



BRIEFING DOCUMENT

12/6/07 Release

Prepared for

The Sloan Foundation National Voluntary Private Sector Certification Program Stakeholders' Forum

December 10-11, 2007

The International Center for Enterprise Preparedness of New York University

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Preface

The Alfred P. Sloan Foundation Stakeholders' Forum and the activities of the International Center for Enterprise Preparedness (InterCEP) at New York University are but two efforts in this diverse and important arena of private sector preparedness. Wide involvement by all key stakeholders independently or in cooperation with others is critical to any successful outcome for the new voluntary certification program.

In addition to underwriting this Stakeholders' Forum, the Sloan Foundation is funding other groups to expand stakeholder engagement and to develop recommendations and other meaningful activities related to the new voluntary certification program. Both the Sloan Foundation and InterCEP are interested in additional cooperative efforts. Each may be contacted individually by interested parties.

This briefing has been developed by InterCEP and information and perspectives presented herein are those of InterCEP and are not reflective of any other organization or effort.

Executive Summary

Legislation was signed into law on August 3, 2007 that requires the U.S. Department of Homeland Security (DHS) to provide for the development of a private sector led voluntary certification program for private sector preparedness. This program is to be developed in consultation with key stakeholders reflecting existing best practices and standards.

This document provides a briefing on key aspects of the current status of this program for participants in the upcoming stakeholders' forum hosted by the Alfred P. Sloan Foundation. Information included in this briefing has been drawn from general background research as well as from a series of web-based stakeholder forums facilitated during September and October by InterCEP.

Our research suggests that this voluntary certification program represents a significant opportunity to link preparedness activities by business with potential future bottom-line market based incentives. At the same time, many concerns and obstacles remain to be addressed in order for the program to move forward. In InterCEP's ongoing research efforts, it welcomes all additional relevant information from stakeholders including comments from readers of this document.

Key Considerations Going Forward: Potential Questions to the Stakeholder Forum:

Much good work has been accomplished by a variety of organizations in the arena of private sector preparedness and the Center has sought to reflect on these insights in identifying the following key considerations going forward. It is our hope that they will assist in promoting discussion at the upcoming Stakeholders Forum.

Four basic themes are reflected in the following considerations, they are:

1. **Assure that the program is private sector led and addresses private sector needs** through ongoing engagement of key stakeholders.

2. **Build on the existing** including existing standards, proven accreditation/certification processes and established industry practices – key building blocks exist.
3. **Allow for flexibility** potentially utilizing a high level umbrella or framework standard which can be used independently or to relate multiple more focused standards and practices which business may already be using. The high level framework standard can be selected from the existing preparedness standards.
4. **Enable potential market-based incentives** through involvement of their stakeholders and concerns.

The following are some key considerations in this regard which could be considered by the Stakeholder Forum.

- How can early and continuing stakeholder involvement be maintained to assure that the program is private sector led?
- Can we build on existing voluntary accreditation and certification processes? Are there lessons to be learned from historical experience with existing voluntary certification programs in quality and environmental management?
- How can existing efforts of key vertical industries, such as the financial services sector, be acknowledged and incorporated into the voluntary certification program?
- Should a “maturity model” approach be considered?
- How can special considerations be made for small businesses that wish to pursue voluntary certification? Should the involvement of industry associations and large-to-small business mentoring be considered?
- How should the voluntary certification credit / integrate other business reporting requirements when valuable?
- Should the program support self-assessment by businesses as well as external second and third party assessments?
- Should the corporate governance & corporate social responsibility (CSR) areas be evaluated for past lessons learned and possible synergies with the voluntary certification program?
- In designating one or more preparedness standards for use in the program, should a constellation of standards or framework approach should be evaluated? Should an umbrella standard be considered in this regard (from among existing standards) to assure core consistency among various standards?
- Should potential “incentives stakeholders” be welcomed into the process from the beginning to assure that the voluntary certification program has value to them in potentially acknowledging business preparedness efforts?

- As rating agencies widen their review of enterprise risk management in their analysis of businesses, should the rating agency perspective be invited into the development and ongoing operation of the certification program? Could this potentially facilitate greater recognition of effective corporate preparedness?
- Supply chain management is a growing concern among corporations. Could the voluntary certification program offer value in assessing supplier resilience? Should the supply chain management perspective should be included in the development and ongoing operations of the certification program?
- Should insurance company and related input be incorporated into the voluntary certification program to support increased recognition of business preparedness in the future?
- Should representatives from the corporate counsel and wider legal community be incorporated in the development and implementation process of the program? Could this support a potential role of the certification program in minimizing legal liability for the impacts of emergencies?

Greater detail on these points is provided below in Section 6, page 21.

Section 1: The Legislation: New U.S. Law Creates a Voluntary Certification Program for Corporate Preparedness

1.0 The Law

The law is titled “Implementing Recommendations of the 9/11 Commission Act of 2007” and is also referred to as H.R. 1 and Public Law 110-53. Title IX of the Act addresses private sector preparedness and the certification program. Full text of the law is available at:

<http://www.govtrack.us/congress/billtext.xpd?bill=h110-1&show-changes=0>

1.1 Key Points of New Program and Legislation:

- **The goal of the program is to provide a method to independently certify the emergency preparedness of private sector organizations including their disaster/emergency management and business continuity programs.** The program focuses on certifying the preparedness of businesses and other private sector entities and does not involve any individual professional certification. The focus is on all-hazards preparedness and does not focus on terrorism.
- **The program will be voluntary.** Businesses will decide whether or not they wish to obtain certification of their organizations’ preparedness, likely based on what benefits they see in such certification. There is no legal requirement to participate.
- **Key stakeholders are invited to participate in the development of the program.** Consultation with a variety of organizations and various sectors is required by the legislation. Program development will likely include involvement by a diversity of private sector advisory groups and others.
- **The program will be administered outside of government by third party organizations with experience / expertise in managing and implementing voluntary accreditation and certification programs.** The federal government will not run the accreditation / certification program. Furthermore, the significant history and approaches of past voluntary accreditation and certification efforts can be built upon through involvement of experienced organizations.
- **One or more preparedness standards can be designated. NFPA 1600 referenced as example.** The law calls for the adoption of “one or more appropriate voluntary preparedness standards.” It further states that “The term ‘voluntary preparedness standards’ means a common set of criteria for preparedness, disaster management, emergency management, and business continuity programs, such as the American National Standards Institute’s National Fire Protection Association Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600).”
- **Existing industry efforts, certifications and reporting in this area will not be duplicated or displaced but rather recognized and integrated:** The legislation requires that the program consider the unique nature of various sectors within the private sector, including current preparedness certifications and reporting as well as existing initiatives by other federal agencies. The legislation specifically calls for existing certification and related efforts be acknowledged and

given credit in the process to avoid duplication. It further calls for any designated standards to be tailored to address the unique nature of various sectors within the private sector.

- **Special consideration will be made for small businesses.** The program is to establish separate classifications and methods of certification for small business concerns as appropriate.
- **Proprietary and confidential information is to be protected:** The certification process is to protect information that is proprietary and confidential to the business. In addition, DHS may make public the listing of certified private sectors entities, only with the business' consent.
- **The federal government has four basic tasks in establishing the program:**
 1. **DHS will designate one or more organizations to act as the accrediting body to develop and oversee the certification process, and to accredit qualified third parties to carry out the certification program:** In consultation with key stakeholders, DHS is to designate one or more third party non-governmental organizations based on experience and expertise in accreditation and certification processes. This decision is independent of the actual standards to be utilized in assessing preparedness and likely will focus more on capacity to manage and support the accreditation process
 2. **DHS will separately designate one or more standards for assessing private sector preparedness:** In consultation with key stakeholders, DHS will also separately designate one or more voluntary preparedness standards that each third-party certification body will use to assess preparedness. The standards may be sector specific and must include separate considerations for small businesses.
 3. **DHS will provide information and promote the business case for voluntary compliance with preparedness standards.** Businesses must be aware of the program and see value in it to participate in the program. DHS will provide information to the private sector regarding voluntary preparedness standards and the business justification for preparedness. The Department will promote to the private sector the adoption of voluntary preparedness standards.
 4. **DHS will monitor the effectiveness program on an ongoing basis.** DHS will annually review the accreditation and certification program to ensure its effectiveness, including the operations and management of any the accreditation and certification bodies, and the standards designated, and must make improvements and adjustments to the program as necessary and appropriate.

Section 2: Voluntary Accreditation & Certification Programs: Background Information and Historical Cases

2.1 Background Information

There exists ample historical precedent for voluntary accreditation and certification activities, some of which dates back to efforts after World War II to reduce trade barriers and facilitate international trade based on agreed international standards. The early efforts of such standardization focused on product and mechanical specifications, and branched out to include management systems, processes and personnel in the 1990's.

These standardization efforts were then, and are now, overseen by the Geneva-based Organization for Standardization (ISO), a voluntary worldwide organization consisting of membership of recognized national standard institutes of each country. (The name "ISO" is not an acronym, but comes from the Greek word "isos" meaning equal; its applicability to standards is that if two different products or processes meet the same standard, they therefore should be equal to each other, irrespective of their individual characteristics.)

The sole recognized standards body for the United States is the American National Standards Institute (ANSI), which differs from other national standards bodies in that it is a private not-for-profit organization, not a branch of a public governmental structure as is the case in other countries.

Accreditation and certification evolved from the early standardization efforts where a mechanism was needed to ensure that, where claims were made that a product or process met a specific standard, such claims were in fact credible. Generically, this mechanism operates as follows, and as outlined in Figure 1 below.

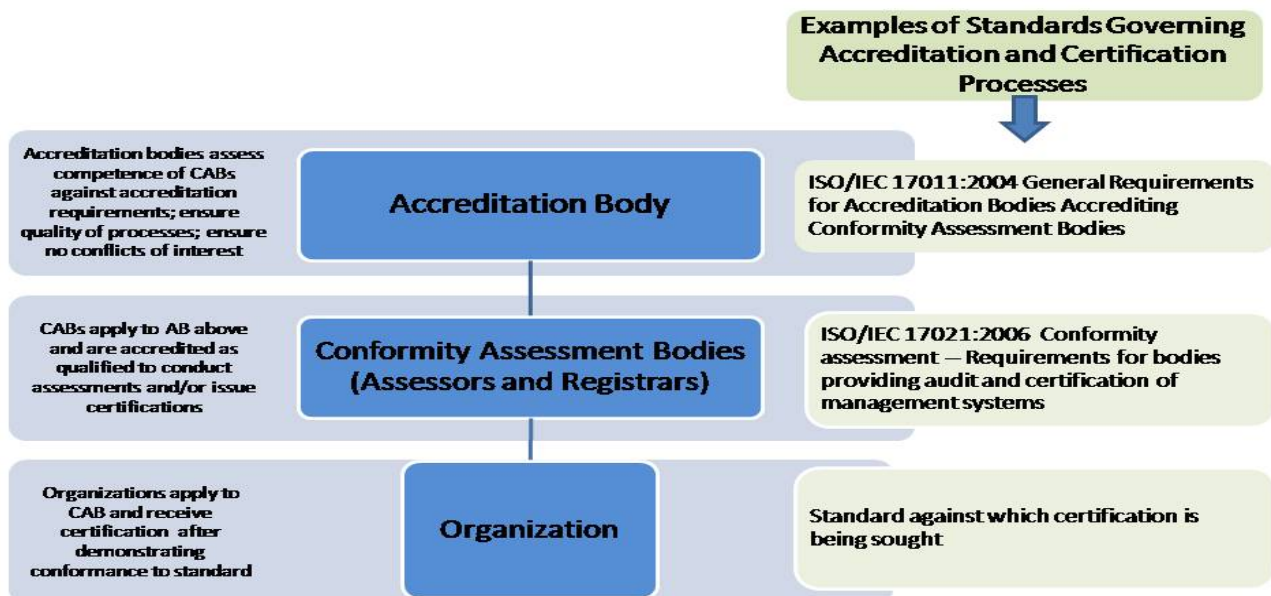


Figure 1: Overview of Accreditation and Certification Processes

When a claim is made by a company or organization that their particular product or process meets a standard, that product or process may be certified so that such claim is viewed as credible by those in the marketplace. The company making such claim will seek the services of a third party entity called a certification body (in ISO terminology, this body is also known as a conformity assessment body (CAB); the terms will be used interchangeably here) to independently and authoritatively “certify” that the product or process does in fact meet the standard. The certification, or “stamp of approval”, process involves a systematic evaluation and assessment process, following a pre-defined assessment plan, directed at verifying an organization’s status or a product’s conformance with respect to explicit criteria or standards. If, after the evaluation has been conducted, it is the judgment of the conformity assessment body that the organization or product meets or conforms to the standard, that certification body may issue a certificate to (or “certify”) the organization or their product, etc.

In turn, in order for such third party certification to be viewed as credible, the conformity assessment body must be qualified to make such a judgment or certification. This is the role of the accreditation body, an authoritative entity which both establishes and identifies the accreditation (or qualification) criteria for the conformity assessment bodies, but also acts an umbrella organization overseeing the certification processes. In general, the accreditation body assesses the competence of and “accredits” a certification body as competent to carry out a specific task (e.g., to issue certifications for a particular standard(s)). Once accredited (and therefore qualified), the certification bodies are deemed as capable to proficiently assess the conformity of services, suppliers, management systems or products to certain standards or specifications. By accrediting certification bodies, the accreditation body plays an overall quality assurance role on a national level, ensuring that the organizations are competent in their respective areas, that pre-designated processes and procedures are followed, and that the conformity assessment bodies are free from conflicts of interest.

Along each step of the accreditation and certification process, there are ISO standards, country-specific accreditation criteria and professional codes of conduct which guide those processes. A few of the governing ISO standards are provided in Figure 1 above as an example. The accreditation body and conformity assessment bodies are guided by those standards to ensure consistency of approach, competence, quality, and internal controls of their respective operations.

In the United States, ANSI serves as both our national standards body representing us in ISO, but also as an accreditation body for products and personnel. A second accreditation body in the form of a joint venture, ANSI-ASQ National Accreditation Board (ANAB), is the U.S. accreditation body for management systems, and accredits certification bodies in the areas of quality management systems (ISO 9001) and environmental management systems (ISO 14001). The processes and structures developed under those accreditation and certification programs can be generally summarized as

- well established,
- accepted in the marketplace, and
- meeting applicable international standards for accreditation and certification.

2.2 Historical Context: Benefits and Challenges of Voluntary Certification

In the area of voluntary corporate certification, there also exists significant historical precedent on the value received from such certification, as well as the challenges faced in achieving such certification. Corporations who embraced voluntary certification to a standard, such as ISO 9001 for quality management systems (QMS) and ISO 14001 for environmental management systems (EMS), found that what typically started as a business unit-level initiative had wide spread implications throughout the corporation and, in the end, acted as a catalyst improving overall business performance. The types of

unexpected benefits were widespread and resulted in establishing environmental and quality management as board-level priority, often with the establishment of executive level committees or direct line organizational reporting. As the emphasis on corporate governance became felt throughout many publicly traded corporations and the importance of “material” issues to a corporation of more significance, this trend intensified. The benefits realized by the companies who undertook certification to the voluntary standards included the following:

- Improvement in operations with increased efficiencies, reduction of errors and noncompliance incidents, and associated cost savings of those efficiencies and fewer noncompliance items;
- Organizational corporate culture changes which fostered accountability and responsibility throughout the organization that, in the case of ISO 14001 for example, environmental management was everyone’s responsibility;
- Improvement in community relations, including shareholder relations, as the companies needed to examine their influence of their activities on their key stakeholder communities;
- Competitive advantage where contracts with key clients called out the requirement for ISO 9001 and/or ISO 14001 certification as a pre-bid qualification; and
- Certified companies encouraged and mentored their own key suppliers to achieve certification, spreading those benefits throughout their supply chain.

Notwithstanding the general benefits and opportunities experienced by those organizations seeking voluntary certification to ISO 9001 and ISO 14001, there were also numerous challenges and obstacles which arose. Initial challenges were faced internally within organizations as they implemented the voluntary standards, and then later as those organizations sought certification from external conformity assessment bodies.

Internally, challenges and obstacles realized by the companies who undertook certification to the voluntary standards included the following:

- Where it existed, a lack of senior management support and endorsement hindered the authority, legitimacy and effectiveness of the lead internal organization responsible for development, implementation and ultimate oversight of the QMS or EMS. An initial, early generation management focus solely on the return on investment as justification hindered senior management in evaluating the other benefits not readily or easily quantified.
- The effort was seen as another “program of the day”, to which some employees ignored requests for participation or input to the process, and whose responses included apathy, avoidance, and/or refusal to participate. In some cases, the effort was seen by unionized employees to add more responsibilities to their job descriptions without requisite compensation.
- Organizational structure and internal systems which operated independently as “silos” hindered effective integration of policies, procedures and work instructions. The QMS or EMS was seen as the purview of only the quality control department or the environmental engineering department, which was contrary to the generally accepted design of QMS or EMS programs where all

individuals within the organization had some responsibility for quality or environment, irrespective of their specific job.

Externally, when the organizations sought certification of their management systems, they faced some of the following challenges:

- Conformity assessment bodies often differed, early on, in their understanding, interpretations and judgments related to the standards, what constituted a minor or major nonconformity, and what audit evidence was required.
- Until specific auditor certification programs were eventually developed for the auditors and assessors, many individuals were not knowledgeable or resourceful enough to transition from one specialty of auditing/assessment to a new area. The marketplace therefore initially was ripe for unqualified conformity assessment bodies offering their services to uninformed organizations at premium pricing. These types of situations were soon rectified as professional associations and trade associations who became involved in providing relevant information, and ultimately balanced market forces prevailed.

In conclusion, many of the above benefits and challenges surrounding voluntary certification have been the subject of extensive studies, benchmarking, and metrics development. It is the intention here to summarize the general findings surfacing from nearly two decades of experience in the QMS and EMS certification arena, which may be applicable to voluntary preparedness certification with similar opportunities for overall business performance improvements, and challenges related to implementation.

Section 3: Standards: Relevant Background Information

3.1 Characteristics of Standards

Standards provide a method by which uniformity and consistency may be judged: if two different products, processes, systems or personnel capabilities meet the same standard, they therefore should be equal to each other, irrespective of their individual characteristics. In the marketplace, standards ensure that the products, services or processes are suited for their intended purposes.

Most universally accepted standards have the following characteristics:

- Are developed by consensus agreement among subject matter experts;
- Have a transparent process governing the standards development process, with input from all stakeholders materially affected;
- Consist of documented elements, guidelines, rules or conventions;
- Are initially approved by a recognized body, and maintained by a designated technical committee;
- Evolve and are updated over time to reflect changing interpretations, applications, market conditions, technology and/or practices, etc.

On an international basis, standardization efforts are overseen by the Geneva-based Organization for Standardization (ISO), a voluntary worldwide network and non-governmental organization consisting of membership of recognized national standard institutes of each country. ISO acts as a bridge between private and public sectors, meeting the needs of both private industry as well as the overall public good. Standards are developed using ISO guidelines by designated technical committees consisting of national delegations of technical experts and following the principles of a consensus based approach, global application, and voluntary involvement.

For domestic standardization, the standards body for the United States is the American National Standards Institute (ANSI), which is also an accreditation body and our national standards institute representative to ISO. Due to the marketplace driven aspect and ANSI's private non-governmental origins, ANSI does not develop standards itself, but provides a neutral platform for interested stakeholders to come to agreement on and develop standards. Standards development centers on ANSI's core principles of consensus, due process and transparency and follows a well defined process.

3.2 Use of Standards

When voluntary standards are endorsed by an organization, "implementation" is the process by which that organization adopts, adjusts, creates and/or restructures its own activities, products and services to meet that standard.

As outlined in the following, key aspects of implementing a new standard on an organizational level include:

- Securing top management support and dedicated resources;

- Determining the “scope” of implementation: which activities, products, services, business units, product lines, etc. will implementation of the new standard focus on;
- Determining whether external certification of conformance to the standard is an objective;
- Conducting an early assessment of where the organization’s chosen scope stands relative to the new standard being embraced. This gap analysis and itemization of missing or incomplete elements not conforming to the standard provides the basis for the implementation work plan;
- Progressing through necessary implementation steps outlined in the work plan;
- After certification (if applicable), shifting into a “maintenance” mode, following procedures for such established during implementation which include periodic review and assessment, and preventive and corrective actions.

Section 4: Considerations and Strategies Relevant to the Overall Certification Program: Reporting on InterCEP Web Forum Series

During September and October 2007, InterCEP has held a series of forums (integrating conference calls and online presentation and discussions) focused on key issues involved in assuring that the new certification program delivers real value to business, with a particular focus on achieving bottom-line incentives and advancing resiliency.

Each session included an introductory overview on the new law and prospective elements of the voluntary certification program, followed by discussion by key stakeholders and Q&A on the chosen topic.

While invitations to participate went out to an email database of over 7,000 contacts, no effort was made to constitute a representative body. Nonetheless, over 200 different individuals participated in the web forums, many of them attending more than one event. There was a cross-section of stakeholders, including representatives of major multinationals as well as small and medium sized enterprises (SME's) in the private sector, government agency officials at federal state and local level; and key leaders from major nonprofit organizations and trade associations.

Web forum session topics and participant comments included the following:

- **Learning from Existing Voluntary Certification Programs in Quality and Environmental Management:** Some businesses have current management systems programs in quality management and/or environmental management. This session focused on what can be learned from these experiences in voluntary certification. It additionally addressed opportunities and efficiencies that might be achieved by business with existing quality and environmental programs through integration with the new preparedness certification. Specific key points included:
 - Historical experience with current voluntary certification programs for quality and environmental management systems demonstrate that voluntary certification programs can be accommodated by some corporations and used to their benefit.
 - There are elements of existing management systems structures that would facilitate conformance with a preparedness certification program. These would include common elements under the Plan-Do-Check-Act (PDCA) approach of management systems.
 - Organizations could consider the use of an integrated management systems approach such as British Standard PAS 99 where six common requirements are used as a framework for an integrated management system.
 - It may be difficult for private sector firms to add yet another new program. So firms should look to existing process for common elements. Firms should also strive to show that this is not just a certification but a process.

- **The Rating Agency Perspective on Assessing Business Preparedness:** Rating agencies are primarily focused on factors which contribute to credit defaults or business failures. This session focused on whether there are rating agency considerations worthwhile incorporating into this new certification program which are of either immediate or long-term value. Specific key points included:
 - Historically, rating agency focus with respect to risk management has been concentrated in the financial services and utility sectors.

- However, rating agencies maybe widening their emphasis on risk management to include an analysis of enterprise risk management (ERM) for all corporations. The potential expansion of rating agency focus to include greater emphasis on enterprise risk management (which encompasses emergency preparedness and continuity) will be the subject of a paper (request for comment on incorporating ERM into non-financial ratings) to be released in late 2007 by a major rating agency. Historically ERM has not formally been included in ratings analysis.

- **Supply Chain Management and Assessing Supplier Resilience:** There is an increasing focus on supply chain resiliency and the preparedness of critical suppliers. Some firms are noting significant time spent on interfacing with multiple customers assuring each of the business' preparedness status. This session focused on whether this voluntary certification program could provide a commonly accepted verification of preparedness and thereby avoid multiple customer queries. It additionally addressed key considerations that the supply chain management community would optimally see incorporated into this program. Specific key points included:
 - Third party certification may be very valuable in securing a supply chain.
 - Certification is valuable both downstream in assessing suppliers and also upstream in being able to show a single certification to customers that validates preparedness as opposed to having to provide detailed documentation and interface with multiple customers.
 - There are potential difficulties involved with “enforcing” a voluntary preparedness program through supply chain.
 - Concerns about third party certification program include confidentiality of information; who controls the accreditation & certification process; and the need for sector-specific approaches.

- **Can Corporate Governance & Social Responsibility Initiatives be Advanced through a Voluntary Certification Program?:** In an increasingly risky business environment, risk management is a growing concern among boards of directors and executive management. This session focused on how this voluntary certification program might be structured to address these concerns. Specific key points included:
 - Participants generally accepted that preparedness is congruent with good corporate governance and CSR.
 - Participants expressed concern about lack of knowledge of the certification program and also who would champion it in the firm.
 - The CSR and corporate governance personnel are typically in different silos than the corporate security and continuity personnel.
 - There are good lessons learned from the CSR world, where they have already learned the in's and out's of making the business case for a voluntary program like CSR which could be directly applicable to making the business case for voluntary preparedness certification.
 - There is an ISO Standard currently in process on social responsibility. It is due to be published in 2009 as ISO 26000. It will be voluntary, without auditable requirements, therefore not certifiable. (Note: There is an existing standard for social accountability which is auditable called SA8000.)

- Participants expressed concern that developing countries/regions may use/require a social responsibility requirement as a proxy for preparedness/continuity/security for multinationals operating in their country.
- **Incorporating Insurance Company Input into the New Certification Program:** The insurance industry on the whole understands the value of business preparedness and in minimizing losses to both the individual business and the insurance company. Risk evaluation and underwriting processes vary across types insurance (property and casualty, business interruption, directors and officers, etc.) as well as among different insurance. This can lead to confusion among businesses as to what is valued by insurance companies in terms of preparedness or a sense that preparedness efforts are not considered at all by insurance companies. A voluntary certification program that is both representative of best preparedness practices and incorporates the perspective and needs of insurance companies could facilitate a clearer acknowledgement of business preparedness by insurance companies. It could also begin to build a historical record that over time could inform a closer understanding of what preparedness measures best minimize future insurance claims. This session sought to identify these and other issues and insights related to insurance and certification from both the perspective of the insurance company and the businesses that it insures. Specific key points included:
 - Insurers are highly motivated today to take whatever information is available (including standards certifications as well as other data) that is indicative of risk and to translate that into their risk evaluation and potentially policy underwriting.
 - The notion of preparedness standards and how they fit into underwriting guidelines needs to be further explored.
 - There may not be any need to create insurance underwriting guidelines, but rather to provide general guidance in terms of what are the relative values of activities such as this.
 - It appears crucial from an insurance perspective that there be a uniform standard to overlay the certification process.
 - Concern arose regarding role of state regulators in depressing insurance pricing. Some felt that before acknowledgement could be given in insurance for preparedness certification, there was a need to price policies correctly to correlate to risk. Terrorism related insurance sold in conjunction with entire policy as an add-on, and priced on geography (“where are you”, i.e., location of business) and proximity to other risk sources (“who are you next to”, i.e., adjacent companies or activities) was given as an example.
 - One participant suggested that both for the efficacy of their own operations, but also in order to lead by example to the insurance community, insurance carriers should be going through the voluntary certification program, and be able to certify that they are prepared. Carriers, it was argued need to be prepared since their dollars will be essentially the first elements of economic restabilization of communities and economies post-event.
 - There is concern about the lack of definition and the difficulty of quantifying insurance credits for certification. Carriers still need data in terms of best practices and things that work.
- **Minimizing Legal Liability Through a Preparedness Certification Program:** Negligence tort and other legal liability can be a major exposure for companies of all sizes in the aftermath of an emergency. When another party is impacted by the event, it is often argued that the company did

not do enough to prepare for emergencies. Yet, it can be difficult to ascertain how much preparedness is enough given the diversity of risks that face a company. Advance and documented compliance with an established industry standard for preparedness can serve as an affirmative defense to liability claims after an emergency. The new preparedness certification program will be centered on voluntary compliance with one or more industry standards. This session discussed how the certification program can best be structured to minimize legal liability of the company. Specific key points included:

- The value of a preparedness certification in a tort case is that it helps define “safe harbor.”
- Participants cited a need to reach a threshold of benefits to corporation in order for them to adopt certification program, and the reduction of liability may help reach that threshold.

- **Incorporating the Perspective of Key Vertical Industries into the New Preparedness Certification Program: The Financial Services Sector as a Case in Point:** Some business sectors have a long history in preparedness activities and robust programs in place. The financial services sector is one. The new law specifically calls for existing industry efforts, standards, practices and reporting in the area of preparedness not be duplicated or displaced but rather recognized and integrated. The legislation requires that the new voluntary certification program consider the unique nature of various sectors within the private sector, including current preparedness standards, business continuity standards and best practices as well as existing initiatives by other federal agencies. This session discussed issues and inputs of the financial services sector, including how the new program may of value in addressing critical supplier dependencies of financial services firms outside of the financial services sector. Specific key points included:

- There is a need to separate the list of “requirements” from the certification process.
- Certification program leaders should look at a “maturity model” approach that would encourage businesses to engage in a process of continual improvement.

- **Special Considerations for Small & Medium Sized Business in the New Preparedness Certification Program:** Small businesses make up the vast majority of the U.S. economy. Even though voluntary, the new certification program must be economically and operationally achievable for small business for it to be of any true value to them. The establishing legislation acknowledges small business concerns and calls for the new program to establish separate classifications and methods of certification for small business concerns as appropriate. This session focused on these and other issues and input from the small business community. Specific key points included:

- It will be important that separate certification processes will be established for small and medium sized enterprises (SMEs).
- Trade associations may be able to play a role in assisting SME’s in developing a preparedness program and obtaining certification through preparation of a generic preparedness template, training, sharing of audit costs, etc. This approach was used in ISO 14001 and was very successful.
- Large organizations may play a role for SMEs as a mentor to assist them through the process. Again this was done in ISO 14001 where a SME was a critical/Tier 1 supplier for the larger multinational.

- **Potential TRIA Considerations and the New Voluntary Preparedness Certification Program:** This session addressed potential considerations related to the Terrorism Risk Insurance Act (TRIA) from both the perspective of business risk managers and the insurance industry. Specific key points included:
 - Because of TRIA, commercial property and casualty insurance policies are currently priced artificially low
 - Whatever may become of TRIA and other government backstop programs, terrorist-related insurance policies need to be accurately priced to reflect risk in order for market-based incentives to evolve
 - Only once the market has adjusted to accurate levels of risk could underwriters begin to evaluate specific credits based on certified conformance to a standard.
 - There is an outstanding need to consider status of Terrorism Risk Insurance Act (TRIA) reauthorization and its impact on pricing and availability of insurance industry offerings.

- **Integrating Voluntary Preparedness Certification with other Business Reporting Requirements: Issues and Opportunities:** Based on the functions of a business, its vertical industry and public or private ownership, there are a variety of reporting requirements that businesses have to shareholders, customers, partners, the government and others. This session focused on how the new voluntary certification program might fit into existing reporting activity so as to avoid duplication and excess effort. It additionally sought to identify opportunities to use the new program to consolidate distinct and perhaps divergent reporting requirements into a single more unified effort. Specific key points included:
 - Many firms have extensive experience with standards related to OSHA, workplace violence, sustainability, fair trade, etc. Based on existing auditing activity and experience, some firm may find it to be fairly easy to develop similar auditing processes to support a preparedness standard.
 - Commonly when firms begin to develop and implement a standardization program, they see it only as a checklist. But the real residual benefits of standards compliance emerge only once safety or quality or whatever becomes a part of the organizational culture.
 - Potential benefits of compliance with other standards include increased employee satisfaction and retention, increased productivity, brand differentiation, etc.
 - For effective integration with existing systems, periodic audits may be used, including program feedback, quarterly meetings, table tops, resource alignments, etc.

- **General Issues:** In addition to the topically-oriented comments presented above, participants in the InterCEP web forum series identified a number of general issues, considerations and concerns about the voluntary certification program.
 - Businesses have concerns regarding the confidentiality of information included in the certification program.
 - There are also concerns about the third party who controls the accreditation & certification process.
 - The certification process and validation of certification must be timely, but not overly time-consuming.

- Within the business community, there is a general lack of awareness about what activities should be reviewed for compliance and who would assess compliance.
- Because the drive for such certifications usually comes from customers. If key large companies lead the way, the rest of the marketplace will follow.
- The certification process will need to be accepted by industry practitioners.
- Some people are concerned about how all firms in the private sector could possibly conform to a single standard definition; preparedness is defined in different ways for different companies.
- Business leaders will need to assign responsibilities within the organization for the preparedness certification.
- Some businesses may struggle to understand the standards and the certification requirements, as well as the role of the respective certification and accreditation bodies.

Section 5: The Business Case for Preparedness

5.1 General InterCEP Research Findings: A Case of Risk & Reward

The Risks of Corporate Crisis: Businesses operate in a significantly uncertain world today. Corporations are increasingly being held accountable for how they address risks and their ultimate impacts on the firm.

- **High Probability:** There is a high probability that any one of a number of crises will impact a corporation at any time. A diversity of factors contribute to increased risk including globalization's off-shoring / outsourcing strategies and extended supply chains, ever-growing reliance on technology and resultant interdependencies, just-in-time inventory regimes, increasingly impactful natural catastrophes, heightened international political tensions, cyber threats and other IT vulnerabilities, communications and power supply interruptions and the voracious appetite of 24/7 media. Recent research of a broad range of Global 1000 firms indicates that, over any five year period, there is an 80% likelihood of a major crisis occurring that will significantly impact any publicly traded business.ⁱ
- **High Impact:** The impact of crisis on the corporation can be substantial. Lost sales, lost customers, reputational impact, increased expenses, decreased production capacity and declines in employee morale are common. The public markets tend to assess the impact of crisis and adjust stock prices accordingly. This same research revealed a minimum 20% to 30% decline in corporate stock price in the 30 days following the recurring five-year crisis identified among Global 1000 business. Further it concluded that whether a corporation subsequently rebounds from crisis or continues in decline is based on how its executives manage the crisis.
- **Clear Opportunity to Prepare:** The strategies and tools to establish corporate resiliency to crisis are generally available. They can be used to cost effectively prepare for most crises both large and small with a single "all-hazards" planning approach.
- **Strong Accountability of the Corporation & its Management:** With a high probability and high impact of crisis as well as a clear opportunity to address the risks in advance, both corporations and their management teams are increasingly being held accountable to their shareholders, employees, regulators and the general public for their management of risk and crisis. The research indicates that senior management jobs are directly linked to successful management of risk and crisis.ⁱⁱ

The Rewards of Corporate Resiliency: There are clear financial and strategic rewards for enterprises that develop resiliency programs to bounce back from adversity and to adapt to and prosper in a quickly changing marketplace. Preparedness and agility are the essence of robust corporate resiliency. Bottom-line impacts of corporate resilience include:

- **Assuring corporate survival** in planning to sustain core operations & their revenue streams through crisis.
- **Expanding the customer base and increasing customer retention** including participation in selective customer supply chains with security and preparedness requirements
- **Decreasing operational expenses** through potentially reduced legal litigation costs, decreased theft, reduced employee turnover, potential acknowledgement in insurance underwriting and increased competition among suppliers

- **Lowering cost of capital** as both equity and debt markets (including key rating agencies) move toward more widely evaluating enterprise risk management (which encompasses corporate preparedness and resiliency)
- **Protecting key assets** including inventories, property, plant, equipment and intellectual property
- **Strengthening reputation and brand** through both the application and communication of resilience
- **Reducing liabilities** including decreased provisions for litigation, damaged inventory, asset impairment, environmental claims, dismantling provisions, and employee benefits
- **Facilitating regulatory and governance compliance** both internally and in terms of external review
- **Increasing productivity and innovation** often supported by more effective internal communications, streamlined processes, more adaptive workplaces, better workflows and increased employee morale
- **Increasing agility in identifying changes in the business environment and pursuing new opportunities** in a rapidly changing marketplace

The Center has compiled a diversity of existing literature and resource on the Business Case for enterprise resilience including an annotated bibliography. These are available at:
<http://www.nyu.edu/intercep/businesscase/index.html>

5.2 InterCEP Web Forum Participant Comments

Section 4 above presented topically-oriented comments made by participants in the series of web forums held by InterCEP during September and October 2007. Web forum participants additionally made comments pertaining to the business case specifically for participation in the voluntary certification program.

- Companies could use preparedness certification to differentiate themselves from competitors.
- At the Council on Competitiveness, resilience is increasingly being considered a competitive advantage for US businesses.
- There is still a need to show business case to some. Many firms have developed preparedness programs because they saw the business case. For others, they need to see what the benefits are to pursue. For those that have developed a program, that community is unsure whether they are getting credit for those programs. There are unanswered questions about whether this certification program would constitute that recognition.
- Organizations should look to use frameworks and experience provided from other voluntary certification programs (quality and environmental management systems) to demonstrate the value and to quantify to management the ROI of such voluntary certification programs.
- The business benefits of participating in the certification program may need to be quantified.
- The certification program may help to establish a sense of competitiveness among companies to “get on board” when it comes to preparedness.
- Preparedness certification may potentially help companies to acquire new business as a preferred vendor.
- The certification program will help promote awareness of the value that business continuity and risk management processes can bring to the organization
- The certification program may additionally help to establish a common approach to managing risk.
- Companies could use preparedness certification to solidify various aspects of existing systems.
- By establishing a transparent process for assessing corporate preparedness, the program should enable increased sharing of best practices between various organizations.
- The certification program could elevate the status of corporate preparedness programs to the board of director level.

Section 6: InterCEP's Assessment and Key Considerations Going Forward

The International Center for Enterprise Preparedness (InterCEP) of New York University as an academic center focuses on the private sector preparedness and resilience. Its activities are funded by a diversity of government, corporate and foundation sources including the Alfred P. Sloan Foundation whose funding has been in support of the development of incentives for business preparedness.

The following assessment reflects the perspective of the InterCEP as to key considerations going forward and is not representative of any consensus-based body.

Relevant relationships and historical involvement of InterCEP staff in this area include the activities of William Raisch, the Center's Director. Mr. Raisch was private sector preparedness advisor to the Federal 9/11 Commission; he serves as a principal member the NFPA 1600 Technical Committee on the Standard for Disaster/Emergency Management & Business Continuity, the committee is also the designated U.S. representative to the ISO Technical Committee on Societal Security (TC 223); Mr. Raisch is also director-elect of the American National Standards Institute (ANSI).

6.1 The Opportunity

InterCEP's research to date has included interface with a diversity of private sector and government organizations in a variety of roundtables, web forums, focused discussion and literature research. The Center's discussions and research have suggested that in order to most effectively acknowledge preparedness (both internally in the business and also through market-based incentives), there should be an effective way to measure it. This is especially the case in terms of potential market-based incentives since some of the external entities that might otherwise acknowledge preparedness do not want to themselves be responsible for measuring it on the individual business level.

Thus, a voluntary private sector preparedness certification program, administered outside of government, could potentially provide an opportunity to develop an effective and efficient methodology to both

- **Confirm business preparedness on an operational basis, and**
- **Facilitate bottom-line benefits and incentives to the business community.**

Such benefits could potentially include greater recognition in the future of business preparedness by the legal liability community, rating agencies, insurance industry, corporate governance community, and in supply chain management. Such benefits, if they are to develop, would likely be evolutionary and not immediate.

6.2 Key Considerations Going Forward: Potential Questions to the Stakeholder Forum

Much good work has been accomplished by a variety of organizations in the arena of private sector preparedness and the Center has sought to reflect on these insights in identifying the following key considerations going forward. It is our hope that they will assist in promoting ongoing discussion on this important issue.

Four basic themes are reflected in the following considerations, they are:

- 1. Assure that the program is private sector led and addresses private sector needs** through ongoing engagement of key stakeholders.
- 2. Build on the existing** including existing standards, proven accreditation/certification processes and established industry practices – key building blocks exist.
- 3. Allow for flexibility** potentially utilizing a high level umbrella or framework standard which can be used independently or to relate multiple more focused standards and practices which business may already be using.
- 4. Enable potential market-based incentives** through involvement of their stakeholders and concerns.

Specific considerations follow:

- **How can early and continuing stakeholder involvement be maintained to assure that the program is private sector led?** While government can play a catalytic role in the early development of the program, ultimately the program should be market driven as has been the case with the continuing voluntary certification programs in quality and environmental management. Key to assuring that the voluntary certification program has real operational value to business is to involve the full-spectrum of the business sector in the development and ongoing implementation of the voluntary certification program.
- **Can this program build on existing voluntary accreditation and certification processes? Are there lessons to be learned from historical experience with existing voluntary certification programs in quality and environmental management?** Current voluntary certification programs in quality management and/or environmental management utilize established processes for accreditation and certification. These could potentially be utilized in the development of the preparedness certification program thereby avoiding significant time and effort as well as benefiting from substantial historical application.. Furthermore, opportunities and efficiencies might potentially be achieved by businesses that currently have existing quality and environmental programs through integration with the new preparedness certification program.
- **How can existing efforts of key vertical industries, such as the financial services sector, be acknowledged and incorporated into the voluntary certification program?** Some business sectors have a long history in preparedness activities and robust programs in place. The financial services sector is one. The new law specifically calls for existing industry efforts, standards, practices and reporting in the area of preparedness not be duplicated or displaced but rather recognized and integrated. Opportunities should be evaluated with each sector to see not only how their existing efforts can be credited in the process but also how the new certification program can address unique issues important to their sector. Sector coordinating councils and key industry associations should be involved.
- **Should a “maturity model” approach should be considered.** Such an approach could potentially support a step-by-step process of progressive improvement. Such an approach could also address the diverse levels of current practice in this area across sectors and firm size.

- **How can special considerations be made for small businesses that wish to pursue voluntary certification? Should the involvement of industry associations and large-to-small business mentoring be considered?** Clearly not all small businesses will see value in pursuing the voluntary certification. This is to be expected. For those that do, the new certification program must be economically and operationally achievable. Separate classifications and methods of certification for small businesses could be established as appropriate and in consultation with small business representatives and organizations. Supply chain mentoring should be explored to consider how larger companies might assist their critical suppliers that are small businesses.
- **How should the voluntary certification credit / integrate other business reporting requirements when valuable?** Based on the functions of a business, its vertical industry and public or private ownership, there are a variety of reporting requirements that businesses have to shareholders, customers, partners, the government and others. As reflected in the enabling legislation, efforts should be made to acknowledge and existing reporting activity so as to avoid duplication and excess effort. Certification activity may be able to “piggy-back” on some existing auditing efforts.
- **Should the program support self-assessment by businesses as well as external second and third party assessments?** Should businesses be able to apply elements of the program to self-assess their operations and self-declare (first party assessment) as well as utilize it in assessing related parties such as suppliers (second party assessment)? Both second party and third party assessments of business preparedness could be valuable in securing a supply chain.
- **Should the corporate governance & corporate social responsibility (CSR) areas be evaluated for past lessons learned and possible synergies with the voluntary certification program?** In an increasingly risky business environment, risk management is a growing concern among boards of directors and executive management. The voluntary certification program might potentially be structured to address these concerns at least in part by assessing the state of business preparedness
- **In designating one or more preparedness standards for use in the program, should a constellation of standards or framework approach be evaluated? Should an umbrella standard be considered in this regard (from among existing standards) to assure core consistency among various standards?** There are multiple preparedness guidance documents with significant value to one or more business sectors. Some are general or program level; others may be more functionally oriented, for example, risk assessment focused. Consideration should be given to structuring a certification process which accommodates the assessment of the business against one or more standards but in a unified framework. Such a framework could acknowledge a common core of program elements potentially utilizing an “umbrella standard.”
- **Should potential “incentives stakeholders” be welcomed into the process from the beginning** to assure that the voluntary certification program has value to them in potentially acknowledging business preparedness efforts? A major rationale cited in the testimony for the program was the need to enable a closer link between preparedness and benefits for business. Key stakeholders in such areas as supply chain management, legal liability, insurance and rating agencies have generally concurred that business preparedness is valuable and should be acknowledged more widely but to date there has been no generally accepted methodology to confirm that preparedness exists in a business so that it could be acknowledged. This program could supply such a method, and so the process should involve these potential incentives stakeholders as well as others from the beginning. Following are considerations in this regard.

- **As rating agencies widen their review of enterprise risk management in their analysis of businesses, should the rating agency perspective be invited into the development and ongoing operation of the certification program? Could this potentially facilitate greater recognition of effective corporate preparedness?** Rating agencies are increasingly focusing on business risk management in their analysis including business continuity and emergency management programs by the corporation. Including rating agency input into the voluntary certification program might allow for these agencies to acknowledge this voluntary certification more readily in their own analysis and thereby effectively reward preparedness by corporations.
- **Supply chain management is a growing concern among corporations. Could the voluntary certification program offer value in assessing supplier resilience? Should the supply chain management perspective should be included in the development and ongoing operations of the certification program?** There is an increasing focus on supply chain resiliency and the preparedness of critical suppliers. Corporations are looking for tools to assess the resilience / reliability of the suppliers of critical goods and services. From the supplier perspective, some firms are noting significant time spent on interfacing with multiple customers assuring each of the business' preparedness status. A voluntary certification program could potentially provide a commonly accepted verification of preparedness and thereby avoid multiple customer queries.
- **Should insurance company and related input should be incorporated into the voluntary certification program to support increased recognition of business preparedness in the future?** It can be argued that the insurance industry on the whole understands the general value of business preparedness to minimize losses to both the individual businesses and the insurance company. However, how and if insurance companies measure preparedness varies significantly. A commonly accepted third party assessment of business preparedness could be a valuable indicator of risk which might be used by insurance companies in their underwriting potentially. This could possibly result in a greater recognition of preparedness in the future. In addition, a voluntary certification program could also begin to build a historical record that over time could inform a closer understanding of what preparedness measures best minimize future insurance claims. Challenges that need to be addressed include how preparedness standards would fit into underwriting guidelines.
- **Should representatives from the corporate counsel and wider legal community be incorporated in the development and implementation process of the program? Could this support a potential role of the certification program in minimizing legal liability for the impacts of emergencies?** Negligence tort and other legal liability can be a major exposure for companies of all sizes in the aftermath of an emergency. When another party is impacted by the event, it is often argued that the company did not do enough to prepare for emergencies. Yet, it can be difficult to ascertain how much preparedness is enough given the diversity of risks that face a company. Advance and documented compliance with an established recognized standard for preparedness can serve to support an affirmative defense to liability claims after an emergency. The new preparedness certification program will be centered on voluntary compliance with one or more industry standards. Thus, the certification program should optimally be structured to minimize legal liability of the business which pursues preparedness in compliance with it.

6.3 Potential Near-Term Activities / Next Steps to Be Considered

Time Period: Prior to DHS Designation of Accrediting Body(ies) and Preparedness Standard(s)

- **Promote Wider Understanding and Awareness of the Voluntary Certification Program and Encourage Participation in the Development Process.** Multiple private sector organizations should be involved in heightening awareness of this program.
- **Other Organizations Should Host Additional Forums to Continue to Identify Issues, Concerns & Constructive Strategies** to inform DHS and develop information relevant to ultimate accrediting and certifying bodies. Note it is unlikely that any particular forum can be fully representative of the entire private sector, thus multiple forums should be considered, hosted by multiple organizations. Additional forums should be considered most especially where there are unique issues to be addressed.
- **Create Platforms/Working Groups for Ongoing Advisement / Input on the Voluntary Certification Program:** Members of the general business community, key trade and professional associations and incentives stakeholders should cooperate to create vehicles to assure ongoing input into the development and continuing evolution of the voluntary certification program. These could potentially include working groups around key topics (such as supply chain management, insurance, mitigating legal liability, rating agencies). These may ultimately be integrated into the to-be-designated accrediting bodies.

Time Period: After Designation of Accrediting Body(ies) and Preparedness Standard(s) by DHS

- **Facilitate Pilot Programs with Businesses to Undertake Certification & Identify Lessons Learned.** This effort could involve an initial cadre of businesses who pursue the voluntary certification program. In the process, implementation issues, concerns and strategies could be identified and then shared more widely.
- **Continue to Promote Awareness, Hold Forums and Continue Working Groups / Advisory Bodies As Appropriate**
- **Continue to Advance the Business Case for Preparedness** both with respect to general business preparedness efforts as well as with regard to participation in the voluntary certification program. Ultimately, it is the business case that is central to pursuing any efforts in business preparedness.

Note: InterCEP anticipates involvement in some of the above activities and will be seeking partners and support to do so.

About The International Center for Enterprise Preparedness (InterCEP)

The International Center for Enterprise Preparedness at New York University is one of the world's first major academic center dedicated to private sector preparedness and resilience. Businesses and other private sector organizations set the initial mission of the Center and remain engaged on an ongoing basis in its evolution. The U.S. Department of Homeland Security provided the initial funding for this initiative to create a truly international resource for education and research in this vital area. The Alfred

P. Sloan Foundation provides core funding for the ongoing advancement and development of business incentives for corporate preparedness and resilience.

InterCEP's Director, Bill Raisch, was private sector advisor to the Federal 9/11 Commission which advocated both a voluntary standard for preparedness (NFPA 1600) and market-based incentives to encourage compliance with the standard. The Center has continued to advance the private sector recommendations of the Commission and promotes the identification of financial and other impacts of emergency preparedness on businesses. A core focus of InterCEP is the business case for business preparedness including both internal benefits to the corporation as well as external incentives from the market.

With respect to this new accreditation and certification program, InterCEP's goals are to undertake related research and serve as an ongoing facilitator for activities including key stakeholder input in the development and continuing operation of the program

i Oxford Metrica, 2003

ii *ibid.*