APPLICATION FOR INQUIRY:
THE CANADIAN STANDARD ASSOCIATIONS' FALSE AND MISLEADING REPRESENTATIONS ABOUT THEIR FOREST CERTIFICATION STANDARD

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OVERVIEW

The Complainants state that the Canadian Standards Association's (the "CSA") description of its forestry certification standard as the "Sustainable Forest Management System" standard (the "CSA Standard"),[1] and representations it makes regarding the CSA Standard are materially false and misleading. They are made for the purpose of promoting the adoption of the CSA Standard and the purchase of wood and wood products that have been logged from forests certified to the CSA Standard.

Generally, the CSA intends to give the impression that logging occurring pursuant to the CSA Standard is "sustainable" or "certified sustainable" and achieves "sustainable forest management." These are false, misleading, and material misrepresentations.

This is because, by design, the CSA Standard does not prescribe or require that logging meet any definition of "sustainable."

The Complainants illustrate this by examining the literal meaning and the general impression conveyed by the CSA's misrepresentations, which is further confirmed by reviewing the plain wording of the CSA Standard itself. While the Complainants assert that this is sufficient to demonstrate the CSA's representations are materially false and misleading, they bolster this by providing an assessment of the CSA Standard in the context of logging old-growth forests in British Columbia which by no definition can be characterized as "sustainable."

The results of the CSA's material misrepresentations are to mislead purchasers of wood and wood products so that they prefer those originating from operations certified to the CSA Standard based on believing that the CSA Standard assures sustainable logging.

In Canada, 12,948,094 hectares of forests are certified to the CSA Standard; in British Columbia, 1,611,122 hectares are certified to the CSA Standard. The misrepresentations made by the CSA have contributed to unsustainable logging in British Columbia and Canada on an immense scale.

The Complainants request that the Competition Bureau conduct an inquiry into the CSA's materially false and misleading representations as reviewable conduct under s. 74.01(1)(a) and/or (b) of the *Competition Act*.

If the inquiry finds that the CSA has made materially false and misleading representations to the Canadian public, the Complainants submit that the CSA should be required to, at a minimum:

(a) Remove all claims of "sustainable," "sustainability" or the like from its public communications about the CSA Standard including in public guidance produced with the Competition Bureau;

[1] See CSA Group, "CSA Z809-2016 - Sustainable Forest Management Standard," (2016) online: <www.csagroup.org/store/product/CAN%25100CSA-Z809-16/?format=PDF> [CSA Z809-2016]

(b) Issue a public retraction of sustainability claims and an acknowledgment that certification to the CSA Standard does not certify that logging conducted under it is or will be sustainable; and

(c) Pay a ten million dollar fine, credited to the Environmental Damage Fund and to be paid to a person or organization for the purposes of conservation, such as the Central Westcoast Forest Society or the Indigenous Leadership Initiative for Indigenous Protected and Conserved Areas.

PART I: THE LEGAL FRAMEWORK OF THE COMPLAINT

This complaint is made pursuant to Section 74.01 of the *Competition Act* (the "Act") which provides a civil prohibition against false or misleading representations, including representations not based on adequate and proper tests:

> 74.01 A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,
>
> (a) makes a representation to the public that is false or misleading in a material respect;
>
> (b) makes a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation …[2]

Section 74.03(5) of the Act provides that, in proceedings under s. 74.01, the "general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the person who made the representation engaged in the reviewable conduct."[3]

There are three elements to a violation of the civil prohibition against false or misleading representations that the Commissioner must establish on a balance of probabilities:

1. a person has made a representation to the public by any means whatever;

2. for the purpose of promoting, directly or indirectly, any business interest; and

3. the representation is false or misleading in a material respect or makes the representation is made in the form of a statement, warranty or guarantee of performance.

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[2] *Competition Act,* RSC 1985, c. C-34, s 74.01(1)(a) and (b)
[3] *Ibid* at s 74.03(5)

These will be dealt with in turn.

PART II: THE CSA STANDARD

Background and General Description

Since the United Nations Conference on Environment and Development in 1992, international forest policy has evolved rapidly driven largely by concern for the decreasing quantity and quality of the world's forests. Forest certification, a market-driven mechanism that gives consumers the ability to differentiate between forest products on the basis of how they were produced, is a resulting development - the premise is that consumers will seek out and buy products from well-managed forests, as identified by their certifications.[4]

The Forest Stewardship Council (FSC) was founded in 1993 with the goal of promoting responsible forest management. Its structure and governance were designed to give equal voting power to business, environmental and social interests, including Indigenous peoples.

In subsequent years and in response to this civil-society led initiative, *industry*-led forest certification systems were developed in forested countries around the world to compete with FSC certification.[5] In North America, the forest industry put significant effort into developing alternative schemes including the Canadian Standards Association's (CSA) "Sustainable Forest Management System" (the CSA Standard) and the Sustainable Forestry Initiative (SFI).[6]

In 1994, CSA's response to the request of 23 Canadian forest industry associations to develop its own forest certification system[7] resulted in the creation of two standards documents: Z808 (a sustainable forest management system guidance document) and Z809 (specifications document) which make up the CSA Standard.[8] This system "allow[s] forest companies considerable freedom to pursue their own management priorities,"[9] and thus gained rapid acceptance within the industry. The CSA Standard was seen as a way to position Canada as a world leader in sustainable forestry and to deflect criticism of unsustainable forest practices, which had emerged following various high-profile forest conflicts including in Clayoquot Sound.[10]

The CSA Standard was informed by the Canadian Council of Forest Ministers (CCFM) 1992 Canadian National Forest Strategy endorsed in March 1992 by the federal, provincial, and territorial governments. The CCFM developed Criteria and Indicators for sustainable forest management. The criteria and indicators were designed and intended as an evaluative framework and not a performance standard that would assure the attainment of sustainability.

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[4] See Chris Tollefson, Fred Gale & David Haley, *Setting the Standard: Certification, Governance, and the Forest Stewardship Council* (Vancouver: UBC Press, 2009) at 19-23

[5] See Benjamin Cashore, Graeme Auld & Deanna Newsom, *Governing through markets: Forest certification and the emergence of non-state authority* (New Haven: Yale University Press, 2004) at 6

[6] Tollefson, Gale & Haley, *supra* at note 4 at 36-43

[7] V.J. Nordin, "Criteria and indicators and forest certification—Canadian initiatives" (1996) 72:5 The Forestry Chronicle 513 at 515, online: <https://pubs.cif-ifc.org/doi/pdf/10.5558/tfc72513-5>

[8] See CSA Z809-2016, *supra* note 1

[9] Constance Lynn McDermott, *Personal trust and trust in abstract systems: a study of forest stewardship council-accredited certification in British Columbia* (PhD dissertation, University of British Columbia, 2003) at 106, online: <https://open.library.ubc.ca/cIRcle/collections/ubctheses/831/items/1.0075109>

[10] *Ibid* at 10-11, 110

The CSA Standard is based on the CCFM's sustainable forest management criteria, with an added criterion on Aboriginal rights.[11] However, like CCFM's criteria, the CSA Standard does not define a required performance standard.

Element 1: CSA's representations to the public

The following is a screen shot from the CSA's website, which indicates that the CSA is endorsed by the Programme for the Endorsement of Forest Certification (PEFC).[12] The PEFC serves as an international umbrella organization representing 40 national industry-led certification systems, including CSA and SFI. PEFC Canada represents the interests of organizations in Canada that are certified to the PEFC-endorsed CSA Standard.[13]

[11] CSA Z809-2016, *supra* note 1 at 50

[12] "Forests Certified to CSA: your assurance of Canada's highest standard," (last visited May 26, 2021) online: *Canadian Sustainable Forest Management* <www.csasfmforests.ca/>

[13] "About PEFC," (last visited March 15, 2021) online: *PEFC* <www.pefccanada.org/about.htm>

The CSA's website illustrates numerous representations the CSA makes to the public about the CSA Standard:

- "Forests Certified to CSA: your assurance of Canada's highest standard"
- "Sustainable Forests sustain us all"
- "Assures sustainability for the wood and paper products in your life"
- "Sustainable Forest Management Standard"
- "Forests certified to the CSA SFM Standard provide independent 3rd party assurance of meeting a strict set of biological, environmental and social criteria"
- "Sustainable Management of Canada's Forests"[14]

See also Appendix A for further, extensive examples of the propagation of materially false or misleading representations.

The CSA's representations to the public are also contained in guidance produced with the Competition Bureau

The CSA co-developed *Environmental Claims: A guide for industry and advertisers* (the "Guide") with the Competition Bureau.[15] The Guide reproduces the CSA's false and misleading misrepresentations in a fashion which is self-serving. Regarding "Claims of sustainability," the Guide states:

> The concepts involved in sustainability are highly complex and still under study. At this time there are no definitive methods for measuring sustainability or confirming its accomplishment.
> Therefore, no claim of achieving sustainability shall be made.
> *CAN/CSA-ISO 14021, Clause 5.5*
>
> Sustainability can be measurable only over a very long period. It is therefore very difficult to make a verifiable claim of sustainability at one point in time. Claims that refer to specific, registered management systems are sometimes acceptable provided that they can be verified.
>
> **Example:**
>
> *Preferred*
>
> **This wood comes from a forest that was certified to a sustainable forest management standard [i.e., a sustainable forest management standard by CSA,** Sustainable Forestry Initiative (SFI), Forest Stewardship Council (FSC), or the Programme for the Endorsement of Forest Certification schemes (PEFC)].[16]

The Complainants take no issue with the Guide's description of the challenge of measuring sustainability. However, they do take issue with the CSA's material misrepresentations ("this

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[15] Canadian Standards Association in partnership with the Competition Bureau Canada, *Environmental Claims: A guide for industry and advertisers,* Plus 14021 (Mississauga: Canadian Standards Association, 2008) [Plus 14021]
[16] *Ibid* at 11 [emphasis added]

wood comes from a forest that was certified to a sustainable forest management standard") *in guidance to the public* produced with the Competition Bureau. As discussed further below, this is also relevant to remedy.

Element 2: The false and misleading representations are made for the purpose of promoting, directly or indirectly, the supply or use of wood or wood products from forests certified to the CSA Standard

Generally, and as will be set out below, the CSA's false and misleading representations are intended to assure the public that wood and wood products sourced from logging forests certified to the CSA Standard are preferable because the logging is "sustainable."

The CSA Standard was developed in the context of the Canadian forest industry seeking to harness the power of forest certification to "green" their image. Since 2002, a forest industry umbrella body, the Forest Products Association of Canada, has made certification a requirement for membership, ushering in a large volume of certified hectares particularly from industry-led systems like the CSA Standard.

This has resulted in a significant area of Canada's forests being certified to the CSA Standard:

> BC total certified area: 51.8 million ha (~1 million ha certified to more than one standard), area certified to the CSA Standard: 1,611,122 ha
>
> Canada total certified area: 168 million ha (19 million ha certified to more than one standard), area certified to the CSA Standard CSA: 12,948,094 ha[17]

Appendix A sets out further examples of direct and indirect promotion of the CSA Standard by the Forest Products Association, among others, for the purpose of promoting, directly or indirectly, the supply or use of wood or wood products from forests certified to the CSA Standard. Simply put, the CSA's representations to the public are extensive, and are issued for the purpose of promoting, directly or indirectly, a business interest.

Element 3: The representation is false or misleading in a material respect

An analysis of the literal meaning of CSA's representations about CSA Standard demonstrates misrepresentation. This is established by an analysis of the literal meaning of the elements "sustainable," "certify," "certified," and "standard," which are core to CSA's representations.

The literal definition of "sustainable," "certify," "certified," and "standard"

The Merriam-Webster dictionary defines "sustainable" as:

> 1: capable of being sustained
> 2a: **of, relating to, or being a method of harvesting or using a resource so that the resource is not depleted or permanently damaged; sustainable techniques; sustainable agriculture**

[17] "Canadian Statistics: 2020 Year-end Statistics," (last visited May 26, 2021) online: *Forest Products Association of Canada* <https://certificationcanada.org/en/statistics/canadian-statistics/>

b: of or relating to a lifestyle involving the use of sustainable methods sustainable society[18]

The Lexico dictionary[19] defines "sustainable" as:

1 Able to be maintained at a certain rate or level.
1.1 **Conserving an ecological balance by avoiding depletion of natural resources**.
2 Able to be upheld or defended.[20]

The Merriam-Webster dictionary defines "certify" as:

1**:** to attest authoritatively: such as
a**:** confirm
b**:** to present in formal communication
c**: to attest as being true or as represented or as meeting a standard**
d**:** to attest officially to the insanity of
2**:** to inform with certainty**:** assure
3**:** to guarantee (a personal check) as to signature and amount by so indicating on the face
4**:** to recognize as having met special qualifications (as of a governmental agency or professional board) within a field[21]

The Lexico dictionary defines "certify" as:

1 Attest or confirm in a formal statement.
1.1 **Officially recognize (someone or something) as possessing certain qualifications or meeting certain standards**.
1.2 Officially declare insane.[22]

The Merriam-Webster dictionary defines "certified" as:

1**:** having earned certification
2**:** genuine, authentic[23]

The Lexico dictionary defines "certified" as:

Officially recognized as possessing certain qualifications or meeting certain standards.[24]

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[18] *Merriam Webster*, *sub verbo* "sustainable," (last visited 25 March 2021) online: <www.merriam-webster.com/dictionary/sustainable> [emphasis added]
[19] Lexico (online) is a collaboration between Dictionary.com and Oxford University Press.
[20] *Lexico*, *sub verbo* "sustainable," (last visited 25 March 2021) online: < www.lexico.com/definition/sustainable> [emphasis added]
[21] *Merriam Webster*, *sub verbo* "certify," (last visited 25 March 2021) online: < www.merriam-webster.com/dictionary/certify> [emphasis added]
[22] *Lexico*, *sub verbo* "certify," (last visited 25 March 2021) online: <www.lexico.com/definition/certify> [emphasis added]
[23] *Merriam Webster*, *sub verbo* "certified," (last visited 25 March 2021) online: < www.merriam-webster.com/dictionary/certified>
[24] *Lexico*, *sub verbo* "certified," (last visited 25 March 2021) online: <www.lexico.com/definition/certified> [emphasis added]

The Merriam-Webster dictionary defines "standard" as:

> 1: a conspicuous object (such as a banner) formerly carried at the top of a pole and used to mark a rallying point especially in battle or to serve as an emblem
> 2a: a long narrow tapering flag that is personal to an individual or corporation and bears heraldic devices
> b: the personal flag of the head of a state or of a member of a royal family
> c: an organization flag carried by a mounted or motorized military unit
> d: banner sense 1
> 3: something established by authority, custom, or general consent as a model or example: criterion quite slow by today's standards
> 4: **something set up and established by authority as a rule for the measure of quantity, weight, extent, value, or quality**
> 5a: the fineness and legally fixed weight of the metal used in coins
> b: the basis of value in a monetary system the gold standard
> 6: a structure built for or serving as a base or support
> 7a: a shrub or herb grown with an erect main stem so that it forms or resembles a tree
> b: a fruit tree grafted on a stock that does not induce dwarfing[25]

The Lexico dictionary defines "standard" as:

> 1 **A level of quality or attainment**.
> 1.1 **A required or agreed level of quality or attainment**.
> 2 An idea or thing used as a measure, norm, or model in comparative evaluations.
> 2.1 (standards) Principles of conduct informed by notions of honor and decency.
> 2.2 A form of language that is widely accepted as the usual form.
> 2.3 The prescribed weight of fine metal in gold or silver coins.
> 2.4 A system by which the value of a currency is defined in terms of gold or silver or both.
> 3 A tune or song of established popularity.
> 4 A military or ceremonial flag carried on a pole or hoisted on a rope.
> 5 A tree or shrub that grows on an erect stem of full height.
> 5.1 A shrub grafted on an erect stem and trained in tree form.
> 5.2 Botany The large, frequently erect uppermost petal of a papilionaceous flower.
> 5.3 Botany One of the inner petals of an iris flower, frequently erect.
> 6 An upright water or gas pipe.[26]

Above, the Complainants have highlighted, within the definitions, the terms applicable to their use in the CSA's misrepresentations. Taken together, as illustrated from use and context, the literal definition of the CSA's representations generally mean "certify" to a "standard" of "sustainable forestry." More particularly, the CSA's representations literally mean:

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[25] *Merriam Webster*, *sub verbo* "standard," (last visited 25 March 2021) online: <www.merriam-webster.com/dictionary/standard> [emphasis added]
[26] *Lexico*, *sub verbo* "standard," (last visited 25 March 2021) online: < www.lexico.com/definition/standard> [emphasis added]

> Certification to the CSA Standard assures a purchaser/consumer that the logging from which wood or a wood products originated was done using a method of harvesting that conserved the ecological balance by avoiding depleting the forest.

As will be addressed next, this literal definition is further informed by the phrase, "sustainable forest management," which is a defined term having literal meaning.

The literal definition of "Sustainable Forest Management"

Historically, sustainable forestry meant "sustained yield," which traces its roots to 18th century Germany[27] and focused primarily on maintaining timber volumes over all other values except to the extent doing so would jeopardize timber supply. This is akin to the Lexico first definition of "sustainable" outlined above – "able to be maintained at a certain rate or level."[28]

But the Complainants assert that the CSA's representations are intended to convey a more modern definition of sustainable forestry reflecting that in the last several decades, increasing awareness of the holistic value of forests has led to an approach that prioritizes the health of the whole ecosystem with timber as one of many benefits that can flow from that.

Since the late 1980s, an increasingly wide range of ecological, social, and economic values, good and services have been included within "what is to be sustained," and the term "sustainable forest management" became the common term used to reflect that.[29] In 1993, the Ministerial Conference for the Protection of Forests in Europe adopted the following definition of sustainable forest management:

> the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biological diversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological economic and social functions, at local, national and global levels, and that does not cause damage to other ecosystems.[30] ("**Sustainable Forest Management**")

This definition was subsequently adopted for use by the Food and Agriculture Organization of the United Nations (FAO), and has been described as the modern definition of Sustainable Forest Management or "a good definition of the present day understanding of the term SFM [Sustainable Forest Management]."[31] The complainants submit that it is this meaning that the CSA intends through its false and misleading representations.

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27 See K. Freerk Wiersum, "200 years of sustainability in forestry: Lessons from history," (1995) 19:3 Envtl Mgmt 321 at 322 https://doi.org/10.1007/BF02471975

28 *Lexico*, *sub verbo* "sustainable," (last visited 25 March 2021) online: <www.lexico.com/definition/sustainable>

29 See Jeffrey Sayer and Stewart Maginnis, "New Challenges for Forest Management" in Jeffrey Sayer, Stewart Maginnis & Michelle Laurie, eds, *Forests in Landscapes: Ecosystem Approaches to Sustainability* (London: Earthscan, 2007) 1 at 1-7

30 Second Ministerial Conference on the Protection of Forests in Europe (MCPFE), General Guidelines for the Sustainable Management of Forests in Europe, Resolution H1 (Helsinki: 16-17 June 1993), online: <https://www.foresteurope.org/docs/MC/MC_helsinki_resolutionH1.pdf> [MCPFE General Guidelines]

31 Sayer and Maginnis, *supra* at 2

This conclusion is supported by the actual wording of the CSA Standard's criteria and elements. This is set out in more detail below but, to illustrate at this stage, under the first criterion in the CSA Standard for biological diversity managers are instructed to:

> Conserve biological diversity by maintaining integrity, function, and diversity of living organisms and the complexes of which they are part, including ecological elements that contribute to cultural values.

Further, Element 1.2 requires the conservation of species diversity:

> by ensuring that habitats and forest conditions for the native species found in the DFA are maintained through time, including habitats for known occurrences of species at risk. [32]

Both based on a plain and ordinary reading, and considered in the context of the CSA's misrepresentations, such as "Forests Certified to CSA: your assurance of Canada's highest standard," the CSA's representations literally mean the modern definition of Sustainable Forest Management.

The further point of describing Sustainable Forest Management as a defined term is because it illustrates the essence of the CSA's misrepresentation.

Presumably, unless it admits the misrepresentation, CSA will argue that there is a difference between "sustainable forest management" and "sustainable forest management *standard*."

And there *is* a difference: certification to the CSA Standard does not certify sustainable forestry – it certifies that a process was followed – but this process does not require (certify) sustainable forestry.

In essence, as will be discussed further below, the CSA Standard is a "management systems-based standard" rather than a "performance-based standard" – essentially this means that the CSA Standard certifies a process not an *outcome*. In this regard, the CSA Standard is often contrasted with Forest Stewardship Council certification (FSC):

> [The CSA Standard] management systems approach contrasts markedly with the performance-based approach of FSC. Unsurprisingly, the management-systems approach provides corporations with much more flexibility in the choice of technology to be used in the forest, the types of forest practices to be adopted, the volume of timber to be removed and the degree to which biodiversity and other forest values are protected…
> …
> The FSC's performance-based certification scheme requires certifiers to assess the degree to which a forest operation in managed in accordance with FSC's principles and the set of detailed pre-determined social, environmental, and economic standards….The FSC process not only certifies the forest practices of an individual or a company, but it also certifies the resulting *product.*
> …

[32] CSA Z809-2016, *supra* note 1 at 21-22

No predetermined set of performance standards is used by the CSA.[33]

However, there is no logical basis for arguing that the literal meaning of the representations for a purchaser of wood and wood products would distinguish between the CSA's misrepresentations of "sustainable forest management" versus "sustainable forest management standard." This is particularly so since the terms are intended to relate and qualify each other: "certified to a standard" is assuring a defined measure of quality.

Effectively, the CSA's representations such as "certified to the sustainable forest management standard" literally mean "certified Sustainable Forest Management."

As will be discussed below, this is also consistent with the general impression conveyed.

The general impression conveyed

Section 74.03(5) of the Act provides that, in proceedings under s. 74.01, the "general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the person who made the representation engaged in the reviewable conduct."[34]

The "general impression test" in the Act has been interpreted by the Supreme Court of Canada to mean the general impression a credulous and inexperienced person has after an initial contact with the entire advertisement, and it relates to both the layout of the advertisement and the meaning of the words used.[35] The general impression conveyed by a representation must be analyzed in the abstract – without considering the personal attributes of the consumer who has instituted the proceedings.[36] As the Competition Bureau notes, the general impression test recognizes the power of the "sum of the parts" in advertising, and ensures that the Competition Bureau or reviewing court consider the overall impression an advertisement as a whole makes on consumers.[37]

The Complainants submit that the general impression of the average consumer of wood or wood products is informed by the misrepresentations:

- "Forests Certified to CSA: your assurance of Canada's highest standard"
- "Sustainable Forests sustain us all"
- "Assures sustainability for the wood and paper products in your life"
- "Sustainable Forest Management Standard"

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[33] Chris Tollefson, ed, *The Wealth of Forests: Markets, Regulation and Sustainable Forestry* (Vancouver: UBC Press, 1998) at 283-284

[34] *Competition Act, supra* note 2 at s. 74.03(5)

[35] See *Richard v. Time Inc*., 2012 SCC 8 at paras 57, 70 (*Richard*). Note that in this case the SCC interpreted the General Impression Test as it applied to Quebec's *Consumer Protection Act*, RSQ., c. P-40.1; the *Richard* decision has been applied in the context of the *Competition Act*, see e.g. *Canada (Competition Bureau) v. Chatr Wireless Inc*, 2013 ONSC 5315, at paras 123-132

[36] *Richard*., *supra* at para 49

[37] See Competition Bureau Canada, "False or Misleading Representations and Deceptive Marketing Practices" (Gatineau: Competition Bureau Canada, 2015) online: <www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03133.html>. See also Competition Bureau Canada, "The Deceptive Marketing Practices Digest," (Gatineau: Communications and Marketing Branch Industry Canada, 2015) online: <www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-digest-deceptive-marketing-e.pdf/$FILE/cb-digest-deceptive-marketing-e.pdf>.

- "Forests certified to the CSA SFM Standard provide independent 3rd party assurance of meeting a strict set of biological, environmental and social criteria"
- "Sustainable Management of Canada's Forests"

Consideration of the "sum of these parts" leads to only one conclusion – that the representations convey the modern meaning of Sustainable Forest Management, as described above:

> Certification to the CSA Standard assures a purchaser/consumer that the logging from which wood or a wood products was derived used the forests and forest lands in a way, and at a rate, that maintains their biological diversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological economic and social functions, at local, national and global levels, and that does not cause damage to other ecosystems (that is, Sustainable Forest Management).

The Complainants do not suggest that an inexperienced, credulous person has complete awareness of all the elements of the intended meaning. Rather, description of the CSA Standard as *inter alia* "Forests Certified to CSA: your assurance of Canada's highest standard" or "assurance of meeting a strict set of biological, environmental and social criteria," results in a general impression that logging pursuant to the CSA Standard is certified to and actually performed at "the highest standard" – i.e., to the Sustainable Forest Management standard.

As will be set out next, the CSA's representations are materially false and misleading.

The CSA's representations are materially false and misleading because CSA Standard does not prescribe or require practices that meet any definition of "sustainable" or "sustainable forestry" or "sustainable forest management"

A representation is "material" if it is so pertinent, germane, or essential that it *could* affect the decision to purchase the product.[38] It is not necessary to establish that any person was *actually* misled by a representation. It is sufficient to establish that an advertisement is published for public view and that it is untrue or misleading in a material respect.[39]

In this case, as introduced above, the CSA's representations are materially false and misleading because CSA Standard does not prescribe or require practices that meet any definition of "sustainable," "sustainable forestry," or "Sustainable Forest Management."

This is because the CSA Standard's requirements are discretionary; simply put, there are no independent "hard and fast" requirements that assure sustainable forestry.

The end result is that the standard on its own is incapable of *assuring* that logging meets *any* definition of "sustainable," a position that can be illustrated by the wording of the CSA Standard

[38] *R. v. Tege Investment Ltd.* (1978), 51 CPR (2d) 216 at para 7 (Alta Prov Ct) [*Tege Investment*]; cited and adopted by *Canada (Commissioner of Competition) v. Sears Canada Inc.,* [2005] CCTD No 1 at para 334 (CACT); *Apotex Inc. v. Hoffmann-La Roche Ltd*. [2000] O.J. No. 4732 at para 16 (ONCA)
[39] *Tege Investment*, *ibid*

in the context of logging old-growth forests (defined within the CSA Standard as "a forest dominated by old trees."[40])

The CSA Standard does not contain a specific standard for logging old-growth, and it is impossible to determine or evaluate the standard that would have to be met to achieve certification since performance requirements are:

> (a) established at the defined forest area ("DFA") level, through a public participation process and advisory group, and thus will be different for each body seeking certification; and,
>
> (b) discretionary, in that the standard only requires organizations to demonstrate "**progress towards or achievement of performance targets**" and "**continual improvement in performance**."[41]

Although the CSA Standard states that "values objectives, indicators, and targets that clearly address the SFM criteria and elements in this Standard" must be met, **the standard does not establish firm requirements**. Rather, the "SFM criteria, elements and core indicators" are described as "**discussion items**" to be "**addressed**" in the course of developing DFA-specific values, objectives, indicators and targets, to be done in conjunction with the Public and Aboriginal participation requirements (Section 5).

SFM plans are described as "the principal vehicle for transforming the organization's commitment to SFM into actual actions in the forest," and are to be developed for each DFA, covering a 20 to 25-year period. However, the CSA Standard notes that targets that are consistently not being met may indicate the need to set "**more realistic goals**."[42]

This inherent discretion and lack of a prescribed, required (and certified) standard is further illustrated by examining two of the CSA Standards: 1. "Biological Diversity" and 2. "Ecosystem Condition and Productivity," as well as the "Annex for Public Participation Process and Discussion of Criteria."

<u>Criterion 1: Biological Diversity</u>

Under this criterion, the CSA Standard purports to require Sustainable Forest Management because it instructs managers to "[c]onserve biological diversity by maintaining integrity, function, and diversity of living organisms and the complexes of which they are part, including ecological elements that contribute to cultural values." It instructs them to include discussion of issues like conservation of old-growth attributes and landscape-level habitat connectivity. Further, Element 1.1 requires the conservation of ecosystem diversity at the stand and landscape levels, with core indicators such as "[e]cosystem area by type" and "[f]orest area by seral or age class."

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[40] CSA Z809-2016, *supra* note 1 at 16
[41] *Ibid* at 18
[42] CSA Z809-2016, *supra* note 1 at 68 [emphasis added]

However, while the CSA Standard purports to emulate the requirements of Sustainable Forest Management, there is no performance requirement attached to these (e.g., minimum area). This theme continues throughout the biological diversity standard.

Element 1.2 requires the conservation of species diversity "by ensuring that habitats and forest conditions for the native species found in the DFA [defined forest area] are maintained through time, including habitats for known occurrences of species at risk." However, the core indicators listed (e.g., degree of habitat protection for species at risk) are not coupled with performance requirements. It is left to the individual companies to establish these.

Lastly, Element 1.4 concerns "[p]rotected areas and sites of special biological, geological, heritage, or cultural significance," and instructs managers to "...[i]dentify sites of special biological, geological, heritage, or cultural significance within the DFA, and implement management strategies appropriate to their long-term maintenance." Core indicators for this include "[p]rotection of sites of special significance" and "[p]roportion of identified sites with implemented management strategies." This has obvious relevance to protection of old growth forests, but again, with no associated minimum requirements, it is impossible to say that this "certifies" anything.

Criterion 2: Ecosystem Condition and Productivity

Similarly, under the second criterion, the CSA Standard purports to require Sustainable Forest Management: "Conserve forest ecosystem condition and productivity by maintaining the health, vitality, and rates of biological production."[43]

This also invites the impression that Sustainable Forest Management is required. However, the discussion items listed, such as climate change do not entirely match these concerns.

There is only one Element listed: "Conserve forest ecosystem productivity and productive capacity by maintaining ecosystem conditions that are capable of supporting naturally occurring species. Reforest promptly and use tree species ecologically suited to the site."

Again, however, the core indicators for this element do not address the element. For example, the core indicator of "additions and deletions to the forest area" is arguably irrelevant to achieving the element.

Annex for Public Participation Process and Discussion of Criteria

Lastly, Annex 6.3 contains a detailed commentary on the criteria, elements, and core indicators, intended to provide a basis for discussion in the public advisory group. It is part of the standard, but ultimately is non-binding. It, again, is largely composed of general, well-meaning statements (e.g., "[b]ecause forests are ecosystems of incredible biological richness, biodiversity is central in the pursuit of SFM").[44] It seems to acknowledge the conflict over old growth logging ("[c]oncerns

[43] CSA Z809-2016, *supra* note 1 at 23
[44] *Ibid* at 51

in forested ecosystems regarding harvesting and management are often related to species dependent on ... late successional forests").[45]

It emphasizes that natural frequency and patterns of natural disturbance should inform forest management. Guidance on ecosystem diversity recognizes the importance of analyzing the forest area by age class, and that ecosystem types that are poorly represented in protected areas "could be priority candidates for forest planning and management actions," but it contains no direction regarding protection. On species diversity, requirements are very discretionary ("forest managers **should** recognize short-term habitat needs, particularly for critical and core habitats, and consider existing protection plans for species at risk...").[46]

The requirements regarding sustainable harvest levels are likewise weak and discretionary. While it states that "[f]or many people, sustainability involves limiting actual timber harvest levels to within the long-term capability of the forest to grow wood," it only says this is something that managers "**might wish**" to ensure.[47] Under "Carbon uptake and storage" (Element 4.1) it calls for "keeping forest lands in vigorous tree growth at all times," which may favour the conversion of old growth to younger age classes.[48]

Given that the narrowest interpretation of sustainability in the context of forestry – sustained yield – is only noted as something that managers "may wish" to achieve, there is no basis by which this standard would be able to provide assurance that other values included in Sustainable Forest Management (such as species at risk, rare ecosystems etc.) are maintained.

Yet, despite all this room for variance, flexibility, and discretion, the CSA says this of the CSA Standard, "[t]his standard sets a level of performance to be met using a prescribed management system."[49]

Again, this well illustrates the nub of why the CSA's representations are materially false and misleading – it is the certification *process* that is prescribed, not the *behaviour* or *outcome.* The CSA Standard does not prescribe, require, assure, command, mandate, or in any form certify Sustainable Forest Management. In other words, the CSA Standard is full of sound and fury, but in its practical application signifies (or requires) nothing – or at least nothing that certifies Sustainable Forest Management.

At best, the CSA Standard could be represented as a "discretionary forest management process." Incorporating words like "certification" and "sustainable" in representations regarding the CSA Standard results in material misrepresentation.

The materiality is usefully and starkly illustrated by excising the environmental and performance elements from these CSA's misrepresentations:

- "Sustainable Forest Management Standard;"

[45] *Ibid*
[46] *Ibid* at 54
[47] *Ibid* at 57
[48] *Ibid* at 60
[49] *Ibid* at 9

- "Forests certified to the CSA SFM Standard provide independent 3rd party assurance of meeting a strict set of biological, environmental and social criteria;" and,
- "Sustainable Management of Canada's Forests;"

which, truthfully stated, become:

- "Forest Management;"
- "Forests certified to the CSA SFM provide independent 3rd party assurance of meeting criteria;" and,
- "Management of Canada's Forests;"

Setting aside the reasonable argument that the term "management" itself may convey an assurance of performance, comparing these two sets of phrases demonstrates that the first set assures environmental quality and outcomes; the second set does not. The difference in literal and conveyed meaning is material.

False and misleading in fact – logging that occurs pursuant to the CSA Standard is not sustainable.

While unnecessary for the purpose of demonstrating breach of the Act, confirmation that the CSA materially mispresents the CSA Standard is further demonstrated by examining logging old-growth forests in British Columbia (BC) conducted pursuant to the CSA Standard.

First, simply put, there is no analysis or evidence of industrial old-growth logging operations in BC demonstrating Sustainable Forest Management. Moreover, there is also no analysis or evidence demonstrating old growth is logged in BC to sustain yield (able to be maintained at a certain rate or level) especially when age class (and therefore quality) of the harvest is considered.

The logging model for BC's old growth is liquidation - the overall model has long been based on depletion of the oldest stands, anticipated "fall down" of the supply of old forests and replacement with second growth (that is then managed in shorter rotations, which produce timber that is not of comparable quality, and so this fails the test of "maintaining at a certain level"). In the context of the definition of Sustainable Forest Management,

> the stewardship and use of forests and forest lands in a way, and at a rate, that maintains their biological diversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological economic and social functions, at local, national and global levels, and that does not cause damage to other ecosystems [50]

The average old-growth logging would certainly fail that test, as the effect of depleting old growth falls far outside the definition.

In contrast, there is ample analyses and evidence of unsustainable logging of old growth in BC. Public concern over the sustainability of BC forestry and old growth logging in particular is longstanding and well documented and resulted in several government-initiated royal commissions

[50] MCPFE General Guidelines, *supra* note 30 at 1

(as far back as 1945[51]), scientific reviews, reports,[52] and academic studies.[53] For example, a 1992 government review remarked that "opportunities to reserve representative samples of old growth are dwindling rapidly."[54]

A recent analysis concluded that BC's most valuable old growth forests have been significantly diminished from their original extent, with as little as 3% remaining.[55] Similar concerns are expressed in the recent independent review of old growth management commissioned by the BC Government, which found that old growth logging has led to a high risk of loss of biodiversity, and a widespread lack of confidence in BC's forest management system. [56]

Yet, CSA is certifying old-growth logging operations as sustainable. CSA has certified forest operations that are located in forest types (BEC zones[57]) known to have less than 10% of their original old forest cover (below 30% is considered "high risk" for biodiversity).[58]

For example, Teal Jones operates within Tree Farm License (TFL) 46 located on southwest Vancouver Island, which contains the highly productive forest type CWHxm ("Coastal Western Hemlock, very dry maritime"). Normally this type of forest would be expected to contain at least 80% old growth trees[59] (>250 years old), but due a history of unsustainable logging only 10% of the timber harvesting land base remained as old growth as of 2009,[60] and it has been logged extensively since. Teal Jones currently faces major protests over the logging of the last remaining intact valley in this region (Fairy Creek).

This is all certified as sustainably managed according to the CSA Standard (a circumstance that Teal Jones touts on its website).[61]

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[51] See e.g. *Report of the Commissioner relating to The Forest Resources of British Columbia* (Victoria: Royal Commission, 1945) (The Honorable Gordon McG. Sloan), online: <www.for.gov.bc.ca/hfd/pubs/Rc.htm>; *Report of the Commissioner relating to The Forest Resources of British Columbia* (Victoria: Royal Commission, 1956) (The Honorable Gordon McG. Sloan) online: <www.for.gov.bc.ca/hfd/pubs/Rc.htm>; *Timber Rights and Forest Policy in British Columbia* (Victoria: Royal Commission on Forest Resources, 1976) (Peter H. Pearse), online: <www.for.gov.bc.ca/hfd/pubs/Rc.htm>; *The Future of Our Forests* (Victoria: Forest Resources Commission, 1991) (A.L. (Sandy) Peel), online: <www.for.gov.bc.ca/hfd/pubs/Rc.htm>.

[52] See e.g. M. Patricia Marchk, Scott L. Aycock & Deborah M. Herbert, "Falldown: Forest Policy in British Columbia," Report, (1999) David Suzuki Foundation and partners

[53] See e.g. Benjamin William Cashore, *In search of sustainability: British Columbia forest policy in the 1990s* (Vancouver: UBC Press, 2001)

[54] *An Old Growth Strategy for British Columbia* (Victoria: BC Ministry of Forests, 1992) at 8, online (pdf): <www.for.gov.bc.ca/hfd/library/documents/Bib1569.pdf>

[55] See Karen Price, Rachel F. Holt & Dave Daust, "BC's Old Growth Forest: A Last Stand for Biodiversity" (2020) at 7, online (pdf): <https://veridianecological.files.wordpress.com/2020/05/bcs-old-growth-forest-report-web.pdf>

[56] *A New Future for Old Forests: A Strategic Review of How BC Manages for Old Forests within its Ancient Ecosystems*, (Old Growth Review Panel, 2020) (Garry Merkel & Al Gorley), online (pdf): <https://engage.gov.bc.ca/app/uploads/sites/563/2020/09/STRATEGIC-REVIEW-20200430.pdf>

[57] According to Price, Holt & Daust, *supra* note 55, BEC variants with less than 10% remaining include: CDFmm (all CDF), CWHxm1,2, dm, CHxw, mk3,4, mw1,2,3,4, IDFxc, xh1,2,4, xk, xm, xs, xx2, dc, dk1,2,3,4,5, dm1,2, mw1,2, PPxh1,2,3 (all PP), SBPSmk, and SBSwk1,2,3a.

[58] Merkel & Gorley, *supra* note 56 at 31

[59] Price, Holt & Daust, *supra* note 55 at 25

[60] *Teal Jones TFL 46 Management Plan #5 Timber Supply Analysis* (Timberline Natural Resources Group, 2009) at 13, online (pdf): <www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/timber-tenures/tree-farm-licence/management-plans/tfl-46-mngment-plan-5-2009-ip.pdf> (calculation: remaining old growth in THLB (>250 years) = 4,276, divided by 42,509 hectares, =10%)

[61] See "Setting the Standard: Sustainable Forest Management Certification," (accessed March 15, 2021) online: *The Teal-Jones Group* <https://tealjones.com/certifications/sustainable-forest-management-certificate/>

Element 3: The representations of Sustainable Forest Management are not based on adequate or proper tests

Section 74.01(1)(b) of the *Competition Act* prohibits making, or the permitting of making, a representation to the public about the performance, efficacy, or length of life of a product, which is not based on an adequate and proper test. The onus is on advertisers to ensure that claims about the performance, efficacy, or length of life of their products have been substantiated by an adequate and proper test.[62] The adequate and proper test must be made prior to the representation to the public.[63]

Simply put, the CSA has not conducted (and cannot conduct pursuant to the CSA Standard) any tests to confirm that forestry certified to the CSA Standard meets the definition of Sustainable Forest Management.

CSA touts its auditing scheme to confirm compliance with the CSA Standard. For example, it claims on its webpage that "[f]orests certified to the CSA SFM Standard provide independent 3rd party assurance of meeting a strict set of biological, environmental and social criteria."[64] Elsewhere it claims that it "includes a suite of mandatory core indicators for consistently measuring sustainable forest management."[65]

These claims of performance, and implying that such performance is tested, are consistent with the CSA's use of the word "certify" to describe its scheme. As set out above, the meaning of "certify" (i.e., to attest as being true or as represented or as meeting a standard[66]; to officially recognize someone or something as possessing certain qualifications or meeting certain standards[67]) demonstrates that the CSA uses the term to give the impression that certification includes testing to confirm performance.

There is irony that, despite its representations, the CSA itself says in the companion document produced with the Competition Bureau that testing for sustainability is challenging:

> Sustainability can be measurable only over a very long period. It is therefore very difficult to make a verifiable claim of sustainability at one point in time. Claims that refer to specific,

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[62] Competition Bureau, "Performance representations not based on adequate and proper tests," (Gatineau: Competition Bureau, 2018), online: <www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/00520.html>. See also Competition Bureau Canada, "The Deceptive Marketing Practices Digest," vol 2 (Gatineau: Communications and Marketing Branch Industry Canada, 2016), online: <www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-digest-deceptive-marketing-vol-2-e.pdf/$file/cb-digest-deceptive-marketing-vol-2-e.pdf>

[63] *Canada (Commissioner of Competition) v. Imperial Brush Co.*, 2008 Comp. Trib. 2, [2008] C.C.T.D. No. 2 at para 125 (CACT)

[64] "Forests Certified to CSA: your assurance of Canada's highest standard" (last visited May 28, 2021), online: *Canadian Sustainable Forest Management Supporting CSA Z809 – Canada's SFM Standard* <www.csasfmforests.ca/>

[65] "Newly Revised CSA Standard for Sustainable Forest Management in Canada" (October 2016), online: *Canadian Sustainable Forest Management Supporting CSA Z809 – Canada's SFM Standard* <www.csasfmforests.ca/october2016news.htm>

[66] See *Merriam Webster, supra* note 21

[67] See *Lexico*, *supra* note 22

registered management systems are sometimes acceptable provided that they can be verified.[68]

The CSA has not conducted (and cannot conduct pursuant to the CSA Standard) any testing, long-term or otherwise, of forestry certified to its Standard to confirm Sustainable Forest Management.

Conclusion

The Complainants assert that they have made out the three elements to a violation of the civil prohibition against false or misleading representations on a balance of probabilities.

PART III: REQUEST FOR INQUIRY

The Complainants request that the Competition Bureau conduct a thorough, rigorous inquiry into the CSA's materially false and misleading representations made to the Canadian public, which constitute reviewable conduct under s. 74.01(1)(a) and/or (b) of the *Competition Act*.

If the inquiry finds that the CSA has made materially false and misleading representations to the Canadian public, the Complainants submit that the CSA should be required to, at a minimum:

(a) Remove all claims of "sustainable," "sustainability" or the like from its public communications about the CSA Standard including in public guidance produced with the Competition Bureau;[69]

(b) Issue a public retraction of all sustainability claims and an acknowledgment that certification to the CSA Standard does not certify that logging conducted pursuant to the CSA Standard is or will be sustainable; and,

(c) Pay a ten million dollar fine, credited to the Environmental Damage Fund and to be paid to a person or organization for the purposes of conservation, such as the Central Westcoast Forest Society or the Indigenous Leadership Initiative for Indigenous Protected and Conserved Areas.[70]

These penalties could have a beneficial deterrent effect on the CSA and companies certified to the CSA Standard to stop making representations regarding sustainable forestry. Removing these claims of sustainability and providing accurate information on the scope, pace, and lack of sustainability of Canada's logging industry would help to reduce public and consumer confusion about logging that happens in Canada, allow the public to make informed choices about the sustainability and the environmental impact of wood and wood products they purchase, and help protect Canada's forests and the environment.

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[68] Plus 14021, *supra* note 15 at 11

[69] *Competition Act*, *supra* note 2 at s. 74.1(1)(a) ("the court may order the person…not to engage in the conduct" at s. 74.1(1)(a))

[70] *Ibid* at s. 74.1(1)(c)(ii) ("the court may order the person…to pay an administrative monetary penalty, in any manner that the court specifies, in an amount not exceeding…in the case of a corporation, $10,000,000 and, for each subsequent order, $15,000,000" at s. 74.1(1)(c)(ii))

The proposed enforcement measures recognize that there are several aggravating factors in the CSA's behaviour that a court would likely consider under s. 74.1(5) of the *Competition Act*, including:

- the Canada-wide reach of the certification;
- the materiality of the representations;
- the CSA's financial position;
- the frequency and duration of the conduct; and,
- the fact that the CSA acknowledges the challenge of defining sustainability yet concurrently promotes, in a document produced for guidance in partnership with the Competition Bureau, its false and misleading representations regarding "wood certified to a sustainable forest management" standard.[71]

[71] Plus 14021, *supra* note 15 at 11

APPENDIX A: Examples of public claims of sustainability in Canada regarding the CSA Standard

A. The Forest Products Association of Canada (FPAC) created certificationcanada.org, "showcasing Canada's world leadership in managing forests according to strict environmental, social and economic standards."[72]

Certification Canada

Certification

Forest Management Certification

Chain of Custody Certification

Certification Map of Canada

Forest certification recognition statement

Forest Management Certification

Forest management certification is a voluntary tool available to forestry organizations who want to demonstrate corporate responsibility by having their forest management planning and practices independently certified against a sustainable forest management standard. These standards set high thresholds that forest companies must meet – above and beyond Canada's tough regulatory requirements.

The phenomenal growth of forest certification in Canada has been spurred on by a forest industry commitment to third-party certification. In 2002 the Forest Products Association of Canada (FPAC) became the only national forest trade association in the world to require members to certify their operations to any of the three major, credible standards recognized in Canada. Four years later that goal was met. This commitment has been instrumental in spurring the phenomenal growth of forest certification in Canada, allowing the country to meet the growing customer demand for certified forest products.

- The three independent certification programs used in Canada – Canadian Standards Association (CSA), the Forest Stewardship Council (FSC) and the Sustainable Forestry Initiative (SFI) – all set high thresholds above and beyond Canada's tough regulatory requirements.
- Canada leads the world in third-party sustainable forest certification. As of 2019 end of year, 187 million hectares were certified to the three SFM certification programs in use in Canada.
- Just 11% of the world's forests are independently certified, and 35% of these certified lands are in Canada. This means customers are much more likely to find certified products from Canada that meet their specific needs.
- Canada's certified lands would cover an area the size of Germany, Spain and Sweden combined.
- About 70% of Canada's certified lands are in the boreal region – it has three times more boreal forest certified than any other country.
- Canada is the only country in the world whose national trade association (FPAC) makes third-party verified sustainable forest certification a condition of membership. FPAC member companies – who are responsible for about half of forestry operations Canada – committed to certify all of their forestry operations in 2002, and by the end of 2006 were able to report success.

[72] "Who we are," (last visited May 28, 2021) online: *Forest Products Association of Canada* <https://certificationcanada.org/en/about-us/who-we-are/>

B. FPAC regularly endeavours to show industry-led systems as equivalent to FSC. While it is true that the systems share "common elements," the actual performance required is very different.

Programs used in Canada

Common Elements

The CSA, FSC, and SFI standards for forest management practices are reviewed regularly and evolve with changing expectations about what sustainable forest management entails.

They share many common elements, including requirements for:

- Conservation of biological diversity
- Maintenance of wildlife habitat and species diversity
- Protection and/or maintenance of special sites (biological and cultural)
- Maintenance of soil and water resources
- Ensuring harvest levels are sustainable, and harvested areas are reforested
- Protection of forestlands from deforestation and conversion to other uses
- Aboriginal rights and involvement
- Public disclosure
- Compliance with laws, including legal harvesting

The broader programs run by FSC, SFI, and CSA in partnership with PEFC, also include:

- Chain of custody certification
- Labels for products (for use with a certified chain of custody)
- Balanced decision-making processes
- Audits by independent third-parties.

C. **FPAC.ca: Canadian Forestry is Sustainable Forestry.** "This third party certification work is done to ensure forest management is carried out legally and in an ethical and sustainable way. Canada is heads and shoulders above all others being home to 40% of the world's certified forests. That makes us a global leader in sustainable forest management."[73]

CANADIAN FORESTRY IS SUSTAINABLE FORESTRY

SHARE

July 13, 2018 Tree Talk Blog

On June 25, the Natural Resources Defense Council (NRDC) promoted letters that unfortunately misrepresented reality when it comes to forest management in Canada. Such misinformationundermines positive community collaborations on the ground and ignores important work happening in Canada's forests every day.

Only about 10% of the world's forests are independently audited and certified. This third party certification work is done to ensure forest management is carried out legally and in an ethical and sustainable way. Canada is heads and shoulders above all others being home to 40% of the world's certified forests. That makes us a global leader in sustainable forest management. We take real pride in being important stewards of this shared resource that brings so many benefits to Canadians.

[73] "Canadian Forestry is Sustainable Forestry" (July 13, 2018), online: *Forest Products Association of Canada* <www.fpac.ca/canadian-forestry-is-sustainable-forestry/>

D. "Naturally Wood" (Forestry Innovation Investment) is "a comprehensive information resource promoting BC as a global supplier of quality, environmental-responsible forest products from sustainably managed forests."

naturally:**wood**®

FOREST CERTIFICATION IN BRITISH COLUMBIA

B.C. Products are from Sustainable Forests

Third-party forest certification demonstrates the rigour of the Province of British Columbia's (B.C.) forest management laws and documents the province's world-class sustainable forest management record.

Canada is the international leader in forest certification with B.C. contributing more than any other province. Certification gives customers added assurance that B.C. forest products are from legal, sustainable sources.

GLOBAL LEADER

98% of BC's forests are certified

Canada, and the province of British Columbia, were quick to adopt forest certification, from its inception nearly two decades ago. Canada accounts for almost 40 percent of all certified forests globally—the largest of any country worldwide—with BC contributing more than any other province. More than 50 million hectares (98 percent) of British Columbia's Crown forestland have been certified by one of three bodies. That's more certified forests than France, Norway, Germany, Brazil and Sweden combined.

ENVIRONMENTAL REPUTATION

Meeting the demand for certified forest products

More and more, businesses and governments have rising expectations when it comes to the environmental reputation of the paper and wood products they purchase. The BC forest sector is meeting this demand through its broad participation in voluntary forest certification programs complemented by the province's stringent laws and regulations. BC accounts for nearly 15% of all certified forests in the world. Third-party certification provides additional documented verification that a BC forestry company is operating legally, sustainably and meets internationally recognized standards for sustainable forest management.

CERTIFICATION PROGRAMS

What forest certification programs are used in British Columbia?

In Canada, there are three third-party certification systems for sustainable forest management: Canadian Standards Association's Sustainable Forest Management Standard (CSA), Forest Stewardship Council (FSC) and Sustainable Forestry Initiative (SFI).

Certification programs are endorsed and overseen by one of two independent non-profit organizations: Programme for the Endorsement of Forest Certification (PEFC) and Forest Stewardship Council (FSC), which oversees both endorsement and certification programs. CSA and SFI are recognized by PEFC.

While there are some differences between each certification program, the three used in BC—CSA, FSC and SFI—all promote principles, criteria and objectives based on sustainable forest management, including reforestation, reasonable harvesting quotas and protection of wildlife habitat, soils, water and surrounding ecosystems.

E. CSA and SFI are part of the Programme for the Endorsement of Forest Certification (PEFC), an international "umbrella" certification system created to compete with FSC and detract from its influence on forest management.

Canadian Sustainable Forest Management

PEFC

PEFC/01-4-16

Supporting CSA Z809 – Canada's SFM Standard

FOREST STANDARDS | CHAIN OF CUSTODY | ABOUT | RESOURCES | GET INVOLVED | NE

Forests Certified to CSA:

your assurance of Canada's highest standard

The Canadian Standards Association (CSA) Group Sustainable Forest Management System (SFM) standard is a leading forest certification standard in Canada and the first national sustainable forest management standard in the world. First released in 1996, it is Canada's official national standard for sustainable forest management. More forests are certified to the CSA SFM Standard than any other national standard in the world.

Forests certified to the CSA SFM Standard provide independent 3rd party assurance of meeting a strict set of biological, environmental and social criteria. Recognizing that 95% of Canada's forests are publicly owned, the CSA certification demands active public involvement by local residents. From coast to coast, public advisory groups are involved in frequent discussion each and every year with forest managers to continuously improve their performance.

The CAN/CSA Z809 SFM Standard is endorsed by the **Programme for the Endorsement of Forest Certification (PEFC)**, the worlds largest forest certification organization. PEFC recognizes national or regional certification standards that meet rigorous assessment requirements based on international criteria and indicators. Watch the video: **"Forests Matter" – The Why and What of PEFC**

This website has been developed and is maintained by the CSA SFM User Group who collectively manage over 40 million hectares of CSA certified forests in Canada (as of December, 2015). The CSA SFM User Group is not affiliated with the CSA Group.

CSA Group has more than 50 years in developing global sustainability standards including CAN/CSA Z809 and Z804.

CSA Group

ENVIRONMENT & CLIMATE CHANGE

Sustainable Management of Canada's Forests

F. Excerpt from a public brochure on CSA Z809.[74]

Consistent Indicators

The new Standard includes 35 mandatory indicators to ensure a consistent approach to sustainable forest management across the millions of hectares of diverse forestland certified across Canada.

The indicators measure values such as:

- biodiversity;
- habitat for species at risk;
- protection of soil and water;
- reforestation success;
- timber and non-timber benefits from the forest;
- community sustainability;
- Aboriginal values and participation; and
- public participation.

The Certification Standard Framework

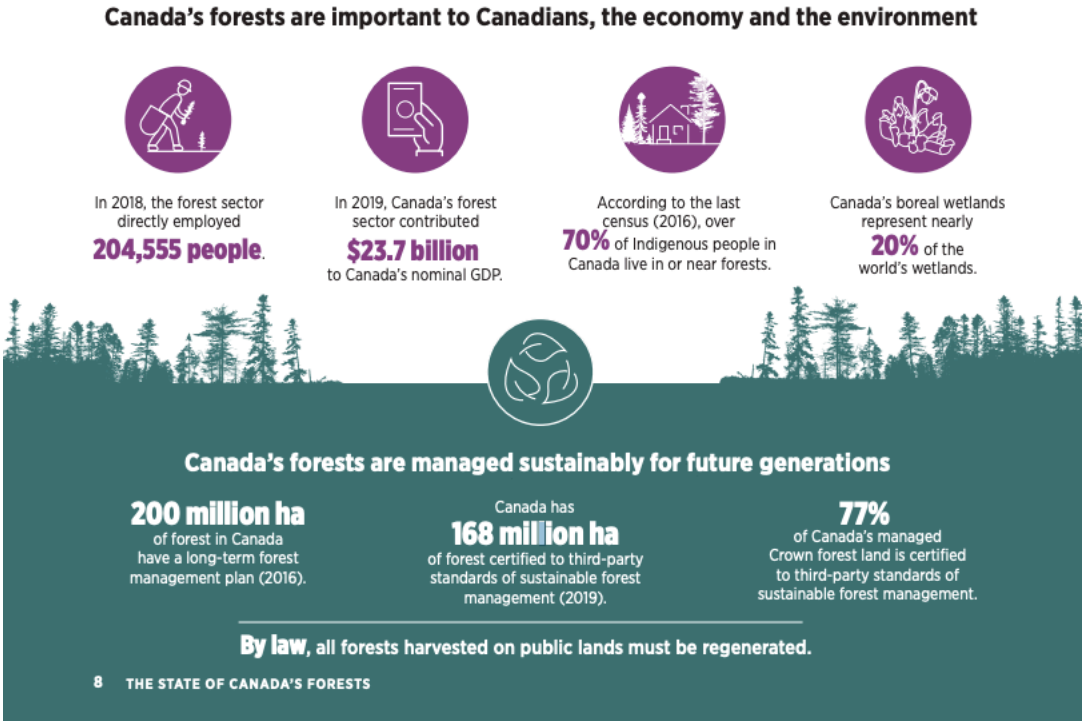
For lands to be certified to the CSA SFM Standard, forest managers must follow the six criteria developed by the Canadian Council of Forest Ministers as part of an international process to create global criteria and indicators for sustainable forest management.

Planning and on-the-ground operations are audited by an independent and accredited third-party certifier at the time of the initial certification, with an annual surveillance audit to maintain certification. The results of these audits are publicly available.

The Standards Council of Canada (SCC) has approved the CSA SFM Standard as a National Standard of Canada, and accredits certification bodies to carry out certification audits to the Standard.

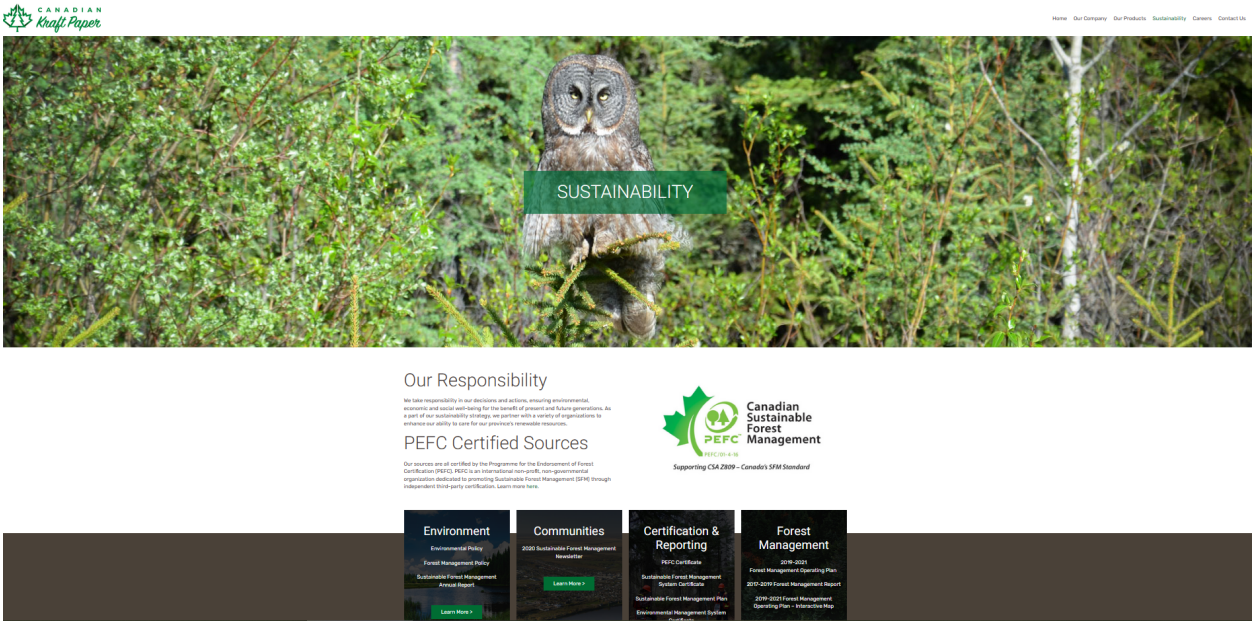
[74] Canadian Sustainable Forest Management CSA Z809 Brochure (May 2021), online (pdf): "*Canadian Sustainable Forest Management Supporting CSA Z809 – Canada's SFM Standard* <www.csasfmforests.ca/docs/cug_brochureupdate_may21.pdf>

G. Excerpt from "The State of Canada's Forests." The number of hectares certified to SFM standards is used to provide assurance that Canada's forests are managed sustainably.[75]



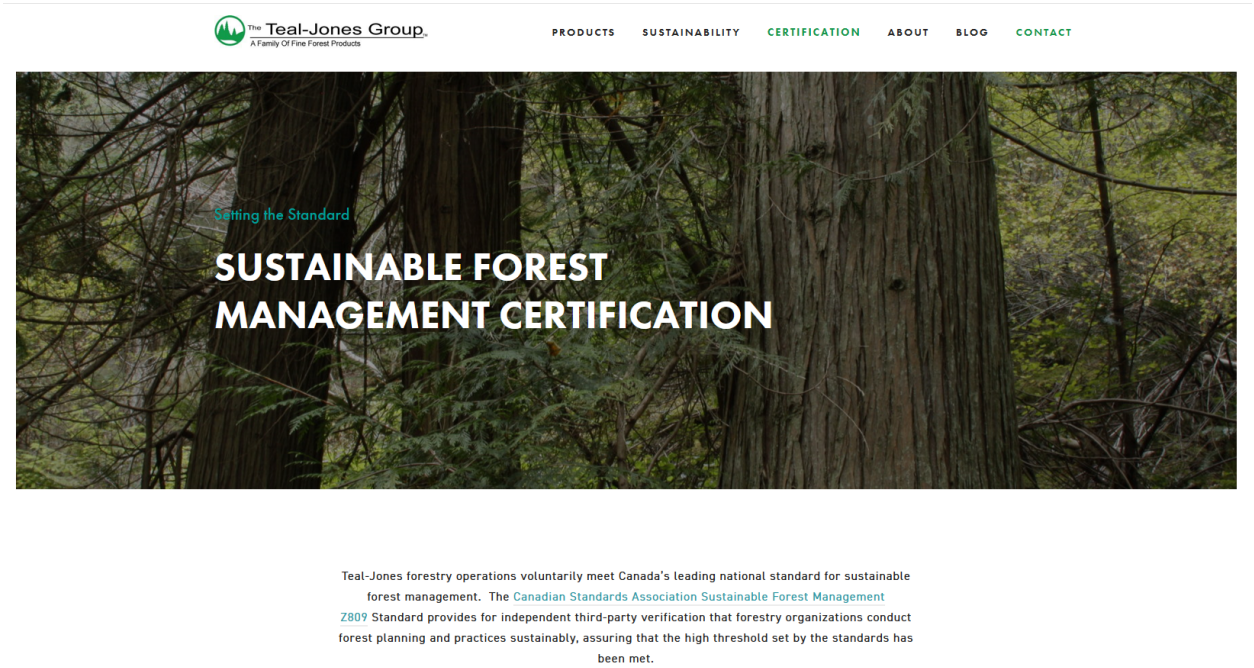
[75] National Resources Canada, *Sustainable Forestry: Adapting to Change*, (Ottawa: National Capital Region, 2020), online (pdf): <https://d1ied5g1xfgpx8.cloudfront.net/pdfs/40223.pdf>

H. **Excerpt from Canadian Kraft Paper**, a paper supplier indicating that it partners with CSA toward "ensuring environmental, economic and social well-being for the benefit of present and future generations."[76]



[76] "Sustainability" (last visited March 3, 2021), online: *Canadian Kraft Paper* <https://canadiankraftpaper.com/sustainability/>

I. Excerpt from The Teal-Jones Group website regarding certification stating: "The Canadian Standards Association Sustainable Forest Management Z809 Standard provides for independent third-party verification that forestry organizations conduct forest planning and practices sustainably, assuring that the high threshold set by the standards has been met., a paper supplier indicating that it partners with CSA toward "ensuring environmental, economic and social well-being for the benefit of present and future generations."[77]



[77] "Setting the Standard: Sustainable Forest Management Certification," (last visited March 3, 2021) online: *The Teal-Jones Group* <https://tealjones.com/certifications/sustainable-forest-management-certificate/>