

VOLUNTARY APPROACHES: AN ASSESSMENT AND OVERVIEW

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Introduction

The purpose of this paper is to provide an overview of the debate around voluntary approaches and their role in public policy. For the purposes of this paper, voluntary approaches include industry codes of conduct (individual company codes and policy statements and industry-wide codes) as well as government sponsored or supported programmes, where industry participation is voluntary. The specific forms that such voluntary approaches can take include codes of conduct, certification systems, statements of policy and principle and best practice guidance.

The discussion is intended to apply to all those areas where companies are involved in, or likely to be involved in, voluntary approaches. These can include environmental performance, workplace health and safety, and human rights. The following discussion is intended to apply to all industry voluntary initiatives or voluntary approaches.

Opinions on Voluntary Approaches

Voluntary approaches have received significant attention from policy makers, industry and other bodies. The potential advantages of voluntary approaches include better relationships between government and industry, enabling performance improvements (in areas such as the environment and human rights) to be achieved at lower cost and more quickly than traditional 'command and control' regulation, developing norms within industry and providing industry with the flexibility to respond to issues. However, the potential implications include the weakening of legislative frameworks and the potential for reductions in environmental quality or the human rights situation within a country. In practice, many voluntary approaches have been criticised because of their weak standards, ineffective enforcement, lack of transparency and lack of compulsory application. The consequence has been that many NGOs have argued that voluntary approaches should not be relied on for the implementation of policy and that traditional regulatory approaches are to be preferred wherever possible.

Evaluation of Voluntary Approaches

In broad terms, four tests should be applied to voluntary approaches. These are (in order of importance):

- The outcomes that are achieved. That is, what are the outcomes of the voluntary approach? Are these outcomes better than the outcomes that would be achieved from using other policy instruments (eg traditional regulation, taxes, information based

systems)? Measuring outcomes can be difficult, in particular in areas such as social and human rights performance, where many of the outcomes are not necessarily readily amenable to direct measurement.

- The content of the voluntary approach and the manner in which the voluntary approach is implemented. Content refers to the scope of the voluntary approach (not only those items that are included but also those that are excluded), the specificity of the obligations that are defined (eg many voluntary approaches have been criticised because of their loose wording or lack of specific outcomes that are to be achieved), whether the voluntary approach is binding or non-binding (and how non-compliances are to be addressed) and the manner in which access to the voluntary approach is structured (eg dispute resolution, transparency and accountability requirements, reporting processes). A specific issue in voluntary approaches is the emphasis of many voluntary approaches on management processes rather than outcomes. That is, while management processes such as defining responsibilities and providing training represent important elements in implementation, the critical issue is the outcomes that are to be achieved. For example, many industry initiatives on greenhouse have been criticised by NGOs because, even though the voluntary approaches commit organisations to taking certain measures or implementing certain actions, they frequently have limited effect on greenhouse gas emissions and are predicated on the assumption that the primary aim is to reduce the rate of growth of such emissions.
- The process of developing the voluntary approach. Consultation and dialogue are widely recognised as necessary and important parts of the development of voluntary approaches. However, care is required in using this as the ultimate test of a voluntary approach as a good process does not necessarily mean that the content of the voluntary approaches will be satisfactory or that good outcomes will be achieved. In addition, NGOs are increasingly wary of the time and resource implications of intensive stakeholder dialogue processes and the risk that their involvement will be represented as supporting the outcomes of the consultation process.
- The institution responsible for the development of the voluntary approach. Voluntary approaches can be developed by (or sponsored by or supported by) a range of parties, including international bodies (such as the United Nations' Global Compact), industry associations (eg the Australian Minerals Council's Code for Environmental Management), individual organisations (eg company codes of conduct), non-governmental organisations (eg the Amnesty International (UK) Human Rights Principles for Companies). While a certain degree of legitimacy can be derived from the legitimacy of the sponsoring or lead agency (or, conversely, the credibility of certain voluntary approaches have been undermined by the lack of credibility of the sponsoring institution or body), the ultimate tests are the process followed, the content of the voluntary approach and the outcomes that are achieved.

Potential Applications of Voluntary Approaches

Voluntary approaches can be used in new policy areas where there is no existing legislation or where legislation is not being contemplated, as a transitional policy instrument (where legislation is being contemplated and where it is in industry's interest to take early action or to prepare for legislation) and to supplement or complement

existing regulations. Voluntary approaches appear to be particularly suited to areas where there is a low probability of catastrophic events but where there is a high degree of technical uncertainty (eg where the specific solutions or approaches that may be adopted are not well understood). However, care is required if voluntary approaches are relied on as the primary solution to a specific policy problem, in particular where there is the potential for catastrophic outcomes.

Design Recommendations

While the design of voluntary approaches is a highly context and subject-specific issue, a number of broad recommendations can be made:

- The objectives should be transparent and clearly defined. It should be possible to assess whether the voluntary approach has been implemented and the progress of the voluntary approach towards its ultimate objectives.
- The business as usual scenario must be clearly defined. That is, what is the incremental contribution of the voluntary approach to the issue or outcomes in question?
- There must be mechanisms for ensuring the performance of the voluntary approach. Specifically, it should be clear how non-compliances are to be assessed and what the implications are for those organisations that do not sign on to the voluntary approach.
- Credible and reliable monitoring are critical to enable performance to be assessed.
- There should be third party involvement in the process of setting objectives and monitoring performance.

Further Reading

For a more detailed discussion of the issues raised in this paper and for perspectives on the voluntarism versus regulation debate, see Issue No. 5 of *Human Rights and Business Matters*, published by the Amnesty International (UK) Business Group. The articles are available at <http://www.amnesty.org.uk/business> or a copy of the magazine can be obtained by sending an email to business@amnesty.org.uk

About the Author

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