

***CRITERIA AND PRINCIPLES
FOR THE USE OF
VOLUNTARY OR NON-REGULATORY INITIATIVES
TO ACHIEVE
ENVIRONMENTAL POLICY OBJECTIVES***

NEW DIRECTIONS GROUP

November 4, 1997

This document is endorsed by the following organizations.

Abitibi-Consolidated Inc.
Canadian Global Change Program
Canadian Nature Federation
Clemmer Technologies Inc.
Dofasco Ltd.
DOW Chemical Canada Inc.
Friends of the Earth
INCO Ltd.
Inter-Church Committee on Ecology
International Institute for Sustainable Development
Noranda Inc.
NOVA Corporation
Pembina Institute for Appropriate Development
Pollution Probe
Resource Futures International
TransAlta Corporation
Union pour le développement durable
Wetlands International
World Wildlife Fund Canada

The document is also endorsed by the following individual members of the New Directions Group

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Executive Summary

An Emphasis on Quality and Public Trust

New Directions Group (NDG) members wish to ensure the quality and credibility of voluntary or non-regulatory initiatives (VNRIs) employed instead of, or as a complement to, regulations to achieve environmental policy objectives. Recent years have seen an increase in the number of VNRIs but there is as yet no widespread agreement on how to develop these programs, their essential design features and the circumstances in which they should be applied. Existing programs are thus uneven in their rigour and quality. The NDG believes that to engender public trust in VNRIs they must be applied appropriately and designed according to a standard set of principles.

The NDG has brought together leaders from the business and environmental communities to identify those attributes of VNRIs that are essential to ensure their quality, effectiveness and credibility. This document presents a framework of criteria and principles that can provide guidance to governments, industry, nongovernmental organizations (NGOs) and others involved in the development and review of VNRIs.

Criteria for the Utilization of VNRIs to Achieve Environmental Policy Objectives

- A. *VNRIs should be positioned within a supportive public policy framework that includes appropriate legislative and regulatory tools.*
- B. *Interested and affected parties should agree that a VNRI is an appropriate, credible and effective method of achieving the desired environmental protection objective.*
- C. *There should be a reasonable expectation of sufficient participation in the VNRI over the long term to ensure its success in meeting its environmental protection objectives.*
- D. *All participants in the design and implementation of the VNRI must have clearly defined roles and responsibilities.*
- E. *Mechanisms should exist to provide all those involved in the development, implementation and monitoring of a VNRI with the capacity to fulfill their respective roles and responsibilities.*

Principles Governing the Design of VNRIs

Credible and effective VNRIs:

- 1) *are developed and implemented in a participatory manner that enables the interested and affected parties to contribute equitably;*
- 2) *are transparent in their design and operation;*
- 3) *are performance-based with specified goals, measurable objectives and milestones;*
- 4) *clearly specify the rewards for good performance and the consequences of not meeting performance objectives;*
- 5) *encourage flexibility and innovation in meeting specified goals and objectives;*
- 6) *have prescribed monitoring and reporting requirements, including timetables;*
- 7) *include mechanisms for verifying the performance of all participants; and*
- 8) *encourage continual improvement of both participants and the programs themselves.*

The context and rationale for the NDG criteria and principles are provided on the following pages.

An Emphasis on Quality and Public Trust

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Achieving Environmental Policy Goals with VNRIs

The available approaches to environmental protection extend from the independent and voluntary actions of an individual company to strict regulations enacted and enforced by government agencies. Most environmental protection options involve some degree of voluntarism on the part of those to whom a policy or regulatory instrument is being applied. And as policy or regulatory instruments are rarely applied in isolation, voluntary actions on the part of industry are thus a component of most approaches to environmental protection.

The New Directions Group recognizes and encourages this scope for voluntary action but chose to focus its work in those areas in which the potential for voluntary action to address an environmental problem overlaps with the potential for regulatory action. Such voluntary programs may be intended to improve environmental protection in areas where specific regulations currently do not exist, allowing gaps in the regulatory framework to be closed. They may also encourage industry leaders to go beyond compliance with existing or proposed regulations, which could confer a competitive advantage upon participants. These VNRIs also lend themselves to partnerships among government, industry, communities and public interest groups in their development, implementation and monitoring.

The criteria and principles developed by the NDG are intended to ensure the quality, effectiveness and credibility of these VNRIs as public trust in them is critical to their acceptance and success. The following are examples of VNRIs to which the NDG's criteria and principles should apply:

- * *Government-industry negotiated agreements* on either a sectoral or company-specific basis;
- * *Industry-community or industry-ENGO agreements*, which are similar to government-industry negotiated agreements but which may have no government participation;
- * *Challenge programs* in which government challenges the corporate sector to improve its performance in pursuit of an environmental policy goal; and
- * *Regulatory exemption programs*, which ease the regulatory burden for those participants implementing programs that will enable them to exceed compliance or to achieve performance or compliance objectives more effectively.

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The NDG's criteria and principles can also provide guidance in the development of a wide range of

other VNRI where quality, credibility and effectiveness are paramount - from sectoral projects designed to avert regulations or improve relationships with government and/or the public to ecolabelling programs.

Criteria for the Utilization of VNRI to Achieve Environmental Policy Objectives

VNRI are one of many tools available to meet environmental policy objectives. The NDG believes that while VNRI can provide innovative and effective ways of meeting such objectives they are not appropriate in all circumstances. In determining the most effective means to achieve a desired environmental protection outcome, a decision-making structure is required that enables all potential mechanisms to be evaluated and the most appropriate approach to be selected. The development of such a decision-making structure is beyond the scope of the New Directions Group's work; however, the NDG identified several criteria that it believes are essential to that process.

- A. *VNRI should be positioned within a supportive public policy framework that includes appropriate legislative and regulatory tools.*

Due to the complexity of environmental protection problems a combination of tools is usually required to achieve the desired results. It is therefore difficult to apply a VNRI in isolation. All of those contributing to an environmental problem are not likely to be equally as compelled to act voluntarily, thus VNRI may need to be underpinned by regulations or supported by other policy instruments. Regulatory backup, or the potential for regulatory action, is an important way to address concerns about the treatment of non-participants or poor performers, and the existence of a VNRI should not diminish the willingness of governments to take regulatory action if necessary.

- B. *Interested and affected parties should agree that a VNRI is an appropriate, credible and effective method of achieving the desired environmental protection objective.*

VNRI must not only be effective they must be seen to be so in order to ensure credibility and public trust. Those interested in or affected by the environmental protection issue in question should be satisfied that the VNRI is the most effective way of achieving the desired results within an appropriate timeframe. This is also important as the cooperation and participation of a variety of parties may be required to design, implement and monitor the VNRI (see Criterion 'D'). Early support for and participation in a VNRI by key interested and affected parties can help to ensure the success of the initiative.

- C. *There should be a reasonable expectation of sufficient participation in the VNRI over the long term to ensure its success in meeting its environmental protection objectives.*

Regulations are intended to apply to all of those contributing to a specific environmental problem. VNRI, by definition, are more selective as participation is voluntary. To be effective, a VNRI must be able to attract sufficient participation to enable the desired results to be achieved. For a widely dispersed problem a large number of participants may be required, while in cases where a few are contributing disproportionately to a problem a critical mass of participants should be attracted to the VNRI. Full participation in a VNRI may not be

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achievable at the outset but the emphasis should be on high quality participation with recruitment occurring over time.

- D. *All participants in the design and implementation of the VNRI must have clearly defined roles and responsibilities.*

VNRIs lend themselves well to partnerships among industry, governments, communities and public interest groups. Each contributes in different ways and to different degrees depending on the type of VNRI or its stage of development. VNRIs are intended to apply to industry, and often governments, so these bear the greatest responsibility for implementation and monitoring. As VNRIs are intended to fulfill environmental policy objectives, though, other interested and affected parties have important roles to play. The participation of governments, communities and public interest groups in the development of a VNRI is critical to building public trust and can help to legitimize the initiative.

Governments can contribute to the development of VNRIs by helping to set objectives, establishing a supportive policy and regulatory framework, stipulating minimum design requirements, promoting participation, tracking performance, and intervening if necessary. Communities and public interest groups can help to design VNRIs, assist in setting objectives; contribute to monitoring of the initiative, participate in outreach and communications, support program leaders, and monitor non-participants and non-performers.

- E. *Mechanisms should exist to provide all those involved in the development, implementation and monitoring of a VNRI with the capacity to fulfill their respective roles and responsibilities.*

VNRIs are a relatively new way of approaching environmental protection for governments, industry and other interested and affected parties. The roles and responsibilities required of each will test existing skills, resources and orientation. In order for VNRIs to be successful, partners and participants must be able to acquire or enhance the capacity to enable them to discharge their roles. In some cases this may take the form of technical assistance or management services. In others it may be a need for human or financial resources. As a new way of achieving environmental protection objectives, and of viewing the relationship among governments, industry and NGOs, VNRIs require openness by participants and a willingness to embrace new skills, approaches and resources.

Principles Governing the Design of VNRIs

Once a decision has been made to proceed with a VNRI, the New Directions Group believes that the following principles should guide the design of a program in order to ensure its credibility and effectiveness and secure public trust. The NDG intends that all of these principles be applied as a set, although it is recognized that the emphasis assigned to each depends on the context in which the VNRI is being developed and will change according to the type of VNRI and the stage of its development.

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Credible and effective VNRIs:

- 1) *are developed and implemented in a participatory manner that enables the interested and affected parties to contribute equitably*

From the conceptual stage onwards the development and implementation of a VNRI should be open to the participation of those interested and affected parties who are willing to contribute constructively to the initiative. This may include, but is not limited to, leading companies addressing the issue of concern, appropriate public interest groups, communities, labour, government agencies and professional organizations. A VNRI may be dominated Initially by a small number of parties as leadership in establishing the initiative is exercised, but the development of a VNRI and the establishment of its goals should be independent of the self-interest of any party or parties. In most cases, industry will have greater resources and a disproportionate role in implementation; however, governments, communities and other partners each bring strengths to the table that contribute to the success of VNRIs (see Criterion D, above). Mechanisms must thus be developed to allow all contributors to the development, implementation and monitoring of a VNRI to participate on an equitable basis.

2) *are transparent in their design and operation;*

As VNRIs may be an alternative to regulatory action, the public needs to be confident that the VNRI will result in the same or a better environmental protection outcome than would be achieved through a regulatory approach. This can only happen if the development, implementation and monitoring of VNRIs is done in an open and transparent manner with information on the process and the program readily available in an accessible and understandable format

3) *are performance-based with specified goals, measurable objectives and milestones;*

The broad environmental protection goal to be achieved by a VNRI is set by society and may be reflected in a policy statement or commitment on the part of government. The partners in the VNRI should specify how that goal is to be achieved and establish measurable objectives and milestones to enable progress to be monitored and evaluated. Participants should follow a similar path in determining how they will contribute to the goals of the VNRI.

Public trust is dependent on the performance of both participants and the program itself in achieving the overall environmental goal. VNRIs should thus focus on results rather than process with a clearly defined framework in place outlining performance and reporting requirements for both the program and for the individual participants. As a rule, VNRIs should emphasize the prevention of an environmental problem wherever possible or appropriate.

4) *clearly specify the rewards for good performance and the consequences of not meeting performance objectives;*

Although participation in a VNRI is voluntary, once joined a participant must commit to meeting the performance requirements of the initiative. This is facilitated by ensuring that

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the benefits of meeting program objectives and the consequences of failing to do so are clearly evident to those enrolling in the VNRI. A VNRI is likely to be most successful when the benefits of meeting performance objectives are clear to all participants and recognition for leaders and for those making substantial improvements in their performance is encouraged. While the consequences of non-performance will vary among VNRIs depending on the environmental problem being addressed, mechanisms should be in place to deal with those participants who fail to live up to their commitments to the VNRI as their lack of performance

affects the credibility of good performers and of the VNRI itself.

- 5) *encourage flexibility and innovation in meeting specified goals and objectives;*

One of the attractions of VNRIs is the opportunity for flexibility and innovation in meeting environmental protection objectives that is not usually associated with regulatory compliance. The end result of a VNRI is of greater importance than the means of achieving it, provided that the means does not create another environmental problem. Well-designed VNRIs should stimulate the development of creative approaches to solving environmental problems, which can have spin-off benefits in other areas and which can also provide competitive advantages to the developer. That creativity should be encouraged.

- 6) *have prescribed monitoring and reporting requirements, including timetables;*

Measuring the progress made by the VNRI toward the desired environmental outcome and of the participants in the program in meeting their individual targets are critical to the credibility of a VNRI. Effective monitoring and reporting helps to ensure accountability. Monitoring and reporting provisions for both the VNRI and its participants should be built into the design of the program. This sets clear expectations for participants and contributes to the transparency of the VNRI (see Principle #2).

- 7) *include mechanisms for verifying the performance of all participants; and*

To evaluate the progress of the VNRI and of individual participants, performance data must be collected in a consistent and verifiable manner. Those accountable for the performance of the VNRI must have the opportunity to test the veracity of claims made by participants, particularly where public claims of performance are being made. Verification can take a number of forms, from internal audits to random inspections to third-party evaluations of performance. Verification procedures will vary among VNRIs, but they should be appropriate to the environmental protection objectives of the VNRI and should be specified at the outset.

- 8) *encourage continual improvement of both participants and the programs themselves.*

For VNRIs to remain relevant and effective they should be reviewed on a regular basis to ensure that they continue to contribute to the achievement of the desired environmental protection outcome and that the goals of the program remain appropriate in light of experience, knowledge and changing public values. In addition, participants should be continually seeking new ways to improve their performance within the program, modifying their operations in response to the experience gained.

Appendix I

The New Directions Group

The New Directions Group has provided an informal forum to bring progressive businesses and environmental organizations together to discuss significant issues since 1990. Current members of the New Directions Group are:

G. Firman Bentley	Chairman and CEO, ADAMAC Management
François Bregha	President, Resource Futures International
Dr. Thomas C. Burnett	Director, Environment Health and Safety, INCO Ltd.
Gerald J. Finn	Vice-President, Corporate Government Relations, NOVA Corporation
Dr. Frank Frantisak	Senior Vice-President, Environment, Noranda Inc.
Paul Griss	NDG Coordinator
Don Hames	Director EH&S Regulatory Affairs, DOW Chemical Canada Inc.
Helen Howes	Senior Advisor, Environmental Responsibility / Leadership Department, Ontario Hydro
Mike Innes	Vice-President, Environmental Affairs, Abitibi-Consolidated Inc.
Rob Kerr	Mining Campaign Coordinator, Friends of the Earth
Ron Kruhlak	Past-President, Environmental Law Centre
Julia Langer	Director, Wildlife Toxicology Program, World Wildlife Fund Canada
Rob Macintosh	Policy Director, Pembina Institute for Appropriate Development
Kevin McNamee	Wildlands Campaign Director, Canadian Nature Federation
Anne Mitchell	Executive Director, Canadian Institute for Environmental Law and Policy
Ken Ogilvie	Executive Director, Pollution Probe
Dr. Robert Page	Vice-President, Sustainable Development, TransAlta Corporation
Dr. James Patterson	Executive Councillor, Wetlands International
David Runnalls	Senior Fellow, International Institute for Sustainable Development
Vasudha Seth	General Manager - Environment & Energy, Dofasco Inc.
James Sullivan	Research Associate, Taskforce on the Churches and Corporate Responsibility
Paul Summers	President, Clemmer Technologies Inc.
Glen Toner	Professor, School of Public Administration, Carleton University
Jean Guy Vaillancourt	Union pour le développement durable
Hennie Veldhuizen	Vice-President, Environment, Noranda Mining and Exploration Inc. and Noranda Metallurgy Inc.
Jeff Watson	Executive Director, Canadian Global Change Program
Adam Zimmerman	

Others who have contributed to this project include:

Charles Ferguson	Vice-President, Environment, Health and Safety, INCO Ltd.
Julie Gelfand	Executive Director, Canadian Nature Federation
Brian Kelly	former Director, Environment and Sustainable Development, Ontario Hydro
Gord Lambert	former Director, Sustainable Development, TransAlta Corporation
John Moffet	Resource Futures International
James Stirling	Assistant Corporate Secretary, Dofasco Ltd.
Brian Young	former Vice President, Environmental Affairs, Abitibi-Price Inc.

The New Directions Group expresses its appreciation to Environment Canada for its financial support and to the Business and the Environment Research Program of the Conference Board of Canada, which co-hosted a workshop with the NDG to provide input to the project.