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## 3 **Disentangling governance: a synoptic view of regulation** 4 **by government, business and civil society**

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8 **Abstract** Governance became a catch-all concept for various forms of steering by state  
9 and non-state actors. While it pays tribute to the complexities of steering in poly-centred,  
10 globalised societies, its fuzziness makes it difficult to oversee who actually steers whom  
11 and with what means. By focussing mainly on actor constellations, the article disentangles  
12 governance into seven basic types of regulation, four of them representing public policies  
13 with varying degrees of government involvement and three depending solely on civil  
14 society (civil regulation), on businesses (industry or business self-regulation) or on both  
15 (civil co-regulation). Although each of the seven types is well known and extensively  
16 researched, they are rarely joined in a synoptic view, making it difficult to grasp the totality  
17 of contemporary governance. After introducing the seven basic types of regulation and co-  
18 regulation, the article addresses the interactions between them and it adds the widely used  
19 concepts of hybrid regulation and meta-governance in distinct ways. The synoptic view  
20 provided here helps to comprehend how governmental deregulation has been accompanied  
21 by soft governmental regulation as well as “societal re-regulation”. The concluding dis-  
22 cussion emphasises that this “regulatory reconfiguration” is the cumulative product of  
23 countless, more or less spontaneous initiatives that coincide with forceful global trends. It  
24 also stresses that the various forms of regulation by civil society and business actors are not  
25 simply alternatives or complements to but often key prerequisites for effective public  
26 policies. Although the essentials of the typology developed here can be applied universally  
27 to a variety of policy issues, I focus it on how businesses are steered towards sustainable  
28 development and Corporate Social Responsibility.

29 **Keywords** Governance · New governance · Regulation · Self-regulation · Co-regulation ·  
30 Civil regulation · Hybrid regulation · Meta-governance · Sustainable development ·  
31 Corporate social responsibility (CSR) · Stakeholder management · Business–government  
32 relations · Business–society relations

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### 33 “Who is in charge here?” An approximation to governance, steering and regulation

34 Governance became a catch-all concept for various forms of steering by state and non-state  
35 actors at all geographical levels (from local to international) and even across them. Since it aims  
36 at nothing less than capturing the full complexity of rule-making in poly-centred, globalised  
37 societies in which “the state is far from the only game in town” (Abbott and Snidal 2008, 48; see  
38 also Pierre and Peters 2000; Jordan 2008), there is not one single meaning of governance that  
39 can be pinned down easily. For the purpose of the present paper, governance is regarded as  
40 synonymous with the broad notions of steering and regulation,<sup>1</sup> all three referring to formul-  
41 ating, promulgating, implementing and/or enforcing societally relevant rules (binding or  
42 voluntary ones) by government, business and/or societal actors, whereby the rules can apply to  
43 others or to themselves (for a similar definition, see Levi-Faur 2010, 8f; for further details, see  
44 “[Governance aspects and typologies in different research strands](#)”). In short, governance  
45 denotes “the ways in which governing is carried out, without making any assumption as to  
46 which institutions or agents do the steering” (Gamble 2000 110) and as to with what means.

47 Despite (or perhaps because of) extensive research on the plethora of new forms of gover-  
48 nance, it is still difficult to oversee how modern societies are steered or—more colloquial—to  
49 determine “Who is in charge here?” (Meadowcroft 2007). Consequently, it is difficult to  
50 comprehend how public policies and non-state types of regulation relate to each other. This is  
51 not because governance scholars refrain from the daunting task of disentangling governance  
52 into distinct types of regulation. As “[Governance aspects and typologies in different research  
53 strands](#)” shows, taxonomic contributions are abundant, but either fail to differentiate adequately  
54 between actors from the governmental, business and societal domains or blind out important  
55 (often informal) types of regulation. The present paper aims to disentangle the governance  
56 concept holistically based on who steers and how. Although the typology presented here can be  
57 applied universally to a variety of policy issues, I focus it on how businesses are steered (or steer  
58 themselves) towards sustainable development or Corporate Social Responsibility (CSR), inter  
59 alia, because the environmental and sustainability policy fields have been “crucial venues for  
60 real-life experimentation with new governance arrangements and the focus of a growing  
61 governance literature” (Tollefson et al. 2012, 3; for details, see “[Governance aspects and  
62 typologies in different research strands](#)”). By differentiating various types of regulation, the  
63 paper puts the bits and pieces of contemporary governance into perspective. Although these bits  
64 and pieces are closely related in practice (see “[Interactions, hybridisation, and orchestration \(or  
65 meta-governance\)](#)”), many of them are usually analysed separately from one another, some-  
66 times even in different disciplines with little exchange.

67 The next section selectively reviews how existing typologies attempt to disentangle the  
68 governance concept, and it highlights that the three research strands on regulation, envi-  
69 ronmental governance and CSR provide valuable insights into the typology developed here.  
70 Section “[Unfolding the typology](#)” disentangles the governance concept into seven actor-  
71 based types of regulation, and it illustrates them with a focus on how businesses are steered  
72 towards sustainable development and CSR. Section “[Interactions, hybridisation, and  
73 orchestration \(or meta-governance\)](#)” highlights how these types of regulation relate to each  
74 other, and it adds hybrid regulation as well as meta-governance to the picture. Sec-  
75 tion “[Discussion and conclusion](#)” provides a concluding discussion.

1FL01 <sup>1</sup> For the synonymous use of governance and steering, see e.g. Rhodes (2000, 56). The synonymous use of  
1FL02 governance and regulation is most obvious when scholars deviate from the standard vocabulary of “self-  
1FL03 regulation” or “co-regulation” and speak of “self-governance” or “co-governance” (Kooiman 2003,  
1FL04 79–113).



## 76 Governance aspects and typologies in different research strands

77 Who exactly steers businesses towards sustainable development with what means? Con-  
78 sidering that the governance literature is mainly concerned with how societal steering has  
79 been dispersed across society (Rhodes 1996; Stoker 1998; Scott 2004), conceptual as well  
80 as taxonomic contributions pay surprisingly little attention to the actors engaged in par-  
81 ticular governance settings as regulators (here referred to as actor constellations). What we  
82 often find in conceptual and taxonomic governance research is the too simple dichotomy of  
83 state and non-state actors (see e.g. Knill and Lehmkuhl 2002; Treib et al. 2007; NEWGOV  
84 2005; Tollefson et al. 2012; Doelle et al. 2012). A good example of a comprehensive stock  
85 taking of different types of business regulation that illustrates this weakness comes from  
86 Börzel and Risse (2010). Although they recognise companies and civil society as two  
87 distinct non-governmental actors (Börzel and Risse 2010, 115), they relapse to the public–  
88 private dichotomy when organising different types of regulation. Based on a tripartite  
89 classification of governance by Zürn (2002), they propose one type of regulation for  
90 “governance by government” (i.e. “public regulation”) and one for “governance without  
91 government” (i.e. “private self-regulation”), but five types of regulation representing  
92 “governance with government” (Börzel and Risse 2010, 116f).<sup>2</sup> As the present article  
93 highlights, this widely used classification is too vague with regard to the manifold forms of  
94 governance without government.

95 For Mayntz (2004), governance scholars tend to ignore actor constellations not acci-  
96 dentally but systematically because they are usually preoccupied with the blurring of  
97 boundaries between actors from different societal domains (see also Salamon 2002 41;  
98 Börzel 1998; Knill and Lehmkuhl 2002; Nelson 2004; Hauffer 2001). Stoker fuels this  
99 explanation with one of his five propositions on “governance as theory” saying, “Gove-  
100 rnance identifies the blurring of boundaries and responsibilities for tackling social and  
101 economic issues” (Stoker 1998, 18). No matter whether governance scholars blur or di-  
102 chotomise the boundaries between public and private actors, conceptual and taxonomic  
103 contributions often ignore that private or non-state actors are hardly a useful analytical or  
104 empirical category that helps to differentiate non-state regulation adequately. To recognise,  
105 for example, the significant differences between business self-regulation and partnering  
106 arrangements between businesses and civil society actors (or civil co-regulation), private  
107 actors have to be differentiated accordingly (Glasbergen et al. 2007; van Huijstee and  
108 Glasbergen 2010; Lambell et al. 2008; Abbott and Snidal 2008). The remainder of this  
109 section shows that valuable insights into this and other aspects of disentangling governance  
110 can be distilled from the literatures on regulation, environmental or sustainable develop-  
111 ment governance, and CSR.

112 Regulation can assume many different meanings. While it can be understood narrowly  
113 as “authoritative rules” usually set by governmental institutions, it can also be understood

2FL01 <sup>2</sup> A similar pooling of business and civil society actors to “private actors” can be found in an EU context.  
2FL02 Since the EU defines co-regulation as Community legislative acts that entrust the attainment of their  
2FL03 objectives to non-state parties (European Parliament et al. 2003, C331/3), it overlooks not only all non-  
2FL04 legislative forms of co-regulation such as public–private partnerships (see “[Unfolding the typology](#)”), but  
2FL05 also the difference between civil society and business actors. Accordingly, the EU defines self-regulation  
2FL06 “as the possibility for economic operators, the social partners, non-governmental organisations or associ-  
2FL07 ations to adopt amongst themselves and for themselves common guidelines at European level” (European  
2FL08 Parliament et al. 2003, C321/3; see also Senden 2005). Since “economic operators” and CSOs do not  
2FL09 constitute a homogenous group that could be referred to as “themselves”, this notion of self-regulation is too  
2FL10 vague for scholarly (and perhaps also for practical) purposes.



114 broadly as an umbrella term for “all mechanisms of social control, by whomsoever  
115 exercised” (Jordana and Levi-Faur 2004 3; see also Levi-Faur 2010, 4f). The broad  
116 understanding of regulation is obviously very similar to the governance concept, with the  
117 difference that the former traditionally pays more attention to actor constellations while the  
118 latter usually takes in a more systemic perspective (Mayntz 2004; for confirming examples,  
119 see e.g. Levi-Faur 2010; Jordana and Levi-Faur 2004 11; Baldwin and Cave 1999, 63ff).  
120 Resonating the works of Scharpf (1994, 1997) and many other policy analysts, Levi-Faur  
121 emphasises, to “better understand regulation we need to pay close attention to the question  
122 of Who are the regulators? What is being regulated? and How regulation is carried out?”  
123 (Levi-Faur 2010, 9), and he adds that the question of “how to regulate” is closely linked  
124 “to the question of ‘who’ regulates” (Levi-Faur 2010 11; see also Cafaggi 2011).<sup>3</sup> Other  
125 scholars also emphasise the importance of actor constellations, but their typologies are,  
126 again, partial compared to what I propose here. Two examples: while Baldwin and Cave  
127 (1999, 58–63), for example, do not address regulation by civil society actors (civil regu-  
128 lation) and by actors from more than one societal domain (co-regulation) at all, Abbott and  
129 Snidal (2008) focus their “governance triangle” on formal standard-setting schemes in  
130 international arenas, deliberately omitting less formalised steering practices such as civil  
131 regulation via stakeholder pressure or CSR management (for a similar approach, see  
132 Cafaggi 2011). The typology developed in “Unfolding the typology” appreciates the  
133 emphasis (global/transnational) regulation research puts on actor constellations and com-  
134 plements it with insights taken from the following two research strands.

135 Environmental protection and sustainable development often require profound govern-  
136 nance changes (OECD 2001, 2002; Lafferty 2002, 2004; Jordan 2008). Consequently,  
137 policy makers as well as researchers recognised early on that sustainable development is  
138 not only concerned with first-order policy issues of “what to do”, but also with second-  
139 order governance issues of “how to do it”. This governance emphasis reflects strongly in  
140 international policy documents, although with varying emphases. As early as 1972, the  
141 Stockholm Declaration on the Human Environment noted that improving the human  
142 environment for present and future generations “will demand the acceptance of respon-  
143 sibility by citizens and communities and by enterprises and institutions at every level, all  
144 sharing equitably in common efforts” (UNCHE 1972; for a brief review, see Jordan 2008).  
145 While the Brundtland Report (WCED 1987) focused in particular on public governance,  
146 the Rio “Earth Summit” (UNCED 1992) shifted attention towards civil society actors, and  
147 the Johannesburg Summit on Sustainable Development (WSSD 2002) to the roles of  
148 businesses in the governance of sustainable development (Zadek 2004a). As the president  
149 of the World Resources Institute has pointedly put it, the two world summits (in particular  
150 the Johannesburg Summit) represent “a shift from the stiff formal waltz of traditional

3FL01 <sup>3</sup> Since Levi-Faur (2010, 11f, 26f) pays close attention not only to who sets rules with what means, but also  
3FL02 to who monitors and enforces the rules, the typology he proposes mirrors the complexities of contemporary  
3FL03 governance (e.g. in matrices displaying up to 36 types of regulation), but makes it difficult to identify some  
3FL04 basic types of regulation. Cafaggi (2011, 32), in turn, pays close attention not only to the regulators and  
3FL05 those who are regulated, but also to the beneficiaries of regulation. While this differentiation is highly  
3FL06 relevant in focused empirical research, it is difficult to employ in taxonomic works because steering  
3FL07 practices of the same type can have varying beneficiaries. An example: as Héritier and Eckert (2008) show,  
3FL08 self-regulation can benefit society (e.g. when the PVC industry reduces its environmental impacts) and/or  
3FL09 the industry itself (e.g. when recycling quotas stabilise the paper industry), let alone governments who aim  
3FL10 to solve problems without enacting new laws.



151 diplomacy to the jazzier dance of improvisational solution oriented partnerships that may  
152 include non-government organisations, willing governments and other stakeholders”.<sup>4</sup>

153 Environmental policy and governance research traditionally pays close attention to actor  
154 constellations, inter alia, because many environmental problems are negative external effects  
155 of businesses on society (Delmas and Young 2009a; Delmas 2009, 221ff; Arts et al. 2009).  
156 Consequently, respective research rarely speaks of public and private actors, but it differ-  
157 entiates the latter adequately (sometimes well beyond the general categories of civil society  
158 and business as used here). This applies to comparatively narrow empirical studies (e.g.  
159 Héritier and Eckert 2008) as well as to broad conceptual or taxonomic contributions (e.g. Arts  
160 2005; Meadowcroft 2007). One of the most comprehensive typologies of environmental  
161 governance is proposed by Delmas and Young (2009b). By conceptualising the societal  
162 domains as three overlapping circles, they differentiate seven “environmental governance  
163 systems”: three within a single domain and four between them (Delmas and Young 2009b,  
164 7ff; for an illustration inspired by this heuristic, see Fig. 1 in “Unfolding the typology”).  
165 Although the differentiation of three actor groups and seven governance systems is a logical  
166 (almost intuitive) way to organise the complexities of environmental governance that pro-  
167 vides a clear understanding of who steers (with one exception<sup>5</sup>), their typology is less clear  
168 with regard to how different actors actually accomplish steering. Instead of exploring means  
169 or tools of governance systematically for each of the seven governance systems, the typology  
170 refers to organisations (such as intergovernmental organisations), governance modes (such as  
171 “non-state market-driven”) and particular regulatory tools (such as negotiated agreements or  
172 public–private partnerships) rather unsystematically. Metaphorically speaking, the typology  
173 developed below makes use of the skeleton provided by Delmas and Young (2009b), but it  
174 aims to put more conceptual, as well as empirical, meat on its bones, taken from all three  
175 research strands described here (for similar heuristics, see also Abbott and Snidal 2008, 7f;  
176 Lemos and Agrawal 2006; van Marrewijk 2003, 100).

177 Although rarely recognised as such, new governance and CSR are complementary  
178 concepts that both fundamentally reshape the roles of the public and the private sectors in  
179 similar directions. As outlined above, new governance accounts for the fact that govern-  
180 ments rely increasingly on non-state actors for achieving public policy goals. When  
181 “crucial elements of authority are shared with a host of non-governmental [...] actors”  
182 (Salamon 2002, 2), the roles of businesses in society change to the degree that they accept  
183 the sharing of public responsibilities (Moon 2002; Midttun 2005; Steurer 2011). The  
184 worldwide rise of CSR indicates that the private sector has embraced the sharing of public  
185 responsibilities in recent years for whatever reasons and certainly to varying degrees. By  
186 pursuing CSR as a management approach, businesses are supposed to widen their short-  
187 term profit-making focus by integrating “social and environmental concerns in their  
188 business operations and in their interaction with their stakeholders on a voluntary basis”  
189 (European Commission 2006, 2). Of course, not all activities pursued under the heading of  
190 CSR can be regarded as a taking over of public responsibilities, let alone as regulation.  
191 Apart from symbolic (or “green washing”) actions, businesses can pursue CSR in three  
192 basic ways: philanthropic, integrative (i.e. existing business operations are conducted more  
193 responsibly) or innovative (i.e. new business models are developed for solving social and

4FL01 <sup>4</sup> [http://archive.wri.org/newsroom/wrifeatures\\_text.cfm?ContentID=371](http://archive.wri.org/newsroom/wrifeatures_text.cfm?ContentID=371); retrieved on 10 December 2011.

5FL01 <sup>5</sup> The actor group referred to as “private sector” mixes businesses, trade associations and consumers.  
5FL02 Obviously, the latter usually represent societal rather than business interests and should therefore be  
5FL03 regarded as civil society stakeholder group (Kurzer and Cooper 2007).



194 environmental problems) (Halme and Laurila 2008). While philanthropic CSR can imply  
195 the taking over of public (funding) responsibilities by businesses, integrative and inno-  
196 vative CSR as well as stakeholder management (Preble 2005) can also represent different  
197 types of non-state regulation (see “[Unfolding the typology](#)”). Although CSR management  
198 research provides nuanced empirical accounts of governance with and without government  
199 (Utting 2005, 10; Zadek 2004a, b; Haufler 2001), interdisciplinary exchange between  
200 governance and management studies is still limited. While the typology developed below  
201 makes use of CSR and stakeholder management research, it ignores so far unsatisfactory  
202 attempts to organise CSR as a new governance phenomenon.<sup>6</sup>

## 203 **Unfolding the typology**

204 This section disentangles the governance concept mainly based on the criterion “who  
205 regulates”. Its main categories are government, business and civil society. Although these  
206 three societal domains are heterogeneous entities, each one consisting of a variety of actors  
207 with often conflicting political interests (for a brief discussion see “[Discussion and con-  
208 clusion](#)”), actors from the same domain usually share at least a basic logic of action as well  
209 as some domain-specific resources.<sup>7</sup> Therefore, and because the three actor categories  
210 already result in a complex picture of seven types of regulation and co-regulation (see  
211 Figs. 1, 2), I do not differentiate them further, with one exception: the self-regulation of  
212 entire industries (e.g. by industry associations) is distinguished from the functionally  
213 different self-regulation of single firms.

214 Once actor constellations are assorted, numerous secondary characteristics can be used  
215 to further differentiate each of the seven types of regulation distinguished here, among  
216 them the underlying governance modes (hierarchies, markets, networks), the geographical  
217 scale of steering (local to global), the degree of formalisation (formal–informal) or the  
218 bindingness of rules (hard–soft; for the latter two criteria, see Tollefson et al. 2012<sup>8</sup>). To  
219 keep the typology lucid, I do not refer to all these secondary characteristics in all societal  
220 domains systematically, but only to those that constitute important sub-types of regulation,  
221 namely the degree of formalisation in the societal domain and the bindingness of gov-  
222 ernmental regulation (for a brief discussion of the geographical scale, see “[Discussion and  
223 conclusion](#)”).

6FL01 <sup>6</sup> Albareda (2008), for example, describes a transition from self-regulation to co-regulation but does not  
6FL02 address civil regulation via stakeholder pressure. Auld et al. (2008), in turn, typologise “The New Corporate  
6FL03 Social Responsibility” based on incongruent “taxonomic categories” such as actors (i.e. “Government  
6FL04 traditional” or “individual firms”), types of regulation (“partnerships”) or particular tools of governance  
6FL05 (i.e. “information approaches” or “environmental management systems”). Although the authors aim to  
6FL06 provide a comprehensive picture of “CSR innovations”, they overlook, inter alia, civil regulation, tripartite  
6FL07 co-regulation and soft governmental regulation other than informational approaches (for details on these  
6FL08 types of regulation, see “[Unfolding the typology](#)”).

7FL01 <sup>7</sup> As Abbott and Snidal (2008, 16ff) show in more detail, the ideal-type logic of action in the business  
7FL02 domain is preoccupied with competitiveness and profitability, and the key resources of businesses are  
7FL03 technical expertise and financial clout. In contrast, CSOs are “norm entrepreneurs” (Abbott and Snidal  
7FL04 2008, 17) that pursue special (rather than public) interests or values. Since their motivation is usually moral-  
7FL05 rather than profit-oriented, their key resources are legitimacy and trustworthiness (Mitchell et al. 1998). For  
7FL06 governments, see the following “[Regulation by governments: hard and soft](#)”.

8FL01 <sup>8</sup> While Tollefson et al. (2012) consider actor constellations (or politics), the degree of institutionalisation  
8FL02 and the regulatory dimension as three equivalent dimensions of governance, the typology developed here  
8FL03 emphasises that actor constellations represent a primary criterion that shapes all other dimensions.





224 The remainder of this section describes the seven basic types and respective sub-types  
225 of regulation in terms of general characteristics, ideal–typical tools of governance that  
226 represent “the relatively limited number of means or methods” by which governments,  
227 civil society and/or business actors effect steering,<sup>9</sup> selected examples and the underlying  
228 governance modes. By doing so, the section shows systematically how diverse the gov-  
229 ernance of sustainable development among businesses actually is and how important actor  
230 constellations are for fully comprehending this diversity. What “[Unfolding the typology](#)”  
231 cannot address are the strengths and weaknesses of the different types of regulation.

### 232 Regulation by governments: hard and soft

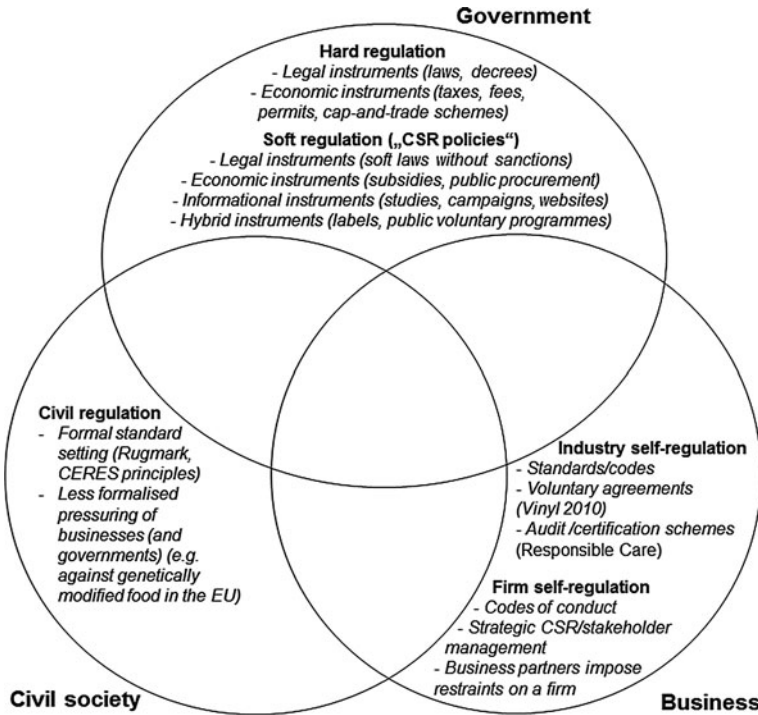
233 Despite the importance of “governance without government” (Rhodes 1996), govern-  
234 mental actors can still be regarded as the ultimate (although sometimes disoriented) reg-  
235 ulators of society and businesses (Kooiman 2003, 115–130; Bell and Hindmoor 2009), in  
236 particular in the context of environmental and sustainable development policy making at  
237 national and sub-national levels (Meadowcroft 2007; Arts et al. 2009; Delmas and Young  
238 2009a). With regard to the bindingness of rules, mandatory (or “hard”) and voluntary (or  
239 “soft”) governmental regulation can be distinguished as sub-types. Hard regulation means  
240 that legislatures, ministries or public agencies define rules that are binding for all (or for all  
241 members of a particular group) and that the executive and judicial branches of government  
242 (or the agencies themselves) monitor and enforce compliance. The obvious tools of hard  
243 governmental regulation are laws, decrees or (in the EU context) directives (metaphorically  
244 also referred to as “sticks”) and, less obvious, economic instruments (also referred to as  
245 “carrots”) such as taxes, fees and cap-and-trade schemes (Hood 1986). Although economic  
246 instruments represent relatively “new environmental policy instruments” that are often  
247 addressed together with soft governmental (co-) regulation such as voluntary agreements or  
248 partnerships (Jordan et al. 2005), they clearly conform to hard regulation as defined above.  
249 Key differences between legal and economic instruments of hard regulation are the  
250 underlying modes of governance. While hard law represents the hierarchical mode of  
251 governance, hard economic instruments make use of both steering hierarchically and via  
252 market forces. In addition, the two instrument types are different with respect to the leeway  
253 they give to those regulated (rigid versus flexible), and their impact on technological  
254 progress (favouring status quo versus facilitating innovation). For these and other reasons,  
255 economic instruments have been eclipsing legal instruments to an increasing degree in  
256 recent decades, in particular in environmental policy making (Jordan et al. 2005).

257 Although soft regulation is probably as old as its hard counterpart, the rise of govern-  
258 ance and CSR in recent decades leveraged and diversified respective practices into an  
259 increasingly important sub-type of governmental regulation. In contrast to hard regulation,  
260 the rules governments or public agencies formulate here are not legally binding, that is,  
261 they suggest (or facilitate) certain behaviours politically rather than prescribing and  
262 enforcing them legally with sanctions (Mörth 2004b, 1–6).<sup>10</sup> Since soft regulation is  
263 usually a matter of persuasion, the legislative, executive and judicial powers of govern-  
264 ments are mainly relevant with regard to (Hood 1983; Steurer 2011):

- 265 • “Nodality”, that is, access to knowledge, monitoring data, dissemination and education  
266 channels (see also Hood 2007);

9FL01 <sup>9</sup> This definition is based on a definition of policy instruments provided by Howlett and Ramesh (1993, 4).

10FL01 <sup>10</sup> While Mörth (2004a) speaks of “soft law”, I prefer the broader term soft regulation.



**Fig. 1** Domain-specific types and sub-types of regulation. © R. Steurer

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- Organisation in the form of monitoring and benchmarking capacities or as a means to lead by example (e.g. by applying sustainable management practices in the public sector);
  - Government legitimacy and authority in a persuasive, non-hierarchical sense (see also Hysing 2009; Bell and Hindmoor 2012); and
  - Fiscal means (e.g. subsidy programmes or sustainable public procurement) that can be used to create economic incentives for desired behaviour (see also Bell and Hindmoor 2012, 153).

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Three of these four resources highlight that informational instruments (or “sermons”, metaphorically speaking) are the ideal-type approach of soft regulation (Scott 2004, 161). These include endorsing statements, benchmarking reports, brochures, guidelines, websites and media campaigns. Together with the legal and economic instruments described above, they constitute a widely acknowledged tripartite standard set of policy instruments (Howlett and Ramesh 1993; Bemelmans-Videc et al. 1997; Jordan et al. 2005). While legal and economic instruments play a key role in hard regulation, an analysis of public policies promoting CSR shows that they can also assume the characteristics of soft regulation (Steurer 2010; 2011). This applies to laws (e.g. on CSR reporting) that do not foresee sanctions in case of non-compliance (Joseph 2002, 97ff)<sup>11</sup> and to economic incentive instruments that are not obligatory (such as taxes) but optional (such as subsidies or green/sustainable public procurement). In addition, soft governmental regulation can also make use of hybrid instruments such as labels (combining legal, informational and economic

11FL01 <sup>11</sup> For the important role soft law plays in the European context, see Mörth (2004c).





288 incentive aspects) and public voluntary programmes (often combining informational and  
289 economic incentive aspects; for more details, see Steurer 2010). While soft economic  
290 incentives correspond with the market mode of governance, informational and soft legal  
291 instruments rely mainly on persuasion (for a brief discussion whether persuasion is a  
292 governance mode in its own right or not, see Steurer 2011, 278ff).

293 Self-regulation by businesses: collective and individual

294 Although the self-regulation of businesses can be traced back to craft guilds who began to  
295 set professional standards independent of governments centuries ago (Baldwin and Cave  
296 1999, 63), research on how businesses participate in societal steering in the era of gov-  
297 ernment was often rather concerned with how they lobby governments (see e.g. Mazey and  
298 Richardson 1993). Although lobbying is still an important pathway of businesses steering  
299 society (in particular in the environmental policy field), new forms of business self-regu-  
300 lation gained increasing attention in the era of governance among both governance and  
301 management scholars (unfortunately without noteworthy interdisciplinary exchange). For  
302 governance scholars, business self-regulation implies that businesses self-specify rules, self-  
303 monitor their conduct and self-enforce compliance without direct and explicit interference  
304 from the state or from civil society actors (Gunningham and Rees 1997; Sinclair 1997;  
305 Bartle and Vass 2007). Since this definition makes it difficult to delineate self-regulation  
306 from management, it is important to add that the voluntary rules impose restraints upon a  
307 firm that are in the public interest (Maxwell et al. 2000, 584; see also Stiglitz 2009, 13).

308 Business self-regulation can take place at the levels of single firms or entire industries  
309 (Gunningham and Rees 1997, 364; Potoski and Prakash 2005a, b). Industry self-regulation  
310 means that a group of major companies or a trade association establishes agreements, standards,  
311 codes of conduct or audit programmes that address all firms of a particular industry with varying  
312 degrees of formalisation and bindingness. Although more stringent (or “hard”) types of  
313 industry self-regulation usually do not force companies to participate, they at least monitor  
314 compliance and sanction non-compliance, for example with exclusion from the initiative  
315 (Christmann and Taylor 2006; Prakash and Potoski 2007). An example for a comparatively  
316 hard type of industry self-regulation is the “Vinyl 2010” voluntary agreement that was  
317 established by four European PVC associations as a response to legislative threats concerning  
318 environmental problems of the PVC industry (Héritier and Eckert 2008). Examples for com-  
319 paratively soft industry self-regulation are the Cement Sustainability Initiative (major cement  
320 companies set individual carbon emission reduction goals on a voluntary basis) or even less  
321 formalised sectoral objectives, set, for example, by major players of the aluminium and the steel  
322 industry (Busch et al. 2008). Examples for industry self-regulation that foresee compliance  
323 monitoring but are very soft in terms of what members are required to do are the “Responsible  
324 Care” programme launched by the US Chemical Manufacturers Association in 1989 “in  
325 response to declining public opinion about the chemical industry” (King and Lenox 2000, 699)  
326 and the “Sustainable Forestry Initiative” certification standard launched by the American  
327 Forest and Paper Association in 1994 as a response to the more demanding Forest Stewardship  
328 Council (McDermott et al. 2008; Cashore 2002; see the sub-section on co-regulation).

329 The self-regulation of single firms, on the other hand, encompasses various voluntary  
330 practices of triple-bottom line management, such as applying environmental management  
331 systems, developing and implementing company codes of conduct or more comprehensive  
332 CSR strategies, reporting on CSR (Post et al. 2002; Halme and Laurila 2008). Obviously,  
333 many of the countless practices that fall into this category are less formalised than what  
334 other authors regard as self-regulation (see e.g. Abbott and Snidal 2008). An often-



335 overlooked form of business self-regulation at the firm level (usually considered as  
336 stakeholder management, see “[Interactions, hybridisation, and orchestration \(or meta-](#)  
337 [governance\)](#)”) is when business partners such as large suppliers, bulk buyers, lenders or  
338 institutional investors demand certain CSR practices. A prominent example of this kind of  
339 “business-to-business self-regulation” is Nike’s supply chain audit regime on labour  
340 conditions, established as a response to civil society pressure (Zadek [2004a, b](#); Midttun  
341 [2008](#), 414f). As this and the other examples given above emphasise and “[IInteractions,](#)  
342 [hybridisation, and orchestration \(or meta-governance\)](#)” explores in more detail, business  
343 self-regulation at whatever level is usually not isolated from but driven by other types of  
344 regulation. What may appear as a business initiative is usually a strategic move that aims to  
345 ease or pre-empt other forms of regulation, in particular hard governmental and civil  
346 regulation (Maxwell et al. [2000](#), 583; Abbott and Snidal [2008](#)).

347 Regulation by civil society: formal standard-setting and informal pressuring

348 In the “era of government”, the spectrum of regulation was mostly limited to hard and soft  
349 governmental regulation and business self-regulation. The current “era of governance” is  
350 characterised in particular by a strengthening of societal actors such as civil society or-  
351 ganisations (CSOs) and other societal stakeholders of companies (such as consumers,  
352 employees or local communities) as regulators or co-regulators. The manifold forms of  
353 civil regulation can be subsumed under two broad (often closely intertwined) sub-types:  
354 formal standard-setting and comparatively informal pressuring. Standard-setting means  
355 that CSOs aim to steer businesses by demanding compliance with formalised standards  
356 they have developed, such as Rugmark (a network of CSOs that created a label certifying  
357 that a carpet is made without child labour), the Amnesty International Human Rights  
358 Guidelines for Companies or the 10-point code of corporate environmental conduct pub-  
359 lished by the “Coalition for Environmentally Responsible Economies” (CERES princi-  
360 ples). Since these and most other standards of this kind target globally operating  
361 businesses, they are international in scope (Abbott and Snidal [2008](#), 7ff).

362 How does civil regulation work through informal pressuring? For decades, CSOs aimed to  
363 steer businesses by demanding legislation from governments. Since this “civil lobbying  
364 strategy” oftentimes failed, civil society actors now aim to regulate businesses by addressing  
365 them directly in confrontational ways (Gunningham [2005](#); Vogel [2010](#); Scherer and Palazzo  
366 [2011](#); Yaziji and Doh [2009](#); Lambell et al. [2008](#)). As the references below illustrate, it was not  
367 primarily the political science literature on governance, but the business literature on CSR and  
368 stakeholder management that has analysed this type of regulation most systematically since  
369 the 1990s. Zadek defines civil regulation as “the ability and willingness of society to create  
370 collective pressure on business beyond the rule of law by threatening the productivity” of  
371 businesses (Zadek [2004a](#), 26). As stakeholder theory shows in detail, this usually means that  
372 stakeholders, that is, those who contribute to the wealth-creating capacity of a firm and that  
373 are therefore “its potential beneficiaries and/or risk bearers” (Post et al. [2002](#), 19), confront  
374 businesses with social and/or environmental claims.<sup>12</sup> These claims are usually not based on  
375 legal rights but on moral claims and legitimacy in the eyes of the public (Mitchell et al. [1998](#)),

12FL01 <sup>12</sup> Strictly speaking, civil regulation is concerned with pressure exerted by societal stakeholders such as  
12FL02 local communities, small-scale consumers and investors, CSOs, churches, scientists and think tanks (some  
12FL03 of which maintain contractual relations with businesses) and excludes pressure through major business  
12FL04 stakeholders (such as institutional investors and suppliers; see the section on business self-regulation). The  
12FL05 employee stakeholder group is somewhere between these two categories.



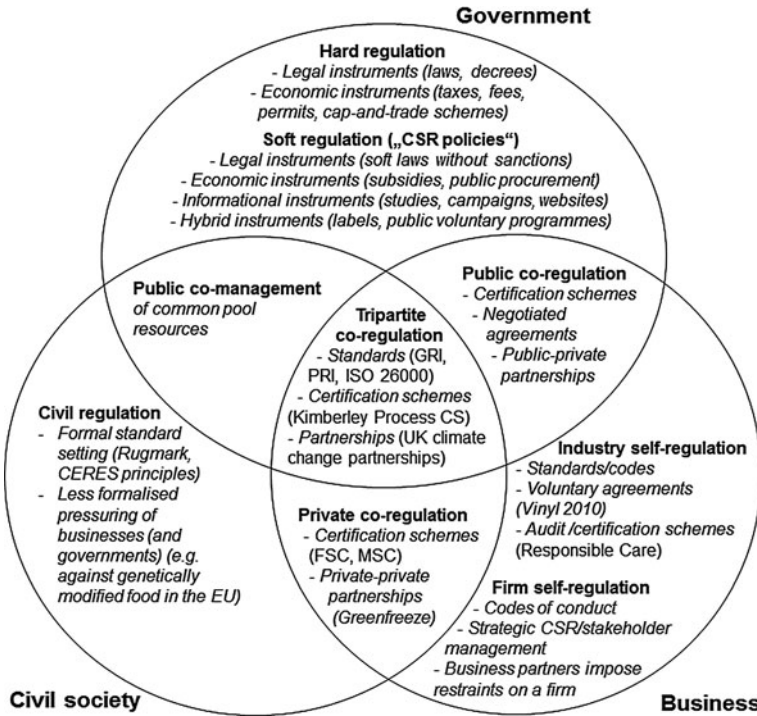
376 most effectively transmitted to companies via market forces such as critical consumers and  
377 ethical investors (Maxwell et al. 2000; Post et al. 2002; Midttun 2008). As various man-  
378 agement scholars have shown in detail, stakeholders can pressure companies directly on their  
379 own or indirectly via coalitions with other stakeholders. In both instances, they either  
380 withhold resources (e.g. via direct blockades or indirect calls for boycotts) or attach condi-  
381 tions to business transactions (e.g. directly by negotiating terms or indirectly via campaigns  
382 for certain improvements) (Frooman 1999; Hendry 2005; Yaziji and Doh 2009). Iconic  
383 examples of effective civil regulation via pressuring (usually resembling indirect withholding  
384 initiated by CSOs and enacted in a coalition with the media and consumers) are Shell's  
385 drawback from the legally authorised sinking of the oil platform Brent Spar in the North Sea  
386 (Zyglidopoulos 2002; Post et al. 2002) and the European movement against genetically  
387 modified food (Kurzer and Cooper 2007). As the latter case illustrates, the civil regulation of  
388 businesses (or respective attempts) often coincides with lobbying various levels of govern-  
389 ment (see also Hendry 2005).

390 Although the civil regulation of businesses obviously builds on networking among civil  
391 society actors, one should not overlook that the effectiveness of their networking relies  
392 ultimately on the ability to harness stakeholders representing market forces (such as  
393 consumers or small-scale investors in the societal domain and suppliers, large-scale  
394 investors or bulk buyers in the business domain) and/or governmental actors for their  
395 purposes (McWilliams and Siegel 2001; Vogel 2005; Webb 2005, e.g. 272; Christmann  
396 and Taylor 2006). If they fail to do so, their only viable alternative is to seek collaboration  
397 in co-regulatory arrangements.

#### 398 Domain-spanning co-regulation: four actor constellations, four types

399 Co-regulation is an umbrella term for co-operative forms of steering in which actors from  
400 different societal domains aim to achieve common objectives or supply public services  
401 jointly. A key feature of co-regulation is that respective practices join not only regulators  
402 from different domains but oftentimes also those who are regulated and/or the beneficiaries  
403 of the regulation (Cafaggi 2011, 35). While some scholars restrict co-regulation to col-  
404 laborations between governments and civil society (Palzer and Scheuer 2004) or to narrowly  
405 defined interactions between governments and private actors (Senden 2005), a look into the  
406 governance and CSR literature on the one hand and at contemporary governance practices  
407 on the other reveals that civil society and businesses ("private co-regulation") as well as  
408 actors from all three societal domains ("tripartite co-regulation") also engage in co-regu-  
409 lation (for an illustration, see Fig. 2). Public co-management that involves civil society and  
410 government actors is usually not concerned with regulating businesses but with the joint  
411 management of common pool resources (Ostrom et al. 1999). Although respective practices  
412 rely on the network governance mode and are relevant for the pursuit of sustainable  
413 development, the literature concerned with new governance and CSR rarely addresses them.

414 Among the most popular co-regulatory tools in the three actor constellations that  
415 involve businesses (albeit with different characteristics that cannot be explored here) are  
416 certification schemes and partnerships (the latter often going far beyond standard-setting  
417 practices as described by Abbott and Snidal 2008). Partnerships are self-organising alli-  
418 ances in which actors from two or three societal domains strive for common goals and  
419 synergies by sharing their domain-specific resources (including expertise and skills) as well  
420 as risks in non-hierarchical, network-like interactions (Glasbergen 2007, 1f; Van Huijstee  
421 et al. 2007, 77; McQuaid 2010, 128). Prominent examples are private-private partnerships  
422 for sustainable coffee (Argenti 2004; Kolk forthcoming) and for environmentally friendly



**Fig. 2** Adding four domain-spanning types of co-regulation (for similar heuristics that inspired the development of this figure, see van Marrewijk 2003, 100; Lemos and Agrawal 2006; Abbott and Snidal 2008, 7f; Delmas and Young 2009b). © R. Steurer

423 refrigerators (“Greenfreeze”; Stafford et al. 2000), the tripartite Regional Climate Change  
 424 Partnerships in the UK (Salzmann et al. 2008; Bauer et al. 2012) and the numerous public–  
 425 private partnerships launched by the US Environmental Protection Agency under the motto  
 426 “reinventing regulation” (Balleisen and Eisner 2009). The latter also stands for dozens of  
 427 voluntary environmental programmes, many of them being certification and labelling  
 428 schemes developed or enacted in close collaboration with businesses (Darnall and Sides  
 429 2008). Well-known and extensively researched (not to say iconised) instruments of private  
 430 co-regulation involving civil society actors and businesses are voluntary certification  
 431 schemes such as the Forest Stewardship Council (Cashore and Vertinsky 2000; Cashore  
 432 2002) and the Marine Stewardship Council (Cummins 2004). Apart from partnerships and  
 433 certification schemes, public co-regulation between governments and businesses also relies  
 434 strongly on negotiated environmental agreements (for the numerous examples in the  
 435 Netherlands, see Bressers et al. 2009). Examples for tripartite co-regulation defined by  
 436 actors from all three societal domains are the Kimberley Process CS that certifies diamonds  
 437 that have been produced in socially responsible ways (Wright 2004; Yaziji and Doh 2009,  
 438 162–165), standards or guidelines such as the Global Reporting Initiative (GRI), which  
 439 guides CSR reporting (Brown et al. 2009),<sup>13</sup> the UN Principles for Responsible Investment

13FL01 <sup>13</sup> The government actor involved in the GRI since 1999 (first in the steering committee, since 2002 in the  
 13FL02 GRI board of directors) is the United Nations Environmental Programme (UNEP) (see [http://](http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board/)  
 13FL03 [www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board/](http://www.globalreporting.org/AboutGRI/WhoWeAre/GovernanceBodies/Board/)).  
 13FL04



440 (PRI) (Sandberg et al. 2009) and the ISO 26000 guideline for social responsibility (Ward  
 441 2011).

442 Although collaboration and networking play a key role in co-regulation and respective  
 443 practices represent the quintessence of both new governance and CSR, one should not  
 444 overlook that the steering mechanisms at work here are, again, strongly aligned with the  
 445 market mode of governance, that is, with business concerns about brand reputation,  
 446 competitiveness and the urge to ease or pre-empt potentially costly civil regulation and  
 447 hard governmental regulation. In this sense, co-regulation often represents network gov-  
 448 ernance in the (sometimes hardly visible) shadows of both markets and hierarchies. This  
 449 brings us to interactions and other linkages between the seven basic types of regulation  
 450 described above.

### 451 Interactions, hybridisation and orchestration (or meta-governance)

452 Thus far, I have portrayed the three domain-specific and four domain-spanning types of  
 453 regulation as discrete approaches of steering. The interactions between them have emerged  
 454 only in outlines. This section adds that the interplay between the three societal domains and  
 455 respective types of regulation materialises in at least three distinct ways: as ordinary  
 456 interactions, as hybridisation and, finally, as orchestration or meta-governance (for an  
 457 illustration, see Fig. 3).

458 Whatever happens with regard to a particular type or tool of governance most likely has  
 459 effects on other types and tools of steering (see also Abbott and Snidal 2008, 29f; Arnouts  
 460 and Arts 2009, 204). As long as these interactions shape the use and contents of regulation  
 461 but they do not result in new regulatory types with distinct steering characteristics, I frame

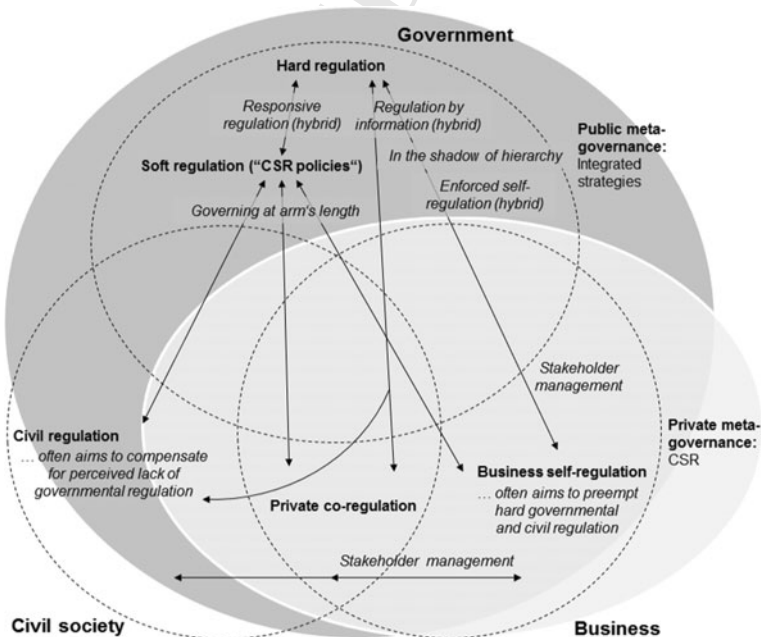


Fig. 3 Interactions, hybrid regulation and meta-governance. © R. Steurer





462 them as ordinary interactions between the elements of a poly-centred governance system.  
463 These are the most obvious interaction patterns:

- 464 • Soft forms of “governing at arm’s length” mean that governments do not engage  
465 directly with non-state regulation but rather hinder or facilitate respective practices  
466 from a distance, for example by informing, educating, providing guidance, appealing,  
467 approving/encouraging or disapproving/discouraging them or the actors involved. The  
468 relevance of governing at arm’s length is well documented for one of the “icons of new  
469 governance”: the Forest Stewardship Council (Hysing 2009; Bell and Hindmoor 2012;  
470 for other examples, see Bartle and Vass 2007; H eritier and Lehmkuhl 2008);
- 471 • “in the shadow of hierarchy” is a hard form of governing at arm’s length in which  
472 governments threaten co- as well as self-regulators with hard law in case they fail to  
473 achieve certain goals (H eritier and Eckert 2008; H eritier and Lehmkuhl 2008; Scharpf  
474 1994);
- 475 • A hard legal environment is often a prerequisite for functioning industry or firm self-  
476 regulation (Short and Toffel 2010; Mathis 2008, 452–457) and sometimes even for the  
477 success of civil regulation or private co-regulation.<sup>14</sup> Vice versa, new, hard  
478 governmental regulation is often a response to failed business self-regulation (currently  
479 and primarily discussed for the financial sector; see e.g. Moss and Cisternino 2009);
- 480 • Business self-regulation and stakeholder management (including lobbying activities)  
481 usually aim to ease or pre-empt not only actual or threatened hard governmental  
482 regulation (Mazey and Richardson 1993; H eritier and Eckert 2008) but also pressure  
483 coming from civil society stakeholders, who themselves may have been mobilised by a  
484 lack of adequate governmental regulation (Zadek 2004a, b; Gunningham 2005;  
485 Christmann and Taylor 2006; Porter and Ronit 2006; Kurzer and Cooper 2007). In this  
486 sense, we could often speak of “business self-regulation in the shadow of stakeholder  
487 pressure”.

488 Since these and other interactions between the basic types of regulation are the norm  
489 rather than the exception, disentangling governance into basic types of regulation only  
490 makes sense if we do not regard them, metaphorically speaking, as “autopoietic games”,  
491 but as the markings of a comprehensive “governance playing field” on which actors from  
492 at least three teams play their highly dynamic political games of who steers whom with  
493 what means and for whose benefit. While interactions originating in the governmental and  
494 societal domains usually aim to counterbalance the absence or failure of regulations in  
495 other domains (in particular in the business domain) (Gunningham et al. 2003, 149; Hysing  
496 2009), interactions originating in the business domain usually serve a more defensive  
497 purpose. If corporate stakeholder management is successful in easing or pre-empting hard  
498 governmental regulation, regulatory capture (or government failure) may be the result  
499 (Laffont and Tirole 1991). In how far the notion of regulatory capture can be applied to  
500 corporate stakeholder management that aims to ease the pressure coming from civil society  
501 actors (e.g. by involving them in partnerships) has not been explored yet.

502 In contrast to the widespread framing of co-regulation (or co-governance) as hybrid  
503 regulation (see e.g. Young 2009, 28; Lemos and Agrawal 2006, 2009; Levi-Faur 2010;  
504 Tollefson et al. 2012), I suggest that co-regulation represents basic (yet domain-spanning)  
505 types of regulation with unique rather than hybrid characteristics (for a similar concep-  
506 tualisation of “co-governance”, see Kooiman 2003). A look at private co-regulation

14FL01 <sup>14</sup> As Bell and Hindmoor (2012, 155) show for the United States, hard law that requires proof of legal  
14FL02 logging can facilitate the private co-regulatory FSC scheme because it guarantees legal compliance.





507 located in the overlap of civil society and business underpins this as follows: CSO-business  
508 collaborations such as the “Greenfreeze” project between Greenpeace and the household  
509 appliance manufacturer Foron (Stafford et al. 2000) are clearly an alternative to, rather than  
510 a hybrid of, for example, confrontational relations between civil society and businesses.  
511 Consequently, I propose to restrict hybrid regulation to those practices that truly combine  
512 two (or more) of the seven basic types of regulation to something new. Prominent  
513 examples for this narrower framing of hybridisation are as follows:

- 514 • “Responsive regulation” refers, inter alia,<sup>15</sup> to hard governmental regulation that is  
515 accompanied by soft forms of communication and persuasion in order to increase  
516 acceptance and compliance among those regulated (Ayres and Braithwaite 1992;  
517 Braithwaite et al. 2007; Braithwaite 2007).
- 518 • “Regulation by information” (Majone 1997; Lyon and Maxwell 2007) or “information  
519 disclosure regulation” (Doshi 2012) is an increasingly popular regulatory approach that  
520 aims to steer companies and consumers towards more sustainable production and  
521 consumption by mandating the disclosure of company-, production- or product-related  
522 information in standardised ways. Prominent examples are the US Toxic Release  
523 Inventory (Konar and Cohen 1997) or the numerous energy efficiency disclosure  
524 requirements in the EU (mandatory for cars, various electrical appliances, buildings/  
525 apartments and car tyres). Although these disclosure regulations rely on binding and  
526 sanctioned laws, I regard them as hybrids because they unfold their steering potential  
527 only in combination with civil regulation (mainly market pressure via consumer  
528 decisions) and/or (pre-emptive) business self-regulation (Gouldson 2004).<sup>16</sup>
- 529 • “Enforced self-regulation” is business self-regulation that is subject to various forms of  
530 governmental oversight (Ayres and Braithwaite 1992, 101–123; Baldwin and Cave  
531 1999, 39; Bartle and Vass 2007, 889). Governmental oversight usually starts with  
532 requiring firms to establish a tailored self-regulatory scheme, and it can entail  
533 monitoring and/or sanctioning its implementation. Thus, enforced self-regulation is a  
534 formal and transparent way of “subcontracting regulatory functions to private actors”  
535 (Ayres and Braithwaite 1992, 103). Obviously, this subcontracting hybridises hard  
536 governmental regulation with business self-regulation.

537 In contrast to the basic types of co-regulation explored in “Unfolding the typology” and  
538 the interactions addressed above, these examples deliberately combine basic types of  
539 regulation to a new (supposedly better) approach of steering. As the examples illustrate,  
540 governments play a key role in hybridisation, inter alia, because they have the means to do  
541 so and they seem to be interested in making non-state regulation and co-regulation work.

542 While hybrid regulation is concerned with the deliberate combination of two basic  
543 types of regulation, meta-governance is concerned with “the governance of governance”  
544 more generally (Meuleman 2008, 67). As such, it includes but is not limited to hybrid-  
545 isation. Since the present paper focuses on the fragmentation of governance across three  
546 societal domains, the meta-governance that is the most relevant here is concerned with  
547 overseeing, reflecting on and orchestrating different types of regulation (for this and four

15FL01 <sup>15</sup> Note that I use the concept of “responsive regulation” in a narrow sense, which is in line with the  
15FL02 enforcement pyramid rather than with the pyramid of enforcement strategies (for details, see Ayres and  
15FL03 Braithwaite 1992, 35–39).

16FL01 <sup>16</sup> Although voluntary (often non-state) initiatives that aim to improve the transparency of CSR (such as the  
16FL02 Global Reporting Initiative (GRI)) can also be referred to as “governing by disclosure” (Pattberg 2012,  
16FL03 616), they must not be confused with the governmental version of regulation by information as described  
16FL04 here.



548 other meanings of meta-governance, see Jessop 2009, 93). Thus, a key issue for meta-  
549 governance pursued by governments is to provide direction and control on the interplay of  
550 various types of regulation coming from whatever societal domain on a particular issue.  
551 By doing so, governments aim at “harnessing the capacities of markets, civil society and  
552 other institutions to accomplish its policy goals” (Gunningham 2005, 338, see also Peters  
553 2010; Meuleman 2008; Sorensen 2006) or at least “to ensure that the private regulatory  
554 tail does not wag the commonweal’s dog” (Balleisen and Eisner 2009, 129). Governments  
555 can provide this kind of oversight by agreeing on strategic objectives, orchestrating  
556 different types and tools of regulation, monitoring their performance and making  
557 adjustments (e.g. by introducing new governmental regulation), if necessary (Meuleman  
558 2008; Peters 2010, 44f). In national environmental governance, the practices that come  
559 the closest to this version of meta-governance are comprehensive (often cross-sectoral)  
560 government strategies, for example on climate change mitigation or sustainable devel-  
561 opment (Howlett and Rayner 2006).<sup>17</sup> However, instead of orchestrating what actors from  
562 different societal domains ought to contribute to solving environmental problems, inte-  
563 grated strategies are usually restricted to communication and an often-piecemeal coor-  
564 dination of mainly soft governmental regulation (Steurer 2008; Casado-Asensio and  
565 Steurer, forthcoming).

566 Although many scholars view meta-governance as an exclusive governmental task that  
567 ought to serve public policy objectives (Meuleman 2008, 68f; Peters 2010), the previous  
568 section has prepared the ground for arguing that meta-governance can also take place in  
569 the two private domains, although with limited scopes and geared towards domain-spe-  
570 cific purposes (see also Jessop 2009). While Sorensen (2006, 103) emphasised that  
571 “metagovernance can potentially be exercised by any resourceful actor, public or pri-  
572 vate”, neither governance nor management scholars have addressed the private side of  
573 governance oversight in ways that rise above the basic types of regulation and their  
574 ordinary interactions as described above,<sup>18</sup> with one noteworthy exception: according to  
575 Derkx (2011), meta-governance in the civil society domain is mainly concerned with  
576 defining and monitoring standards for other standards. A prominent organisation that aims  
577 to improve and promote a variety of sustainability standards (including the FSC and the  
578 MSC) is the International Social and Environmental Accreditation and Labelling (ISEAL)  
579 Alliance (for this and other examples, see Derkx 2011). Obviously, its orchestration is  
580 limited to improving already existing standards in the civil society domain only. In the  
581 business domain, meta-governance is hardly researched as such, although corresponding  
582 practices exist. Here, the strategic management of CSR and of stakeholder relations can  
583 be framed as another limited form of private meta-governance. Although these man-  
584 agement practices aim to reach beyond the business domain, they are usually geared  
585 towards easing or pre-empting civil and governmental regulation. Thus, improving the  
586 business case of CSR through strategic (stakeholder) management can, but does not have  
587 to, coincide with public policy or societal objectives (Halme and Laurila 2008; Porter and  
588 Kramer 2006).

17FL01 <sup>17</sup> Peters (2010, 44f) also recognises performance and strategic management in the public sector as key  
17FL02 instruments of meta-governance.

18FL01 <sup>18</sup> Glasbergen (2011) frames successful examples of civil or tripartite co-regulation (such as the Forest  
18FL02 Stewardship Council and the Global Reporting Initiative (GRI)) as private meta-governance because these  
18FL03 schemes influenced other types of regulation. For Abbott and Snidal (2010), orchestration is, inter alia, what  
18FL04 I frame as “governing at arm’s length”.



## 589 Discussion and conclusion

590 The present article has disentangled contemporary governance into seven basic types of  
591 regulation, several interactions and hybridisations between them, and it added the concept  
592 of meta-governance. Although the article emphasises that actor constellations are impor-  
593 tant for making sense of governance, it highlights that steering businesses today takes place  
594 in a complex, poly-centred and multi-actor governance system that eroded the boundaries  
595 between societal domains (e.g. by means of co-regulation). Of course, the typology  
596 developed here portrays ideal types that simplify the reality of everyday governance  
597 routines. Two of the many complexities more or less ignored here stand out. First, although  
598 actors are a useful criterion for differentiating types of regulation, the three societal  
599 domains are, of course, no homogenous entities:

- 600 • In the governmental domain, different levels of government have different (comple-  
601 mentary or competing) competencies that often result in diverging intentions (in  
602 particular in federal states), and at each level, different ministries/departments (or even  
603 different units within the same department) often have conflicting interests;
- 604 • Although businesses all aim at making profits, the values, cultures and management  
605 practices standing behind this common purpose (in particular the management of CSR  
606 and stakeholder relations) vary widely: while some businesses accept societal  
607 responsibilities (and even advocated for stricter public policies), others remain  
608 defensive (for environmental protection, see Rowlands 2000; Gunningham et al. 2003);
- 609 • Civil society is perhaps the vaguest of the three domains, consisting of very different  
610 “function systems” such as religion, art, education, science and special interest CSOs  
611 (Esmark 2009). In particular, the latter pursue a variety of objectives, compete for  
612 resources and struggle with trade-offs between social and environmental concerns.

613 Despite these heterogeneities, the typology developed here shows adequately that all  
614 actors of a particular societal domain have a limited number of steering approaches at hand  
615 that are determined by their domain-specific resources.

616 Complexity increases further if we look closer at all the secondary characteristics of  
617 steering that I mentioned at the beginning of “[Unfolding the typology](#)”, among them the  
618 bindingness of rules and the geographical scopes of steering. Regarding the latter, very  
619 similar (sometimes even identical) forms of new governance can be found at and between  
620 several levels of government. As the case of Shell in Nigeria illustrates, civil regulation often  
621 starts as a local movement that first gains national and eventually international momentum  
622 (Wheeler et al. 2002). While differences between international and national regulation still  
623 exist in the governmental domain, it seems that all other types of regulation blur not only the  
624 boundaries between the public and the private (see “[Governance aspects and typologies in  
625 different research strands](#)”) but also those of geographical scopes. Regarding the bindingness  
626 of rules, each type and sub-type of regulation described above can be broken down into  
627 several governance mechanisms and tools (such as voluntary agreements or partnerships),  
628 and most of them (also voluntary ones) can be designed to be more or less stringent, for  
629 example with regard to monitoring, reporting and sanctioning (see e.g. McDermott et al.  
630 2008). Consequently, similar governance tools from the same type of regulation can be  
631 markedly different in terms of design characteristics and effectiveness. Since the typology  
632 presented above had to omit these and other nuances, it can certainly be criticised as too  
633 global. However, in the light of “[Governance aspects and typologies in different research  
634 strands](#)”, I consider it as an adequate and timely synoptic view of the increasingly complex



635 governance playing field that leaves these and other nuances to narrower conceptual and  
636 empirical works.

637 Given the fact that neither public nor private meta-governance has been able to  
638 orchestrate the effective use of different types of regulation on a grand scale, the govern-  
639 ance playing field sketched here is clearly the cumulative product of countless, more or  
640 less spontaneous initiatives that have been developed by a variety of actors in concurrence  
641 with forceful trends such as globalisation, neo-liberalism and the emergence of new  
642 governance as a new steering paradigm. Since it is difficult to imagine that strong centres  
643 or grand meta-governance schemes will ever be able to effectively orchestrate the use of  
644 different types of regulation (Rosenau 2005; Jessop 2009), the fragmentation of steering  
645 and the lack of orchestration can pragmatically be regarded as an opportunity that “opens  
646 the door for multiple routes of intervention” through which many actors engage in poly-  
647 centric governance (Meadowcroft 2007, 307; see also Braithwaite 2006, 894). Although  
648 nowadays corporations may be less likely to be the subject of hard state regulation than  
649 they were in Keynesian times, they are at least confronted with new types of steering (in  
650 particular civil and co-regulation) that played a marginal role back then (Mellahi and  
651 Wood 2003, 190f; Moon 2005; Abbott and Snidal 2008, 10f). Obviously, “hard govern-  
652 mental deregulation” is accompanied by soft or hybridised governmental regulation on the  
653 one hand and societal “re-regulation” on the other. Interestingly, civil regulation, business  
654 self-regulation and private co-regulation are not simply alternatives or complements to but  
655 often-essential prerequisites for public policies: neither soft governmental regulation nor  
656 increasingly popular hybrids (such as regulation by information) could function without  
657 societal and/or business actors assuming significant regulatory roles (Gouldson 2004).  
658 Ultimately, this “regulatory reconfiguration” (Gunningham 2005, 335) implies a new  
659 division of powers between societal domains that goes well beyond the state-centric ideas  
660 of Montesquieu it complements (Braithwaite 2006, 894). In how far the new checks and  
661 balances between governments, civil society and businesses are sufficiently strong to  
662 minimise regulatory capture and governance failure remains to be seen. The financial crisis  
663 around 2010 and inadequate progress in climate change mitigation suggest that some large-  
664 scale governance reconfiguration trials resulted already in errors that call for changes. One  
665 of many prerequisites for this purpose is to understand and relate basic types of regulation,  
666 respective interactions and hybridisations properly in a synoptic view.

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