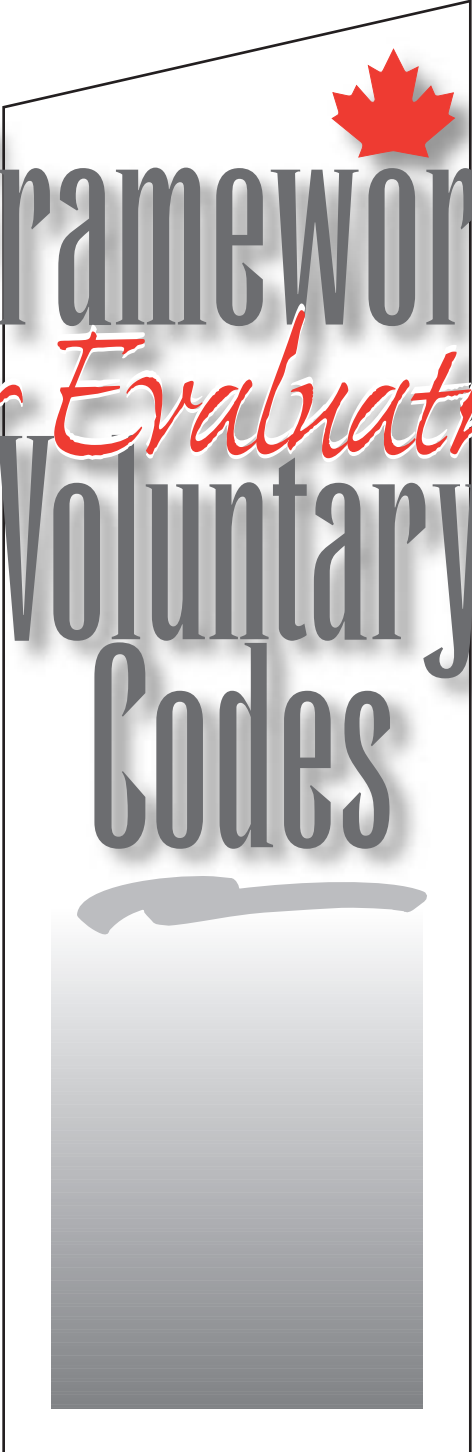





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A **Framework**
for Evaluating
**Voluntary
Codes**

Canada



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for Evaluating
Voluntary
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Contents



Foreword	4
Introduction	5
What is a Voluntary Code?	6
Voluntary Codes and Regulatory Systems	8
Content	9
Assumptions	10
A Framework for Evaluating Voluntary Codes	11
Due Process	12
Relevance	15
Success	16
Alternative Approaches	20
Information Requirements	22
Due Process	22
Relevance	22
Success	23
Alternative Approaches	23
Conclusion	24

Foreword



This document provides a framework that firms, industry organizations, employees, public interest groups, citizens, governments and others can use to evaluate the effectiveness of voluntary codes. By providing indicators of what constitutes an effective code, it can also benefit those involved in or considering developing a code. In this regard, it is a helpful companion to the publication *Voluntary Codes: A Guide for Their Development and Use* (available from the Office of Consumer Affairs and on the Web at <http://strategis.ic.gc.ca/volcodes>).

In developing the framework, the Office of Consumer Affairs drew on similar approaches governments use to evaluate regulatory programs, and non-governmental organizations use to evaluate their programs. However, voluntary codes have distinct characteristics that warrant a unique approach. The framework does not facilitate the quantitative assessment of a code, but rather provides questions designed to reveal a code's strengths and weaknesses. Applying the framework should offer insights and useful criteria for improving a voluntary code, as well as drafting a new one.

Introduction



Under its Voluntary Codes Project, Industry Canada's Office of Consumer Affairs has been studying the use of voluntary codes in Canada and other countries, and has produced a Guide, research papers and a code inventory, and launched an online research forum. Research suggests that there is considerable potential for industries and firms to make greater use of voluntary codes to address consumer, environmental, employee, investor, community and other concerns. As *Voluntary Codes: A Guide for Their Development and Use* notes, "The challenge is to know when voluntary codes are most likely to succeed and to establish solid development and implementation processes that are fair, effective and efficient."¹

The purpose of this document, then, is to provide firms, industry organizations, governments and non-governmental organizations with a framework to evaluate how well existing voluntary codes are working and how they could be improved. Through its questions and structure, the framework is also useful to those who are developing codes. The framework, thus, can be used in a number of ways.

- Code adherents can use the framework to help structure a code and the code development process, and to integrate into a code at an early stage evaluation criteria and the collection of information on a code's performance. Questions such as the following are important to be asked: What are the elements that should be built into an effective code? How should a code be developed?
- Government, non-governmental organizations, targeted beneficiaries (e.g. employees and the community), investors, competitors, academics, think tanks and independent evaluators can use the framework to determine how effective a code is in protecting the public interest (e.g. consumer protection, employee protection, environmental protection or promotion of respect of human rights), the impact and interaction of a code with legislation, and a code's effects on the particular interests of proponents and other affected parties.

1. Industry Canada, Office of Consumer Affairs, and Treasury Board Secretariat, Regulatory Affairs Division, *Voluntary Codes: A Guide for Their Development and Use* (Ottawa: Government of Canada, March 1998), Preface.

What is a Voluntary Code?

Voluntary codes can be defined as a set of non-legislatively required commitments that

- are agreed to by one or more individuals or corporations
- are designed to influence, shape, control or benchmark behaviour
- are applied consistently by all participants and/or reach a consistent outcome.²

Voluntary codes may be developed by the private sector (individual firms or industry organizations), governments, non-governmental organizations and standards development organizations, with or without direct government supervision or active encouragement.³ Codes may be agreements among industry players, members of non-governmental organizations or employees in a firm. Codes may be embodied in contracts and commit parties to adhere to their terms. Codes may provide sanctions or other consequences for breaching their terms, and include mechanisms to deal with disputes or non-compliance, such as mediation or independent third-party arbitration. There may even be provisions for independent auditors, competitors, community representatives and members of civil society organizations to help enforce codes. The power to initiate and enforce codes lies primarily in the marketplace. This is in contrast to regulatory systems: for these, governments establish and enforce coercive laws.

2. Industry Canada and Treasury Board Secretariat, *Voluntary Codes*, p. 2.

3. Discussed in Kernaghan Webb and Andrew Morrison, “The Law and Voluntary Codes: Examining the “Tangled Web,”” in *Voluntary Codes: Private Governance, the Public Interest and Innovation*, Kernaghan Webb, ed. (Ottawa: Carleton University Research Unit for Innovation, Science and the Environment, 2002). See also Kernaghan Webb, “Voluntary Initiatives and the Law,” in *Voluntary Initiatives: The New Politics of Corporate Greening*, Robert B. Gibson, ed. (Toronto: Broadview Press, 1999), and Kernaghan Webb and Andrew Morrison, “Voluntary Approaches, the Environment and the Law: A Canadian Perspective,” in *Voluntary Approaches in Environmental Policy*, Carlo Carraro and François Lévêque, eds. (Dordrecht, The Netherlands: Kluwer Academic Publishing 1999), p. 229.


Some codes apply to a single company,⁴ others apply to entire industries⁵ and some only deal with a limited aspect of an industry's operations.⁶ Individual companies sometimes develop codes that mirror or elaborate on wider industry codes.⁷ Internal codes of conduct for employees are also becoming increasingly common. In addition, a number of companies now have an ethics officer, who is responsible for ensuring employees comply with the company's code of ethics.⁸ International codes are also in place in some industries.⁹

Although these codes are voluntary, there may be strong reasons for firms to adhere to their provisions. Codes are often initiated in response to consumer or competitive pressure, or a real or perceived threat of new regulation or trade sanctions. Typically, voluntary codes are amended and improved over time.

A standard — a particularly formal type of voluntary code (in terms of development procedures and implementation techniques) — can be developed through the National Standards System by standards development organizations.¹⁰

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4. For example, The Gap Inc.'s Sourcing Guidelines and Principles require suppliers to meet certain labour-related standards. Compliance with the code is part of the contract The Gap signs with its suppliers. See Greg Rhone, John Stroud and Kernaghan Webb, "The Gap's Code of Conduct for Treatment of Overseas Workers," in Webb, ed., *Voluntary Codes*.
 5. For example, the Canadian Code of Practice for Consumer Debit Card Services, which a government-industry-consumer working group prepared, applies to the financial industry. The Canadian Marketing Association has developed a number of codes that apply to its members, including a code to protect the privacy of consumers and limit the sharing of personal consumer information. The Responsible Care initiative of the Canadian Chemical Producers' Association is a system of rules and principles designed to achieve safe and environmentally sound management of chemicals over their life cycle.
 6. For example, government, industry and consumers developed the Canadian Care Labelling program, but the garment industry voluntarily applies it. Labelling is not mandatory, but incorrect labelling could be considered to be a deceptive or misleading practice.
 7. For example, individual banks have developed codes based on the Canadian Bankers Association's Privacy Model Code. The Canadian Standards Association, with government encouragement, developed a privacy code that has since been adopted by a number of major companies and is the basis for federal legislation.
 8. For more information, go to the Ethics Officer Association Web site (<http://www.eoa.org/>). The Association is an American organization with members from around the world, including Canada.
 9. For example, the United Nations produced two voluntary codes for manufacturers that market their products worldwide: the International Code of the Marketing of Breast-Milk Substitutes (<http://www.who.org/dsa/cat98/mat8.htm#TheInternationalCode>) and the International Code of Conduct for the Distribution and Use of Pesticides (http://www.fao.org/ag/agp/agpp/pesticide/code/PM_Code.htm). In addition, the Organisation for Economic Co-operation and Development (OECD) adopted the OECD Principles of Corporate Governance (<http://www.oecd.org/daf/governance/principles.htm>).
 10. Industry Canada and Treasury Board Secretariat, *Voluntary Codes*, p. 4.

Voluntary Codes and Regulatory Systems



Most codes exist within a legal context, including statutes, regulations, guidelines, and enforcement and compliance policies. The legislative and private law milieu in which voluntary codes operate includes consumer protection, competition, health and safety, labour and environmental laws, as well as contract and tort law.¹¹ A code dealing with customer relations, for example, works within the context of contract law and consumer protection legislation.¹² Environmental voluntary codes co-exist with a complex array of federal and provincial laws and regulations pertaining to environmental, occupational, health and safety and product liability protections.¹³ Voluntary codes pertaining to the protection of personal information operate within a broader framework of legislation and contract law.¹⁴

It is impossible to evaluate codes (in particular, their effectiveness) without recognizing the legal landscape within which they operate. Voluntary codes can thus be used as adjuncts to existing legal schemes, as substitutes for laws or as a source of elaborated detail in a legal regime. The existence and content of a code can have legal implications, particularly in defining such concepts as *due diligence* (the customary or expected behaviour in an industry).¹⁵

The desire to avoid additional regulation is often a strong incentive for developing a code.¹⁶ In some cases, the impetus for codes is an

11. As discussed in Webb and Morrison, “The Law and Voluntary Codes.”

12. For example, the Canadian Marketing Association’s voluntary codes relate primarily to matters of contract and consumer law. To view the content of the Association’s Code of Ethics, go to <http://www.the-cma.org/privacy/ethics.html>.

13. For example, the Canadian Chemical Producers’ Association’s Responsible Care program operates within this type of environment. See John Moffet, François Bregha and Mary Jane Middelkoop, “Responsible Care: A Case Study of a Voluntary Environmental Initiative,” in Webb, ed., *Voluntary Codes*.

14. Personal information protection standards for the private sector operate in a context of regulation, contract law and, in some provinces, tort liability, as discussed in Webb and Morrison, “The Law and Voluntary Codes.”

15. Webb and Morrison, “The Law and Voluntary Codes.”

16. The Responsible Care Program is an example of this and is discussed in Moffet, Bregha and Middelkoop, “Responsible Care.”

organization's desire to act as a "good corporate citizen" or to gain a competitive advantage — indeed, these are often mutually reinforcing goals.¹⁷

Voluntary codes perform similar functions to regulations in that both are designed to influence, shape, control or benchmark behaviour. Codes are unlike regulations as they are not rules directly backed by the power of the state. Both codes and regulations are intended to be applied consistently.

When comparing voluntary codes with regulations, it is important to remember that neither regulatory nor voluntary approaches are flawless in their design or operation. While it is true that voluntary approaches may not always achieve their objectives, full compliance with regulatory regimes is also rare. Each approach has its strengths and weaknesses. Evaluators who are concerned about the ability of a code to be a substitute for or complement government regulation should keep these points in mind.

Content

Both regulations and voluntary codes are intended to affect private sector behaviour. Both involve communicating rules to parties whose behaviour is to be changed. Not all the elements of a regulatory system, however, may be present in a voluntary code. A complete regulatory system includes the following:

- rule making: developing rules to guide behaviour
- communication: making those being regulated aware of the behaviour expected or required by the rules through such means as publications and education
- monitoring: ensuring compliance with the rules through such means as inspections, audits and self-reporting
- enforcement: taking action in response to non-compliance (e.g. warnings, tickets and legal action)

17. The Gap Inc.'s Sourcing Guidelines and Principles were developed in response to criticism of The Gap's use of labour in substandard conditions in developing countries.

- adjudication: ruling on the consequences of non-compliance or the settlement of disputes (complaints); often done by a court, tribunal, arbitrator or mediator
- sanctions: imposing negative consequences for non-compliance (e.g. fines, negative publicity, dismissal from an organization, rescinding a licence and incarceration)
- evaluation and revision: regularly evaluating a regulatory system and changes made in the rules or the program, or both.

With the exception of the penal sanctions, which remain the responsibility of the state, all the elements of a regulatory system are found in many voluntary codes. Rule making is necessary since it creates the code, and communication to promote the code is likely. Such elements as monitoring, enforcement, adjudication, sanctions, and evaluation and revision may be missing, however, and make the code less effective.

Assumptions

There are certain assumptions that tend to be made about government regulatory systems.

- Rule making is open, transparent, consultative and inclusive.
- Rules are publicly available and communicated to those subject to the regulations and other interested parties.
- Rules are precise and impose clear obligations on those being regulated.
- Government has a compliance policy and enforcement capacity.
- There is a mechanism for settling disputes and dealing with non-compliance.
- Monitoring, enforcement, adjudication and sanctions are carried out in a fair manner with appropriate due process.
- There are mechanisms for independent evaluations or audits.
- There is public reporting on evaluations and performance results.

These assumptions do not necessarily apply with equal force to voluntary codes.¹⁸ For example, there may be less transparency, fairness and openness in the creation and implementation of a code.

18. See a general comparison of rule making and implementation in Webb and Morrison, "The Law and Voluntary Codes."

A Framework for Evaluating Voluntary Codes



The framework for evaluating voluntary codes set out below deals with many of the same issues as does a framework for evaluating regulatory programs, namely:

- relevance (Does the program address an actual need?)
- success (Does the program effectively meet its objectives?)
- cost effectiveness or alternatives (Are the most appropriate means being used to achieve objectives?).

Because assumptions underlying regulatory systems do not necessarily apply to voluntary codes, the framework for voluntary codes includes an additional evaluation factor, due process. Issues and performance indicators are identified for each area, such as rule making and monitoring.

There is not always a simple and self-evident “right” performance indicator. For example, wide coverage of an industry by a code is generally thought of as an indicator of success. However, when only major industry players formally adhere to a code and thereby establish standards of behaviour and due diligence for the industry, the code may still successfully achieve its objective. Performance indicators, then, simply provide guidelines for the questions that might be asked to determine whether due process is respected, whether the code is relevant or successful, or whether an alternative should be explored. Not all the questions will be equally relevant. For example, questions about industry-wide coverage would not be useful when evaluating codes developed by individual firms. Governments may be more interested in assessing how codes achieve public policy objectives, while firms or industry organizations may look at how well codes enhance consumer confidence.

Due Process

The framework for evaluating voluntary codes examines due process issues that generally receive less emphasis in evaluations of regulatory programs because laws and regulations are subject to governmental process requirements. Due process issues and indicators examine such matters as openness, transparency and fairness. It includes due process towards the following groups:

- industry members (Did they all have a say about the content of the code and do they have a say in its operation?)
- affected stakeholders (e.g. Were the views of labour and suppliers solicited?)
- the interested public (Is there a process for public complaints? Was there public involvement in drafting and implementing the code?)
- special interest groups (Did they receive support so that they could participate meaningfully in code development and implementation?).

Some of the questions in the framework are aimed at differential treatment of industry players, particularly small and medium-sized enterprises (SMEs). Some differences may be inevitable, but an effort to reduce the burden of code development and implementation on SMEs and other groups with limited access to resources is an important indicator of appropriate due process.

Issues**Performance Indicators**

- | | |
|--|--|
| 1. Has code development been open, transparent, fair and meaningful? | <ul style="list-style-type: none">➤ Have all the players in the industry, including SMEs, been meaningfully involved in industry code development?➤ Has the affected public (including workers, consumers, public interest groups) been involved in code development?➤ Has funding or support been available for involvement of SMEs or the affected public?➤ Was government involved in code development?➤ Is the code publicly available (e.g. through publications or Web sites)?➤ Did a standards development body develop the code?➤ What was the decision-making process (e.g. consensus, majority vote, voting by classes of participants)? |
| 2. Is the implementation of the code fair? | <ul style="list-style-type: none">➤ Is there an imbalance of power among the players in the industry?➤ Does the code impose different burdens on different industry members?➤ Are the rules clearly communicated to the industry and the affected public? |
| 3. Are the requirements of the code clear? | <ul style="list-style-type: none">➤ Does it use plain language?➤ Are there clear obligations placed on industry? |
| 4. Are there fair procedures for monitoring and enforcement? | <ul style="list-style-type: none">➤ Is there a compliance policy to govern monitoring and enforcement?➤ Are there independent and knowledgeable third-party audits?➤ Is there approval of the internal audit process by independent third parties? |

Issues	Performance Indicators
5. Are there fair procedures for dispute settlement, complaints and sanctions?	<ul style="list-style-type: none">➤ Is there an industry ombudsman?➤ Is there an opportunity for mediation?➤ Is there an independent arbiter or adjudicator?➤ Is there a process for public complaints?➤ Is there a process for industry complaints?➤ Are there procedural rules for dispute resolution or adjudication?➤ Do the rules follow requirements of fairness or natural justice?➤ Do complainants learn the outcome of their complaint?➤ Is the outcome public?➤ Is there a regular public report dealing with complaints and outcomes?➤ Are privacy rights respected?➤ Is the industry response to complaints timely?➤ Are outcomes proportional and consistent?➤ Does the industry understand the dispute settlement procedure?➤ Does the public know of the existence of, and understand, the dispute settlement procedure?
6. Is there a range of appropriate negative consequences and incentives for compliance?	<ul style="list-style-type: none">➤ Are consequences of non-compliance proportional to non-compliance?➤ Are consequences of non-compliance a sufficient deterrent?➤ Are there incentives for compliance?
7. Are the negative consequences and positive incentives used?	<ul style="list-style-type: none">➤ When?➤ Are they used consistently?

Relevance

The need for a voluntary code or its objectives may change over time. In some cases, codes become more elaborate as experience is gained in applying them. An evaluation of an existing code should question basic issues to allow for reconfirmation or, when necessary, adjustment of objectives.

Competing codes may indicate that a code has lost its relevance. It may also indicate, however, that industry members in a vibrant marketplace differentiate their services on the basis of adherence to competing codes. In areas in which legislation has overtaken code requirements, codes may need to be adjusted, but they may still provide evidence of public commitment to the law, and their implementation can be a significant factor in the industry achieving legal compliance.

Issues	Performance Indicators
1. Does the voluntary code address a fundamental problem or an actual need?	<ul style="list-style-type: none"><li data-bbox="471 871 948 900">➤ Are the objectives of the code still relevant?<li data-bbox="471 938 953 1006">➤ Can the behaviour that needs to be changed be identified?<li data-bbox="471 1035 994 1064">➤ Does the problem the code addressed still exist?<li data-bbox="471 1093 976 1151">➤ Has the code been updated to reflect changing conditions?<li data-bbox="471 1180 1045 1248">➤ Is there a process in place for evaluation and revision of the code?
2. Are there competing codes or legislative instruments?	<ul style="list-style-type: none"><li data-bbox="471 1296 936 1354">➤ Is there evidence of similar objectives and targets in other instruments?<li data-bbox="471 1383 1028 1450">➤ Is there evidence of confusion among consumers or other interested parties?<li data-bbox="471 1479 965 1537">➤ Has the significance of a logo or other quality indicator been diluted?<li data-bbox="471 1566 1034 1634">➤ Are competitive instruments raising or reducing the quality or stringency of the code requirements?

Success

Success refers to the effectiveness of a code: Has the code achieved its objectives? Is it likely to? Consumers and labour and other interest groups and non-governmental organizations may be particularly interested in the success of codes. The effectiveness of a code is an important indicator of whether it is, or is likely to be, an effective alternative to government action.

As with other performance indicators, the indicators of success must be evaluated within a particular context. For example, a well-established industry organization with resources and expertise is often a good indicator of an industry's ability to develop and administer a code. The task of code development and implementation, however, might be the stimulus for the establishment of a new organization that brings energy and zeal to its responsibilities. In general, such factors as wide industry coverage, strong incentives for compliance, an established industry organization, accountability mechanisms and sanctions for non-compliance indicate a greater likelihood of a code being effective. But the examination must be made on a case-by-case basis. Key evaluation criteria are results-based indicators that provide information about the achievement of objectives, such as whether accidents are reduced, customers are more satisfied, or environmental quality is improved.

Issues	Performance Indicators
1. Have the objectives of the code been achieved?	<ul style="list-style-type: none"><li data-bbox="471 1141 919 1203">➤ Have consumer complaints decreased or increased?<li data-bbox="471 1232 1037 1294">➤ Have complaints from stakeholders (e.g. employees) decreased or increased?<li data-bbox="471 1323 1022 1354">➤ Have regulatory violations increased or decreased?<li data-bbox="471 1383 1011 1414">➤ Have industrial accidents increased or decreased?<li data-bbox="471 1443 1028 1505">➤ Has the public reputation of the industry improved (as measured in polls or media reports)?<li data-bbox="471 1534 816 1564">➤ Have legal costs been reduced?<li data-bbox="471 1593 1037 1646">➤ Have measurable objectives, such as emission limits, been achieved?

Issues**Performance Indicators**

2. Are the firms capable of compliance?

- How sophisticated are the firms?
- Do they have the necessary expertise?
- Do firms provide training to employees on code implementation and compliance?
- Do firms have adequate internal compliance regimes?
- Do they devote adequate resources to internal monitoring and compliance?
- Does the industry organization train and share information with industry members, especially SMEs?
- Does the industry organization devote adequate resources to monitoring, enforcement and adjudication?
- Do firms have a history of regulatory compliance?
- Are firms familiar with the code requirements?

3. Are there incentives for compliance?

- Are there industry rewards for compliance (e.g. access to services, logos)?
- Are there financial advantages to compliance (e.g. increased productivity, reduced insurance premiums and reduced legal costs)?
- Is there a competitive advantage for compliance?
- Are there regulatory incentives for compliance (e.g. reduced inspection, faster licensing)?
- Are there high exit costs from the industry or the industry organization (i.e. Is it difficult to withdraw from the code?)?
- Can non-compliant behaviour be sanctioned or subject to negative consequences?
- Is non-compliance easily identified by consumers and others?
- Is non-compliance easily identified by other industry members and competitors?

Issues	Performance Indicators
	<ul style="list-style-type: none">➤ Do independent legal liability regimes exist that could enforce compliance?➤ Is compliant behaviour highly valued by consumers and the general public?➤ Is there peer pressure for compliance?➤ Are there complementary regulatory regimes?
4. Is there an industry organization or another group to develop and administer the code?	<ul style="list-style-type: none">➤ Is it well established?➤ Does it have a history of cooperation with government?➤ Does it have adequate resources, including expertise?➤ Does it have a wide membership?➤ Are there competing organizations?
5. Are there mechanisms to hold the industry or firm accountable for compliance with the code?	<ul style="list-style-type: none">➤ Is there a public complaints process?➤ Is there an industry ombudsman?➤ Are there annual reports to industry and the public?➤ Are there regular compliance reports from the industry organization to the firms, the industry and the public?➤ Are there privacy protections for confidential matters?➤ Are there independent third-party audits?➤ Is there certification by a standards body?➤ Is there a consumer or interested public advisory body?➤ Is there protection for whistle-blowers (i.e. employees who notify superiors and authorities of non-compliance)?

Issues	Performance Indicators
6. Are there sanctions or negative consequences for non-compliance?	<ul style="list-style-type: none"> ➤ Do sanctions and consequences include dismissal from the industry organization, removal of the organization logo, negative publicity, fines, restitution or implementation of correction action (e.g. introduction or improvement of compliance systems)?
7. Are sanctions or negative consequences used?	<ul style="list-style-type: none"> ➤ Are they used consistently?
8. Are there unintended or negative effects of the code?	<ul style="list-style-type: none"> ➤ Does the code limit competition? ➤ Does the code place different burdens on different parties in the same sector (e.g. SMEs versus big business)?
9. Are there champions of the code?	<ul style="list-style-type: none"> ➤ Have leaders in the industry supported and publicly endorsed the code? ➤ Do industry leaders apply pressure on their peers to implement and comply with the code?
10. Has an industry code achieved wide coverage?	<ul style="list-style-type: none"> ➤ Does an industry code apply to an entire industry? ➤ Does an industry code apply to the most important players in the industry? ➤ Are there importers or others not governed by the industry code?

Alternative Approaches

When governments examine regulatory programs, they look at cost effectiveness: Are the most appropriate and efficient means being used to achieve objectives, relative to other approaches to delivery? When evaluating a code, industry will always be concerned about cost effectiveness, but will be particularly worried about whether alternative approaches are desirable. Codes have advantages over legislation, particularly when legislative powers are split among several jurisdictions; codes can provide harmonization when a government lacks jurisdiction. Codes can also allow for competing self-regulatory regimes to develop, and this allows for flexibility and experimentation. On the other hand, legislation can require adherence to regulatory requirements and provide the broad coverage that may be lacking in a code. Legislation may also have credibility with the public or foreign governments that codes may not have, although some codes have considerable credibility.

Issues	Performance Indicators
1. Has the coverage been as wide as anticipated?	➤ Would legislation produce wider coverage?
2. Are the sanctions in the voluntary code adequate?	➤ Has non-compliance resulted in significant harm?
3. Does the code cover interjurisdictional situations?	➤ Are there overlapping (federal-provincial-territorial or international) jurisdictions relating to the subject matter of the code?
4. Is there a need for uniformity of rules?	➤ Would legislation produce uniform rules and, if so, how would such legislative rules likely be developed?
5. Does the voluntary code require additional credibility?	➤ What would add to the credibility of the rules and the rule enforcement regime?
6. Is independent monitoring, enforcement or adjudication required?	➤ Would institutional arrangements different from the current ones provide the necessary independence?
7. Are sufficient resources being devoted to the code (for rule making, communication, monitoring, enforcement, adjudication, sanctions and revision)?	➤ Could another industry organization provide the necessary resources? ➤ Could government provide the necessary resources?

Information Requirements



Due Process

Information is required about the process of code development: Who was involved? How did they participate? Was there funding for some participants? What was the decision-making process?

Evaluation of due process as it relates to code implementation involves some knowledge of the composition of the industry, and of activities undertaken by both industry organizations and firms to achieve compliance with the code. It is important to find out, for example, about the complaint and dispute resolution procedures of firms and any industry organization. This includes learning about procedures to deal with complaints of customers or the interested public as well as procedures within the industry to deal with non-compliant peers. The incentives for compliance and negative consequences or sanctions for non-compliance are also important factors.

Relevance

To determine the continuing relevance of a voluntary code, the original objectives of the code must be identified. A purpose clause, documentation about the development of the code, publicity regarding code implementation and annual reports are important sources for this information.

Success

An evaluation of the success of a voluntary code will require knowledge of the industry and the firms involved, as well as the elements of the implementation program. The appropriate questions to be asked and the type of information required will depend on the objectives of the code (e.g. improved customer relations, improved product safety, improved worker safety). This involves answering such questions as the following: Does the industry provide training to firms to aid in compliance? Do the firms have internal compliance systems? Are there self-audits? Are there third-party audits? What is the reaction of the industry to a non-compliant firm? Does the code limit entry into the industry? Are there complaints from customers or labour? Have these complaints increased or decreased? Has the nature of the complaints changed? Have industrial accidents been reduced? Is there a reduction in the production of toxic substances? Have the problems the code was intended to address decreased or changed in any way? What other factors might account for changes? Has productivity improved? Has public perception of the industry improved?

The code development process must consider the information required for later evaluation of the code. It may be necessary to identify information needs and design collection systems early on so that meaningful evaluation can be conducted. The information requirements should also be aimed at providing information about outcomes and results so that performance indicators can be developed to identify the degree of success achieved by code implementation.

Alternative Approaches

An evaluation of alternative methods of achieving the code's objectives involves learning about the objectives and some of the comparative strengths and weaknesses of the code, including coverage and public perception of its relevance and success.

Conclusion



The framework set out above can be used to evaluate the success of a variety of codes in meeting their objectives, as well as whether they continue to be relevant and appropriate. Due process issues are also included in the framework because the credibility of a code and its substantive content can be strongly affected by the processes used to ensure that all parties have been able to give full and meaningful input.

The framework can be used by individual firms, industry associations, governments, non-governmental organizations, labour and other interested groups to evaluate existing codes. It can be used by these same groups to increase the likelihood of the success of codes that are under development and to guide the processes by which they are developed and implemented. Just as regulators have difficulty assessing the impact of regulations, however, the developers and users of voluntary codes will not always be able to ascertain the full range of effects (including success) of codes. The framework nonetheless should provide assistance in this endeavour.