisheries in the US are already sustainable.

> Why can’t NMFS, with all the money they spent on that [management], say that this is sustainable and the marketplace accept that sustainability? ... They don’t even have to look. If it’s under that management plan, the U.S. is an automatic check that it’s being managed because of the robustness of that system (2007).

Claims like this were generally attributed to one of two factors: (1) US fisheries are well managed compared to fisheries in other parts of the world; and (2) MSA provides a legislative framework that equates to sustainability. Over the course of the multi-year debate, MAFAC members offered insights like:

> If you have overfishing, if you implement a plan, if you implement accountability measures, the fishery adheres to them, product reaches the marketplace. That product is sustainable. That’s the whole point of Magnuson (2013).

These quotes offer insight into how NMFS and MAFAC interpret the definition of sustainable. Here, sustainability is used to describe a management structure rather than an outcome. By conflating management structure with fisheries outcome, the performance of a fishery is no longer necessarily tied to its sustainability. In this way of conceptualizing sustainability, fisheries can crash and still be deemed sustainable, so long as they adhere to the national standards outlined in MSA. To this point, one of the most vocal committee members offers:

> After digging into this issue for the last two years, I find myself asking why do we need an MSC overlay for a fishery where we already have the MSA, when MSC is simply coming in and using the same data that’s being generated under the Magnuson program, to reach the conclusion that the fishery is sustainable. So there seems to be a redundancy when you apply MSC on top of well-managed federal waters (2013).

Another member added:

> According to them [NGOs], there really isn’t a definition of sustainability. So my big fear is this... that this is a moving target, or this concept [is] nailed down to where it can’t change... Possibly the role for NMFS in this, is to make sure that there is a standard that’s adhered to, and that — I’ll be a little bit facetious, say that it doesn’t change where the boats all have to use biodiesel, or drink only free trade coffee, or whatever. But have it nailed down, and not be this moving target, because sustainable means different things to different people (2007).

While these views appear to have been generally accepted, several members of the committee expressed concerns with how sustainability was being defined. Describing a draft of the final recommendations, one committee member explained:

> I do believe that the US Fisheries Management System is one of the most robust in the world. However, it is a fishing management system, not a fishing sustainability system. And the fundamental premise in this document, although there have been some changes, is that US Fisheries, for being well managed, are sustainable, independent of their performance. I have said this before, I don’t see it acknowledged here, that our recommendations of sustainability certification should be tied to performance, and achieving performance benchmarks (2013).

Critiques like this were largely ignored in the final recommendations. With the exception of a single reference to “performance,” the final document focuses on management structure. One way to interpret this action is to view it as an effort to define the boundaries of the term in a way that is consistent with the existing management system. This definition appears to be largely consistent with the agency’s interpretation.

4.5. Maintaining authority

In examining the debate that surrounded each justification it becomes apparent that the issues underlying the certifications are broader than conservation itself. It is about how definitions of sustainability are framed and by whom; it is about what constitutes accurate and legitimate information and how that information is disseminated; and it is about the process by which management strategies are envisioned, implemented, and enforced. Viewed through this lens, it is not surprising that MAFAC debated the issue, albeit intermittently, for eight years before reaching its final recommendations, nor is it surprising that such strong feelings were expressed along the way. How the agency ultimately moves forward sets a precedent for how the federal government deals with turf wars like this that have the potential to encroach on its authorities.

Throughout these discussions, MAFAC and NMFS were keenly aware of the power and legitimacy at stake. To some extent, the underlying debate was not about the merits or shortcomings of seafood certifications or eco-labels, but about the extent to which third-party certifiers encroach on the authorities delegated to the agency. As one NMFS staff described:

> The National Marine Fisheries Service is the US authoritative source for information related to sustainable seafood and fisheries... we're up against a very well-funded reorganization of modern day... [and] they've got a lot of money behind them (2007).

This idea of authority resurfaced repeated during the discussions. In particular, committee members challenged NMFS to reclaim its authority and questioned the extent to which the agency had already ceded its control. As one member explained, “I would like to see the Agency lay down the law with the MSC about the time commitments that they're willing to adopt (2007).” To this he later added, “Who's holding the cards on sustainable fisheries, seafood? Is it the government, or is it the third-party certifiers (2007)?” This conceptualization provides an alternative framework for understanding the role of a federal certification and helps to explain comments like, “There are so many standards out there that it seems ridiculous not to try to come up with some kind of normal label (2007).”

These discussions suggest that the demand for a federal certification transcends issues of communication, market, and fisheries. It represents an effort to enforce the existing governance structure [2,41]. This observation aligns with the view that third-party certifications and eco-labels are tools for privatizing governance [11,17].
5. Conclusion: claiming control and authority

Transcripts from public meetings can reveal insights about the origins and motivations that underlie controversial issues. It is within the circuitous and often-disjointed discussions captured in these recordings that the nuances of debates, which are inevitably obscured in final reports and recommendations, become visible. Here, in this analysis of the federal seafood certification and eco-label debate, it is apparent that despite the rhetoric of sustainability, the issue in play is only tangentially tied to sustaining fish and fisheries for future generations. Instead, the discussion that has occurred reflects a genuine effort on the part of MAFAC and NMFS to wrestle with broader and more complex questions about who should have the cognitive and moral authority to make sustainability claims.

This debate is unfolding at a time when non-governmental organizations and the private sector are increasingly using market strategies to drive governance, bypassing formal government processes [6,7]. Efforts like these inherently weaken the power and legitimacy of natural resource managers and de jure policymakers. It is thus not surprising that so much of the ongoing seafood certification debate appears to focus on negotiating the boundaries between different stakeholders (particularly the government and non-governmental organizations).

The negotiation that has taken place in the past eight years is not unchartered territory for the federal government. If the evolution of a federal seafood certification and eco-label program parallels the history of the Organic Foods Protection Act (OFPA), even slightly, than the codification of “organic” may be foretelling of the enclosure of “sustainable” and the consequences—both positive and negative—it will have on the existing seafood certification landscape. Guthman [14], to some extent, predicts this trajectory, arguing that certifications and eco-labels will be a “vital dimension of the new regulations of food.” Indeed, if we accept Iles’ [17] observation that NGOs are using certifications and eco-labels to “catalyze pressures” on the commercial fishing industry and fisheries managers, then a form of regulation is already occurring in the seafood sector and Guthman’s prediction appears to be coming to fruition.

Understood through this lens, the seafood certification and eco-labeling debate chronicled in this paper is an indication of growing resistance—on the part of some external stakeholders and the federal government—to the de facto control NGOs are exerting on fisheries markets and management. While the debate is far from over, the federal government appears to be approaching a regulatory frontier. If indeed the government takes action, then the extent to which it asserts its authority over the boundaries of sustainability will ultimately determine its effects on the flow and accumulation of seafood through the marketplace and on how the term is socially constructed.

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