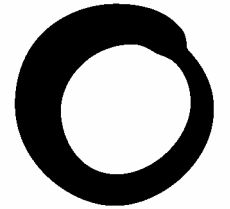


# Briefing



**Friends of  
the Earth**

## Undemocratic, ineffective & inherently weak – the voluntary approach

---

Friends of the Earth inspires solutions to environmental problems which make life better for people

Friends of the Earth is:

- the UK's most influential, national, environmental campaigning organisation
- the most effective environmental network in the world, with almost one million supporters across five continents and over 60 national organisations worldwide
- a unique network of campaigning local groups, working in over 200 communities throughout England, Wales and Northern Ireland
- dependent upon individuals for over 90 per cent of its income.

To join or make a donation call us on 0800 581 051

Friends of the Earth  
26-28 Underwood Street, London N1 7JQ  
Tel: 020 7490 1555 Fax: 020 7490 0881 Email: [info@foe.co.uk](mailto:info@foe.co.uk) Website: [www.foe.co.uk](http://www.foe.co.uk)

# Introduction

Ten years after Rio, a second Earth Summit is being held in Johannesburg.. The issues remain the same interconnected set of environmental, social and economic problems. Poverty, climate change, biodiversity loss, corporate accountability, economic globalisation and the management of the natural resources remain central issues of concern. Addressing them effectively and in an integrated manner is more urgent than ever. As Colin Powell, US Secretary of State, emphasised, sustainable development is a “compelling moral and humanitarian issue... (and) also a security imperative” [1].

To tackle these deep-seated issues, the Earth Summit has to agree radical and dynamic change, rather than tinkering at the edges of “business as usual”. As Klaus Toepfer, UNEP’s Executive Director, noted that in the context of “worsening global trends related to environmental problems” still “the majority of companies are still doing business as usual” [2].

Crucially delegates must agree and promote binding policy measures that have the power to deliver change. Despite the failure of the voluntary approaches, such as the Forest Principles, adopted at Rio 10 years ago, multi-national corporations and some governments are again heavily promoting the voluntary approach. The Earth Summit draft implementation [3] plan already advocates voluntary approaches to among other things: providing non-misleading consumer information on sustainable development issues including human health [4], corporations improving their social and environmental performance [5], delivering corporate accountability [6], and monitoring indicators of sustainable development [7].

The advocates of the voluntary approach are big on asserting that it is a good policy measure but rarely attempt to justify why they believe this. Prime Minister Tony Blair and the Labour Government are keen supporters of the voluntary approach for corporate accountability but in response to questioning by Friends of the Earth, they can only say that some companies are taking action [8].

This briefing takes a critical look at the arguments made in support of the voluntary approach and identifies the major weaknesses with it. It concludes that the voluntary approach is:

- Bad for innovation
- Short sighted with poorly-defined goals
- Secretive and undemocratic
- Ineffective in achieving change and ensuring compliance
- Institutionalises the power of larger corporations
- Fails to free-up government resources

## Weaknesses of the arguments for the voluntary approach

There is a long history of proponents of the voluntary approach justifying it largely by broad but ultimately superficial arguments against regulation. Justification of this sort tends to be heavy on the pejorative descriptions of regulations (command and control, inflexible, blunt, one size fits all), ignores the growing use of economic instruments in combination with regulation and cites a few restricted examples of leading companies being proactive.

The main arguments for the voluntary approach are that it has less impact on business competitiveness; it is quick and cheap for governments and converts companies to achieving long-term goals. All of these arguments are weak and in some instances false.

### **What is the impact on business competitiveness?**

A central argument put forward for the use of a voluntary approach is that it has less impact on

competitiveness than economic instruments or regulations. In fact the main way in which the voluntary approach reduces business impact in general is by asking them to do very little. It has almost nothing to do with its merits as a policy approach.

Advocates of the voluntary approach usually claim that it impacts less on competitiveness because it provides companies with flexibility in their response. In practice that flexibility is not for firms to decide how best to reach a given level of performance, but to allow them to achieve less and take longer over it. This should not be a surprise given that to ensure a decent level of participation, voluntary approach mechanisms seek the lowest common denominator acceptable to the majority of firms.

This argument is often used to block the adoption of national environmental policies, with advocates claiming that tighter regulation will hand an advantage to foreign competitors. This claim is based on what Harvard Professor and competitiveness guru Michael Porter regards as “an incomplete view of how competitive advantage is created and sustained” [9]. Business operations that are unsafe, environmentally damaging or which create social injustice are not a route to real competitive advantage in a world where environmental sensitivity and concern for social welfare are rising. It also fails to recognise the huge business opportunities that have been and continue to be created by environmental policies using regulation and economic instruments.

Another key way in which businesses aim to make cost savings from the voluntary approach is by reducing or even removing the monitoring and reporting of compliance. This inevitably weakens its effectiveness. Experience in the United States based on a range of voluntary agreements shows that the “lack of relevant and applicable” monitoring data and “limited time and resources” companies commit to reporting on performance is a key weakness of the approach [10].

Voluntary approaches that do attempt to clearly specify a comparatively challenging commitment and include at least some monitoring and reporting were found in an international review of voluntary approaches to environmental policy to require significant time and resources from companies in what prove to be lengthy and complex processes [11]. The voluntary approach does not deliver the same level of progress as other policy measures with less business impact. It simply tries to reduce business impact by demanding less action, monitoring and reporting.

### **Is it quick and cheap for Governments?**

It is argued that for governments facing the responsibility of dealing with increasingly complex environmental problems and who are also searching for cuts in public expenditure, voluntary approaches offer a method of achieving both. Unfortunately the evidence is largely the opposite except in cases where a voluntary agreement is effectively an abdication of that responsibility.

Whenever business is asked to make changes which go beyond the better end of business as usual, there are disagreements over the definition of the environmental problem, the scale of action required and the timetable of taking that action. Climate change provides a clear example of this. Governments need the technical and administrative capacity to negotiate, monitor and police any voluntary policy approach in these situations.

Any honest attempt at delivering this change via a voluntary agreement will be a long process that demands significant administration costs and, in nearly all cases, additional Government support measures, such as subsidies and regulations, to bolster its effectiveness. A voluntary scheme for reducing the environmental impact of pesticides being developed in the UK as a potential alternative to a pesticide tax has a ‘Farmer Incentivisation Group’ which is concerned with the low uptake of the scheme and proposes Government funding for elements of the voluntary package and regulations to other elements compulsory [12].

In comparison to conventional methods where governments establish an environmental law or tax after proper consultation, the voluntary approach, because it requires broad consensus to have any chance of working, tends “to consume more time and resources for everyone involved” [13]. This is in addition to having more modest aims.

## **Does it convert business to achieving the long-term goals?**

In a sense this is the argument that has been promoted most heavily by big business in the run-up to the Earth Summit. It suggests that many big firms already accept the need to achieve the long-term environmental and social justice goals and through a voluntary policy can win the ‘hearts and minds’ of other businesses that are then more likely to make the deep-seated changes in operations required.

One of the big problems with this argument is that while big businesses may agree with broad, usually un-quantified, long-term goals, time and again, they stand in the way of making the initial steps toward achieving them. The danger is that the voluntary approach will merely formalise this version of all words and no action. Worse still it would draw governments into a quagmire of fine but empty words. This provides business with an even thicker smokescreen for inaction. This has been a criticism of the United Nations ‘partnership’ with big business in the Global Compact [14].

It is made worse by the fact that this partnership approach is a powerful method of institutional capture. Once Government enters into such a ‘partnership’, it needs clear reasons for ending it. Year-on-year discussion and a broad commitment that claims to be getting there, but which in reality fails to deliver progress, makes drawing a line under such policy failures difficult.

This argument also ignores the fact that the most powerful incentive for firms to set up a voluntary scheme – however modest – is that it will prevent or delay an alternative policy measure [15]. This motivation is not about long-term deep-seated changes but about making changes that they can live with in the short to medium term, in the hope of not being asked to do more. In the UK, both the quarrying and pesticides industries were challenged by the Government to deliver a credible voluntary alternative to proposed “polluter pays” taxes. Both sectors took the approach that there was little fundamentally wrong with business as usual and all that was needed was some spreading of best practice, plus some public subsidies and regulations to bolster the scheme. The quarrying sector failed [16] and the pesticide tax is still firmly on the political agenda [17].

## **Major weaknesses with the voluntary approach**

### **Aim too low and end up fuzzy and confused**

The first step in taking a voluntary approach is to find consensus. This is not easy. In order to achieve consensus, voluntary approaches usually do one or all of the following:

- agree weak goals that everybody can reach without too much effort

When the European Union suggested that it wanted to promote co-regulation as well as self-regulation by business, where Government agreed the target to be achieved, UNICE and AmCham argued against it because it would “result in new requirements for business” [18]. It is bizarre to suggest that when designing policies to tackle existing and pressing issues such as climate change, toxic pollution, biodiversity and others, that they should not require something new of business. Besides, being required to do something different offers business opportunity and drives innovation. In the UK, when the packaging industry was challenged to establish a voluntary approach to meeting a government target on waste, their first step was to lower the target. Eventually the industry decided the voluntary approach could not deliver even this more modest target and asked the Government to regulate instead – at the lower target.

- include imprecise wording open to interpretation to blur commitment;

The Global Compact allows companies to sign-up to an agreement with worthy but generalised principles that are open to wide interpretation. In a similar fashion the OECD Guidelines for Multi-National Enterprises sets out broad minimum standards of behaviour by MNE’s but allows ‘local circumstances’ to be taken into account by a MNE when deciding whether to abide strictly by the Guidelines [19]. In the UK, the dominance of the four largest food retailers was investigated by the Competition Commission which recommended regulation. Instead, these four companies were offered

the chance to draft code of practice. The result was a weak document that angered farmers [20], consumers and environmental groups and contained a range of vague definitions including 14 “reasonables” and two “unreasonables” in a 30 bullet point code [21]. The UK Government has now moved to put the code, described by one farming organisation as “worse than useless” [22], on a legal footing without further amendment.

- focus on issues that are the easiest to find consensus on and avoid addressing the important issues which are more problematic.

In the United States a study of Project XL, a voluntary scheme aimed at delivering superior environmental performance, found a bias against the most complex and innovative projects [23].

## **The motivations for businesses to comply are too weak and do not impact on all firms**

Once an agreement is in place, no matter how weak or vague it is, the voluntary approach has a major problem with compliance. Unlike staying within the law, paying less tax and benefiting from subsidies the voluntary approach does not have clear, strong and universally felt motivation. The motivations are avoiding costs in the short term and safeguarding reputation.

The main cost to be avoided is related to the likelihood of an alternative policy instrument being introduced. Whilst the threat of an alternative can be effective in getting a voluntary scheme in place, its strength as an on-going incentive for individual firms to comply is far weaker. Once the initial threat of an alternative has been reduced by setting up a voluntary scheme the pressure for compliance cannot be sustained over time - it becomes like crying wolf. Individual companies feel less and less threatened by the alternative and so less likely to comply. As time goes on it requires a symbolic failure to prompt the action of scrapping the voluntary scheme and introducing the alternative. Even in cases where compliance can lead to a modest cost saving through efficiency, experience shows that subsidised support programmes are required to disseminate best practice.

Reputation with customers, investors, the public and government agencies is important to businesses but is it a motivation for compliance with a voluntary agreement? Three issues are important in answering that question.

First, voluntary approaches in environmental policy consistently fail to provide the transparency required in order to put pressure on a company’s reputation. If the public, investors, customers and Government do not have clear, accurate and timely information on the extent to which firms are complying, reputation is a non-starter in terms of motivating compliance. The fact that disclosure of much corporate information is often only addressed by voluntary codes just makes matters worse. This of course does not mean that enhancing their reputation is not a factor for firms signing-up to the agreement - even if they then go ahead and flout it.

Secondly, reputation varies enormously between firms and over time. Firms that rely upon brand products, for example, will consider reputation more important than the components manufacturers of that product [24]. Reputation becomes more of an issue for firms following a high-profile event such as an oil spill, chemical factory explosion or pollution poisoning. Where a voluntary agreement covers a variety of firms it is unlikely that reputation will motivate more than a few firms to comply.

Thirdly, firms can protect and improve reputation in other ways than through their actual performance. Signing up to voluntary agreements which have fine words but which are open to interpretation and which require no adequate monitoring or reporting is one alternative to actually complying. Many firms invest large sums in public relations programmes for exactly this purpose. Selling current practice in a different way also offers opportunities. In the most extreme cases firms can change their name.

## **Monitoring, verification and enforcement are weak or absent**

Even though motivations for compliance are weak and patchy, if voluntary agreements are to stand any

chance of delivering at least some level of compliance, there must be monitoring, verification and enforcement.

If an alternative policy measure is to be a real threat, then there must be independently verified monitoring of compliance to identify when the voluntary approach has failed. The same is true if reputation is to be damaged when a firm does not comply. Several factors work against this happening: proper monitoring and verification cost – and this is something companies will seek to minimise; not having to pay these costs is viewed by business as a main advantage of voluntary measures; agreements and commitments tend to be defined in ways that make assessment difficult; many agreements cover the performance of a sector and tend to aggregate data to the sector level thus diluting the impact upon the behaviour of individual companies; and as the Confederation for British Industry put it, there is a “genuine nervousness from business to go above the parapet” through public reporting [25]. Chemical companies who signed up the industry's Responsible Care Initiative committed to 'measurement of performance and open communication of results'. Six years after the initiative started a survey of corporate environmental reporting by KPMG found that in the industry "(o)nly a few companies provide meaningful information" [26].

Enforcement is an even greater problem. As participants are taking action voluntarily, plausible penalties for non-compliance run against the spirit of the approach. Which exposes a major weakness in the effectiveness of voluntary measures. Penalties for violations realistically can only be applied by governments or by legislation that empowers civil organisations [27].

Without proper monitoring, verification and enforcement, companies' weak motivations to comply are effectively dissolved, leaving the voluntary measure as no more than a shell to deflect criticism for inaction.

### **It stifles innovation**

The issues in front of the delegates at the Earth Summit demand more than the dissemination of best practice. They require innovation. The voluntary approach, primarily because of its requirement to find a lowest common denominator position for consensus, stifles rather than stimulating innovation. A study at Harvard University [28] concluded that because industry representatives are not likely to sign up to agreements which would force dramatic changes, the consensus approach central to voluntary schemes can effectively remove the potential spur for innovation.

Voluntary agreements primarily aim to do little more than promote, without delivering, the better end of business as usual. In contrast, work by the OECD concluded that clear, stringent and universally applied regulations can stimulate innovation by reducing risk and uncertainty [29].

### **Increases the power of big corporations and dominant sectors**

Voluntary approaches tend to bias decisions in favour of the status quo and strengthen those who are already powerful. It is the largest firms, whether globally or within specific sectors, which control the drafting and promotion of voluntary measures which are presented as alternatives to legal or economic instruments. They are able to control the measure because they have the political and financial resources necessary. But this increased power can distort competition.

Big businesses can gain an advantage over smaller competitors and improve their reputation by promoting a voluntary approach which is modest enough to allow them to do no more than their current plans but requires many smaller firms to pay the costs of doing the same. As the motivations for compliance by other firms is so weak, the main benefit to big companies is that they improve their reputation without taking further action. They can then deflect attention from the need to make significant improvements by highlighting the failure of their competitors to match even their standard. They can bolster this diversion by offering to help smaller firms make progress. The result is that the voluntary approach delivers no more than business as usual even if it can potentially spread marginally better practice. At the Earth Summit the magnitude and gravity of the issues require far more than this.

For issues that involve more than one business sector, voluntary approaches can cement the position of

the dominant sector. In the UK pesticide firms effectively control the advice given to farmers on whether and how to use pesticides. The voluntary package being pushed by pesticide firms in an effort to avoid a proposed pesticide tax package proposes a series of measures which strengthen this relationship and which are to be paid for by either the farmers or, they propose, through public subsidy.

### **Reduces the rights of citizens to challenge big business**

The increasing power of big business under voluntary agreements is mirrored by a reduction in the power and rights of citizens. Environmental policies based in law offer citizens two opportunities to challenge big business – during the development of the policy and through rights to challenge non-compliance.

Environmental policies are developed in most countries through a process of consultation, not only with the firms required to change practice, but also with wider civil society, including those who are suffering the consequences that the policy aims to rectify. The final design is the responsibility of an elected government. Citizens and citizens' organisations have chance to influence the outcome.

Voluntary schemes place the power for policy making in the hands of business. Decisions over the goals, wording, monitoring and reporting are their responsibility. Consultation by a democratic government is replaced by 'stakeholder dialogue' run by big business. The power to decide who is a stakeholder, what the dialogue will cover, what influence it has, and when it occurs can all reside with big business. In some cases big business may benefit from restricting and controlling stakeholder dialogue in order to deliver a code favourable to their operations and avoiding public conflict [30]. In other cases stakeholder dialogue can lead to years of discussion to agree what action should be taken. The voluntary Forestry Principles agreed at the Rio Earth Summit in 1992 led to the long discussions about how to set-up a stakeholder forum which had its first meeting nine years later.

The power of citizens to challenge big business once a voluntary code is in place is often reduced by the inexact wording of agreements that allow wide interpretation and inadequate monitoring and verified reporting. Yet big business still wants it both ways. For example, the International Chamber of Commerce's Business Charter for Sustainable Development contains sweeping generalities which did not lend themselves to monitoring but the ICC made it clear that once firms had signed up, monitoring compliance was not expected, stating: "The ICC will not monitor compliance with the Charter. Public interest will, in reality, be the monitoring mechanism" [31].

Lord Holme, current chair of the ICC environment commission, vice-chair of Business Action for Sustainable Development, advisor and former-Director of Rio Tinto and UK law-maker, recently wrote in the Financial Times that "(t)he modern world rightly requires power to be accountable – we live in a "show me", not a "tell me", world – large companies are powerful bodies." [32]. Voluntary approaches pushed by big business, such as the ICC Business Charter, unfortunately suggest business sees things the other way round. Big businesses appear keen to tell us what their policies are but they refuse to openly show us what these mean in practice in terms of changing the way they operate and reducing their impact on the environment and social justice.

This has always been a fundamental problem with the voluntary approach and it is because the vast majority of firms see no business benefit in making themselves accountable if they do not have to. Lord Holme rightly identifies the need to make large companies accountable, but he is wrong to suggest that a voluntary approach will secure that – it will not. The Earth Summit has to act to install an international corporate accountability mechanism to ensure companies' social and environmental impacts can be measured and it can be made accountable. If it does so, firms could stop dithering about voluntary schemes aimed at staving off proper accountability and get on with improving performance.

### **Delays and distorts future policy making.**

Once a voluntary scheme has been recognised as failing it usually significantly delays the implementation of an effective policy measure, but it can also skew its eventual development. The examples given above from the UK concerning packaging waste and the power of supermarkets are

relevant here. At a global level recent research for the United Nations Research Institute for Social Development concluded that “there is a danger that codes may be seen as something more than they really are. They can be used to deflect criticism and reduce the demand for external regulation” [33].

## **Blunt instrument**

There is general agreement that if the global and national environmental problems we face today are to be tackled effectively then we need measures which integrate the economic, environmental and social priorities within them. Regulations, economic instruments and subsidies can play specific roles in achieving this, but increasingly are used in concert. Regulations provide a clear, strong and universal minimum standard; economic instruments can provide dynamic incentives for continual improvement without prescribing how that is achieved; while targeted subsidies can overcome specific market failures.

Suggesting that a voluntary approach is an alternative to such packages, given its inevitably modest aims and weak motivations, is nonsense. Voluntary approaches simply are not powerful enough or focused enough as policy instruments to deliver the changes required.

Voluntary approaches can never be more than complements to the policy measures that can drive significant change. On key issues facing the Earth Summit (including corporate globalisation, management of natural resources, health, poverty and patterns of production and consumption) delegates must not get sidetracked into discussing a possible complementary voluntary policy when the bedrock policy that will deliver change is not in place. If this does happen it will mirror the tendency of voluntary agreements themselves to avoid the important but tough decisions and focus on less significant but more tractable issues.

## How the Earth Summit should treat the voluntary approach

There are two main conclusions to take away from this analysis regarding how the Earth Summit should treat the voluntary approach.

The Earth Summit should recognise that voluntary approaches are only, at best, potential complements to regulation and economic instruments. At worst, they will delay progress and inhibit change and hence waste a valuable opportunity for this once-in-a-decade event. They should be viewed with deep suspicion.

The Earth Summit must prioritise establishing clear, challenging, legally binding commitments that will drive the real change required to address the issues in front of it and not be side-tracked by false claims about the effectiveness of the voluntary approach.

## References

[1] United Nations Press Release 5 August 2002, “Sustainable Development Security Imperative Says Top US Government Official.

[2] UNEP press release May 2002, The State of the Planet is getting worse but for many it’s still “business as usual”.

[3] United Nations, 26 June 2002, Draft plan of implementation of the World Summit on Sustainable Development.

[4] *ibid* para 14 e.

[5] *ibid* para 17a.



- [6] *ibid* para 45m.
- [7] *ibid* para 113.
- [8] Response from Communications Unit at the Labour Party, 14 August 2002.
- [9] Porter, M., *The Competitive Advantage of Nations*.
- [10] UNEP, 2000, *Voluntary Initiatives: current status, lessons learnt and next steps*. Paper from UNEP Multi-Stakeholder Workshop 20 September.
- [11] Borkey, P. and Leveque, F., 2000. *Voluntary Approaches for Environmental Protection in the European Union - a Survey*, *European Environment*, Vol 10, pp35-54.
- [12] Report to Michael Meacher (Minister of State for the Environment) on the progress of the Voluntary Initiative by Friends of the Earth and PAN-UK.
- [13] Coglianesi, C., 2001. *Is consensus an Appropriate Basis for Regulatory Policy?* Regulatory Policy Program Working Paper RPP-2001-02. Center for Business and Government, John F. Kennedy School of Government, Harvard University, Cambridge MA.
- [14] Bruno, K. and Karliner, J., 2000. *Tangled Up in Blue: Corporate Partnership at the United Nations*. *CorpWatch* 1 September.
- [15] EFTEC, CSERGE and ENTEC, 2002. *The potential cost and effectiveness of voluntary measures in reducing the environmental impact of pesticides*. Department for Environment, Food and Rural Affairs, London.
- [16] Jenkins, T., *Raw Deal*.
- [17] Friends of the Earth Budget Briefing.
- [18] 'Industry Voices Concern over Co-Regulation' *European Voice* Vol 6.39, 26 October 2000.
- [19] Friends of the Earth, 2000, *The OECD's revised 'Guidelines for Multinational Enterprises': A step towards corporate accountability?*
- [20] National Farmers Union, "Supermarket Code of Practice Fails Dismally to Deliver", Press Release 31 October 2001.
- [21] *Grower* 15 November 2001, The full text of the Code of Practice.
- [22] Letter to the Secretary of State for Trade and Industry from the British Independent Fruit Growers' Association 7 November 2001.
- [23] Blackman, A. and Mazurek, J., 1999. *The cost of developing site-specific environmental regulations: evidence from EPA's Project XL*, *Resources for the Future*, Discussion Paper, Washington DC.
- [24] Kemp, M., 2002. *Corporate Social Responsibility in Indonesia: Quixotic Dream or Confident Expectation*. UNRISD Technology, Business and Society Programme Paper 6.
- [25] Hansard, House of Commons Written Answers, 2 February 1994, Cols 803-8.
- [26] KPMG, 1994. *UK Environmental Reporting Survey 1994*. London: KPMG.
- [27] Fitzgerald, N.V.K., 2002, *Regulating Large International Firms*. UNRISD Technology, Business

and Society Programme Paper 5.

[28] Caldart, T.C. and Ashford, N., 1999. Negotiation as a means of developing and implementing environmental and occupational health and safety policy. *Harvard Environmental Law Review* Vol 23.1, pp141-202.

[29] OECD, 1985. *Environmental Policy and Technological Change*. Paris:OECD.

[30] Lord Holme in *Financial Times*, 7 August 2002 “Giants tread carefully”.

[31] International Chamber of Commerce, undated. *The Business Charter for Sustainable Development: Model Questions and Answers*. Paris:ICC.

[32] *Financial Times*, 7 August 2002 “Giants tread carefully”.

[33] Jenkins, R., 2002. *Corporate Codes of Conduct: Self-Regulation in a Global Economy, Technology, Business and Society Programme Paper2*.