

**NGO Group Consensus Positions on High-Level Issues Relating to WD3
FINAL DRAFT
August 30, 2007**

1. The length / density of the document

While perhaps the document may be too long, much of the detailed normative guidance will potentially provide useful information for the reader. The first step to shortening the document should focus on eliminating duplications within and among clauses (and only focusing on deleting detailed text that is not adding any value), as well as condensing some of the informative/background descriptions. While recognizing that they have different contexts, some concepts/issues that could be addressed more consistently and efficiently in the standard include:

- General SR versus core issue principles
- Non-discrimination
- Fundamental rights at work/conditions of work and social protection
- Human resource/social development (i.e., only employee-related guidance)
- Promoting SR through the supply chain
- Sustainable consumption
- Engaging communities/stakeholders/workers (i.e., social dialogue)

As for the process to remove redundancies, in Vienna new “cross-cutting” drafting groups could be formed (in a transparent and balanced manner). This approach would be used in lieu of existing drafting groups each trying to tighten their own text. That said, it may be advisable for these cross-cutting drafting teams to maintain at least some representation from prior drafting groups. Should the WG agree to this approach for addressing redundant text that transcends the work of individual TGs, terms of reference/mandates for the new drafting groups should be established.

If subsequent to eliminating redundancies and tightening text the standard is still deemed too long, structural adjustments (i.e., moving text to an annex) can be considered only as a secondary step.

2. Ensuring the standard is applicable to all organizations

While the target audience for the standard is "all organizations," this concept should be interpreted inclusively: anything which applies to any kind of organization can be a candidate for coverage by the standard. And while we should strive to make all high-level provisions applicable to all types of organizations, not every section/provision needs to be (or can be) relevant to everyone. We believe that the issue of “applicability” should not be used to eliminate certain topics or issues in the standard. Instead there should be guidance in Clause 7 on how organizations can define what is applicable and relevant to them. If this guidance is provided, the concern of the applicability of the issues is solved, as it will be an individual process for each organization (with input from its stakeholders) to analyze the issues and define which are applicable to its context.

3. The relationship and ordering between Clause 6 and Clause 7

We do not find a particular problem with the current order and relationship between Clauses 6 and 7. Clause 7 serves as an overarching management framework to help organizations identify the core issues (and subsidiary issues) in Clause 6 that are relevant to it, and then to set strategic goals and management plans to address that subset of SR issues. Among the things that can be done to better integrate the two sections, Clause 7.2 could give guidance on how to prioritize SR issues, i.e., how the organization can define what is relevant to its context and what is not. Clause 7.5 (implementation of SR in daily practice) could be amended to include detailed guidance on linking the relevant core issues with the implementation phase. In particular, 7.5.5 (action plans, instruments, and implementation) could instruct the organization to reference the “related actions and/or expectations” section of each of its relevant subsidiary core issues (in Clause 6), when developing its action plans

4. Agreeing the definition of stakeholder and stakeholder engagement – key stakeholders

We think differentiating/prioritizing stakeholders (identifying key stakeholders) may be a useful approach for organizations. We do however see a danger of letting organizations decide or self-define who their key stakeholders are. Instead, the standard should facilitate prioritization by providing clear, transparent and objective criteria for identifying and differentiating stakeholders. When defining or creating criteria for stakeholder identification/prioritization, the SR standard should raise a bar for stakeholder engagement, and encourage organizations to consider “beyond the usual suspects”. The criteria for identifying/prioritizing stakeholders should be described in Clause 7 (specifically 7.4) and not in the definition itself. More specifically, the focus of the engagement described in Clause 7 could be to achieve outcomes that are consistent with the sustainable development or the welfare of society, but that qualifier is not needed in the definition itself.

Overall, the stakeholder engagement section needs more depth. It should help organizations understand the issues relating to stakeholders more broadly, as well as give them useful guidance on how to identify and work with stakeholders.

5. Addressing Clause 5 (Principles) and its relationship with Clause 6

The general principles clause should remain in the standard as a stand-alone section. The text supporting each principle should focus on a description of the principle itself, as well as its general application. Text describing a principle’s unique application relating to a specific issue/subject should be briefly noted in the relevant parts of Clauses 6 and 7. As agreed in Sydney, Clause 6 should cover issue-specific principles, which are of a different nature than the general SR principles. Presently, the general SR principles in Clause 5 and the issue-specific principles in Clause 6 are fairly mixed up and this is a key item that needs to be dealt with in joint session at the beginning of the Vienna meeting.

6. Addressing Clause 4 (Context) and its relationship with Clause 6 and 7

Clause 4 should set the tone for ISO 26000 as an overarching guidance document when compared to other available documents on the subject of SR. Also in this Clause SR should be projected as a “values-based practice” to minimize negative impacts of organizations and to maximize the positive impacts on people and nature (life supporting systems) on a systematic and continual basis.

Clause 4 needs to make explicit reference to the origins of the concept of SR, namely that it comes from “C”SR. Although the standard is to be applicable to all types of organizations, we can not neglect the fact that the industry sector has the biggest role to play in SR. The industry group has expressed concern about the negative connotation associated with the history of the CSR, which was to a large extent driven by the “problems” caused by activities of global businesses. One way to deal with this concern could be to include the “positive” part of the CSR history, describing what has been done to solve these problems, and how CSR activities brought about positive outcomes.

An issue that is not raised in LTF Memo 15, but that is relevant for Clause 4 is the need to clarify the various roles of government vis-à-vis SR. Government plays different roles in the context of SR, a concept which is not defined clearly in the current draft of the standard. To remedy this confusion, two actions should be taken:

1. To include in Clause 4 some clarification, regarding the distinction between “The Government” (which is a political institution, ideally representing the country’s citizens and subject to national and international law) and “governmental organizations” (that are the entities/agencies created to act on behalf of the State, and that are subject to SR). A description should be added describing the role “The Government” has in promoting, subsidizing, facilitating, regulating etc. SR for companies and other organizations within

its jurisdiction. This might go beyond legal compliance (e.g. the emerging policies on fair public procurement, linking subsidies and other government facilities (like trade missions) to (C)SR criteria.

2. Review WD3 in order to apply the concepts above. Basically, this means NOT to include as examples of social behavior of government the enforcement or proposal of public policies, which are the role of “The Government”. Examples of this kind of confusion can be found in lines 2435, 2450, and 2569 of WD3, but probably there are some others, that should be identified and replaced by proper examples, relating to socially responsible behavior of “governmental institutions.” And addition some examples could be given (see above) of possible actions by governments to further the SR of the organizations in their country.

The importance of such corrections is that the kind of ongoing confusion will create the false perspective that “SR is the center of everything”, including political direction and decisions of the State, which is both problematic and erroneous. Further, the ISO SR NWIP clearly states the need of this kind of distinction.

7. Clarifying the function and nature of help boxes

The help boxes are a valuable tool, and should be kept in the standard. We acknowledge that some of the help boxes in the current draft do not provide useful information. We believe consensus is needed on how help box should be used, and thus propose three functions of help boxes:

1. to present occasional case examples (but no company names or other details or examples that could promote specific industry or company. Exception is county name that may be necessary to provide useful cultural background information);
2. to make a reference to third-party initiatives/guidance on respective SR topics (the name of the initiatives should be included to make the standard more useful for the reader);
3. to provide supplemental guidance for certain types of organizations, in particular on applicability of some SR topics.

8. Use of the term ‘supply chain’

We believe that supply chain is an important issue that needs to be addressed in the standard, although we acknowledge that not all organizations have supply chain-related issues. While we acknowledges that not every type of organizations have supply chain, it is one of the key SR issues, and should be included in the standard. The standard aims at clarity since it helps the user, and the term supply chain is a well-known concept. Therefore it is useful to have it in the standard. On the contrary, “value chain” is not a widely known concept, thus if it is to be used, it should be in addition to supply chain, and not in place of it.

We think the issue here is not only about if we should use the term “supply chain” or “sphere of influence”, but about the confusion with various supply chain related terms in the current draft. These terms - supply chain, sphere of influence, value chain and procurement – describe different and important concepts respectively, which need to be clearly defined and explained in the standard. As a general rule the definitions for such terms should be self explicable and consistent with their commonly understood meaning. In advance of the Vienna meeting, the NGO group will produce a short discussion paper that attempts to elucidate definitions and the relationships among these terms.

What is also badly missing is a reference to supply-chain and sphere of influence (the latter concept being much wider) in the definition of SR itself. Therefore the following should be added to line 290 “- is integrated throughout the organization, and forms an integral part of dealing with its sphere of influence, including its supply-chain.”

9. Reference to other instruments in SR

When relevant, we think that the standard should make clear references to existing SR instruments and documents. Such references can provide useful guidance on the variety of tools and documents available on respective SR issues. In this way ISO 26000 can serve as a central organizing framework that directs its readers to more detailed guidance/tools relating to specific SR issues. As discussed above, we suggest “help boxes” serve as the mechanism to incorporate these references to other SR instruments/guidance. A comprehensive list and detailed information about the instruments can **also** be provided in an annex. This is especially important for ISO 26000 to be consistent and not in conflict with other instruments, as it is stated in NWIP.

It is also important that the standard refers correctly to authoritative instruments in international law and when necessary with an explanation of its status in international law. The standard should not reinterpret anything contained in international law, but rather refer to international law when relevant.

Lastly, as explained in a recent report by IISD, it is of great importance that the relationship of the new ISO standard and international law and other instruments be clarified. To that end it is suggested the following language be included in a relevant, preferably operational, section of the standard.

The provisions in this standard and their use are intended to be complementary and consistent with laws and with the provisions of other international instruments. The provisions of this standard shall not be used in a manner that could compromise the effectiveness of laws (including international human rights, labour and environmental laws) or the effectiveness of provisions in other instruments (including international standards, guides and recommendations). In the event of any inconsistency between, on the one hand, the provisions in this standard or a measure that uses this standard as its basis and, on the other hand, a law or an instrument that contains a more detailed or more rigorous threshold, the law or provisions in the other instrument shall prevail over the provisions in this standard to the extent of any inconsistency.

10. Verification as a subject in the Guidance.

Another issue that is not raised in LTF Memo 15, but that is relevant for the WD3 is the concern that the issue of verification is largely missing. It would be a serious mistake if the fact that ISO 26000 is not intended for conformity assessment (i.e., certifiable/verifiable) would be construed as meaning that verification and certification cannot be dealt with as important aspect of the SR of an organization. Some guidance in this area will need to be added to the standard.