

Principles and Standards of Ethical Supply Management Conduct

with Accompanying Guidelines

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Principles and Standards of Ethical Supply Management Conduct

LOYALTY TO YOUR ORGANIZATION JUSTICE TO THOSE WITH WHOM YOU DEAL FAITH IN YOUR PROFESSION

From these principles are derived the ISM standards of supply management conduct. (Global)

1. Avoid the intent and appearance of unethical or compromising practice in relationships, actions and communications.
2. Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and granted authority.
3. Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.
4. Avoid soliciting or accepting money, loans, credits or preferential discounts and the acceptance of gifts, entertainment, favors or services from present or potential suppliers that might influence, or appear to influence, supply management decisions.
5. Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.
6. Promote positive supplier relationships through courtesy and impartiality.
7. Avoid improper reciprocal agreements.
8. Know and obey the letter and spirit of laws applicable to supply management.
9. Encourage support for socially diverse practices.
10. Conduct supply management activities in accordance with national and international laws, customs and practices, your organization's policies and these ethical principles and standards of conduct.
11. Develop and maintain professional competence.
12. Enhance the stature of the supply management profession.

Approved January 2005

GUIDELINES

PREAMBLE

A distinguishing characteristic of a profession is that its practitioners combine ethical standards with the performance of technical skills. In fact, "professional" is described in *Webster's New Collegiate Dictionary* as "characterized by or conforming to the technical or ethical standards of a profession." *Webster's* goes on to define "ethic" as "a theory or system of moral values, the principles of conduct governing an individual or group." In order to achieve stature as a profession, those in supply management must establish and subscribe to a set of ethical standards to guide individual and group decisions and actions.

The principles and standards of ethical supply management conduct defined in this book are established to encourage adherence to an uncompromising level of integrity. They are designed to heighten awareness and acceptance of appropriate conduct and to emphasize the role of ethics in the decision-making process. They are not intended to supplant an organization's policies pertaining to ethical practice. These principles and standards are intended to be a model for consideration. Further, they are recommended as guidelines to all those who influence the supply management process, including supply management professionals, engineers, quality control personnel, sales representatives and senior management.

An element of a recognized profession is a set of principles and standards. The goal of this booklet is to convey the principles and standards that the supply management profession considers just, fitting and correct. It is the responsibility of each supply management professional to strive to achieve acceptance of and adherence to these principles and standards. Supply management organizations are encouraged to have an ethics policy and reporting process in place that is clearly and consistently communicated to employees, including those outside the supply organization, and suppliers.

Although no set of principles and standards can be all-inclusive, these were established to cover major domestic and international supply management issues. Sensitivity to and consideration of other cultures, including the laws, customs and practices of other nations, are also important.

Information contained in this booklet is intended to provide insight for handling difficult day-to-day issues in ways that have a positive long-term impact. Standards and guidelines cannot take the place of good judgment. When in doubt, consult with management, professional colleagues ... and, of course, your conscience.

Each section contains:

- A statement of the standard
- Commentary
- Guidelines

1. PERCEIVED IMPROPRIETY

Avoid the intent and appearance of unethical or compromising conduct in relationships, actions and communications.

The consequences of a perceived impropriety can be the same as consequences of an actual impropriety. Therefore, it is essential that any activity or involvement between supply management professionals and active or potential suppliers that in any way diminishes, or even appears to diminish, open and fair treatment of suppliers be strictly avoided.

Recommended guidelines for dealing with perception:

- Situations may occur in which, through unanticipated circumstances, a business relationship transpires with a personal friend. The perception (as well as the potential) of a conflict of interest should be discussed with management, and a reassignment of procurement responsibility should be considered.
- Business meeting locations should be carefully chosen. Environments other than the office may be perceived as inappropriate by the business community or by co-workers.
- Displays of personal preference may give an impression of impropriety and should be avoided. Conversation that delves excessively into personal affairs should be avoided.
- Positive action should be taken by management to alleviate suspicion of impropriety.

2. RESPONSIBILITIES TO THE EMPLOYER

Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and granted authority.

It is the duty of the supply management professional to ensure that actions taken as an agent for the employer will serve the interests of the employer to the exclusion of personal gain. This requires application of sound judgment and consideration of both the legal and ethical implications of actions.

Recommended guidelines for satisfying responsibilities to employers:

- Understand the agency authority granted, and apply the legal and ethical requirements embodied in the agency relationship with the employer.

- Obtain the maximum value for monies expended as agent for the employer.
- Avoid activities that would compromise, or create the perception of compromising, the best interests of the employer.
- Avoid using the employer's purchasing power to make purchases for specific individuals' nonbusiness use. If employer-sponsored personal purchasing programs exist, make certain that the arrangements are fair to suppliers, employees and the employer.
- Maintain up-to-date knowledge of applicable laws (see also Standard 8), purchasing and supply management techniques and management responsibilities.

3. CONFLICT OF INTEREST

Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.

Supply management professionals must not use their positions in any way to induce another person to provide any benefit to themselves or to persons with whom they have family, business, personal or financial relationships. Even though a conflict may not technically exist, supply management professionals must avoid the appearance of such a conflict. Whenever a potential conflict of interest arises, the supply management professional should notify the appropriate person for guidance or resolution.

Recommended guidelines to avoid conflicts of interest:

CONDUCT TO BE AVOIDED

- Engaging in outside business or employment that may encroach upon the supply professional's primary responsibility of loyalty to the goals of the employer.
- Engaging in improper personal business with, or employment by, an organization that competes with, or is a supplier to, the employer. Examples include but are not limited to:
 - Owning or leasing any property with knowledge that the employer has an active or potential interest therein.
 - Lending money to, or borrowing money from, any customer or supplier.
 - Using the organization's name (unless authorized) to lend weight or prestige to sponsorship of a political party or cause, or endorsing the product or service of another organization.

PERSONAL INVESTMENT

Ownership of stock in a supplier of goods or services, competitor or customer should be reported to the employer for review and guidance to avoid the potential for impropriety. Interests by members of the professional's immediate family are considered to be of the same significance as direct ownership.

OUTSIDE ACTIVITIES

Supply management professionals must not use their position with their employer when participating in outside educational, professional, political, philanthropic, social or recreational activities that might be detrimental to their employer's business or reputation.

CONFLICT OF INTEREST STATEMENTS

Supply management professionals are encouraged to disclose any potential conflict of interest, and to advocate that their employer obtain conflict of interest statements from all employees upon employment and annually thereafter.

SELF-EVALUATION PROCEDURE

Supply management professionals are encouraged to perform an annual self-evaluation of their outside interests that may have the potential of being contrary to the best interests of their organization or the profession.

4. ISSUES OF INFLUENCE

Avoid soliciting or accepting money, loans, credits or preferential discounts and the acceptance of gifts, entertainment, favors or services from present or potential suppliers that might influence, or appear to influence, supply management decisions.

Those in a position to influence the supply process must be dedicated to the best interests of their employer. It is essential, for all in a position to influence a purchasing decision, to avoid any activity that may diminish, or even appear to diminish, the objectivity of the decision-making process.

In some circumstances, items that could be considered an issue of influence may be a bona fide business activity. In such cases, extreme care should be taken to evaluate the intent and the perception of acceptance of an offer to ensure:

- It is legal.
- It is in the best interests of the employer.
- It will not influence the purchasing decision.
- It will not be perceived by peers or others to be unethical.

SOURCES OF INFLUENCE INCLUDE:

- Management policies
- Gifts, gratuities and entertainment
- Product samples
- Business meals
- Personal relationships
- International practices
- Political considerations
- Advertising
- Market power
- Specifications and standards

Recommended guidelines for dealing with issues of influence:

MANAGEMENT POLICIES

Supply management professionals should encourage and recommend the development and implementation of management policies that reduce or eliminate inappropriate influences on the supply process.

GIFTS, GRATUITIES AND ENTERTAINMENT

Gifts, gratuities and entertainment include material goods, services or activities offered with the intent of, or providing the potential for, influencing a buying decision. As such, these may be offered to a supply professional or to other persons involved in the supply process (or members of their immediate families). They may be offered in various forms.

- Exercise extreme caution in evaluating the acceptance of gifts, gratuities or entertainment, even if of nominal value, and the frequency of such actions (the collective impact) to ensure that one is abiding by the letter and the spirit of these guidelines.
- Do not solicit gifts, gratuities or entertainment in any form for yourself or your employer.
- Avoid accepting monies, credits and prejudicial discounts.
- Establish nominal value in organization policy to address supplier offerings of nominal value as a gesture of goodwill or for public relations purposes.
- Refuse gifts exceeding nominal value, and return them with a polite explanation, or if the gifts are perishable, either return them or donate them to a local charity in the name of the supplier.
- Seek direction of management if concerned that a business relationship may be impaired or appear to be impaired by refusal of a gift, gratuity or entertainment.

PRODUCT SAMPLES

Product test samples may be offered by suppliers. If test samples exceed nominal value, supply management should consider issuing a document to cover the transaction. This document should clarify the

responsibility for the cost of the samples and should address any obligation for sharing test results with the supplier.

BUSINESS MEALS

Occasionally, during the course of business, it may be appropriate to conduct business during meals.

- Such meals shall be for a specific business purpose.
- Frequent meals with the same supplier should be avoided.
- The supply management professional should be in a position to pay for meals as frequently as the supplier. Supply management professionals are encouraged to budget for this business activity.

PERSONAL RELATIONSHIPS

Personal relationships are an inherent aspect of supply management. Supply management professionals interact extensively with suppliers' representatives. Individuals in many other functional areas in both the buying and supplying organizations also interact extensively with each other. The development of personal relationships from such interactions is both expected and desirable as it leads to relationships based on understanding and trust. It must also be recognized that the purchasing decision must not be influenced by anything other than what is in the best interest of the organization and that personal relationships that develop beyond what is necessary to ensure understanding and trust may be inappropriate. It is important, therefore, for supply management professionals to monitor closely the nature of relationships with suppliers' representatives to ensure that personal friendships do not develop that would result in decisions not in the organization's best interest.

INTERNATIONAL PRACTICES

There may be great cultural variation with respect to the appropriateness of business gifts, meals, entertainment and the nature of personal relationships. In some cultures, business gifts, meals and entertainment are normal and expected, as are close personal relationships. In other cultures, business is transacted at arm's length, and business gifts, meals and entertainment, as well as close personal relationships, are viewed as inappropriate for those who are making supply management decisions. It is important, therefore, for supply management professionals to understand such variation and establish policies and procedures to deal effectively with suppliers from different cultures to ensure making supply management decisions that are in the best interest of the organization. This requires that suppliers be informed of the organization's policies with respect to business gifts, meals, entertainment and the nature of personal relationships. It also requires that supply management professionals act courteously to suppliers' representatives who may inadvertently act in ways contrary to the organization's policies.

POLITICAL CONSIDERATIONS

All organizations are subject to internal and external forces and pressures. Internal forces and pressures result from an organization's culture. External forces and pressures consist of economic conditions, laws, regulations, public opinion, special interest groups and political entities. The negative influence of internal and external forces and pressures on supply management can be minimized when the organization adopts practices based on ethical principles and standards.

ADVERTISING

Care should be exercised when accepting promotional items or participating in activities that tend to promote one supplier over another or that could be perceived as preferential supplier advertising by the supply management professional.

MARKET POWER

Supply management professionals must be aware of their organization's position (e.g., economic size, power, etc.) in the marketplace and ensure that this position is used within the scope of ethical behavior by the supply management professional and the organization.

SPECIFICATIONS AND STANDARDS

Supply management professionals must ensure that specifications and standards are objectively written to encourage appropriate competition.

5. CONFIDENTIAL AND PROPRIETARY INFORMATION

Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.

Proprietary and confidential information requires protection. Such information may or may not be upheld by patent, copyright, or nondisclosure agreement. Proprietary and confidential information should be released to other parties (internal and external) only on a need-to-know basis. It is the responsibility of the individual sharing confidential or proprietary information to ensure that the recipient understands his or her obligation to protect such information.

Examples of information that may be considered confidential or proprietary include:

- Pricing
- Bid or quotation information
- Cost sheets
- Formulas and/or process information
- Design information
- Organizational plans, goals and strategies
- Financial information
- Information that may influence stock prices
- Profit information
- Asset information
- Wage and salary scales
- Personal information about employees, officers and directors
- Supply sources or supplier information
- Computer software programs

Recommended guidelines for dealing with confidential or proprietary information:

- Each organization should develop and communicate a policy covering proprietary and confidential information.
- Proprietary and confidential information must be identified as such when communicated, whether disclosed electronically, in writing or orally.
- Use of confidentiality agreements that clarify the parameters for use of information and responsibilities inherent in its use is recommended.
- The supply professional and others within the organization are cautioned not to accept confidential or proprietary information unless they have the need for such information.
- When dealing with any information, whether or not confidential or proprietary, care should be exercised in determining the effects of its use.

6. SUPPLIER RELATIONSHIPS

Promote positive supplier relationships through courtesy and impartiality.

Supply management professionals should promote mutually acceptable business relationships with suppliers and customers. By affording all business contacts the same courtesy and impartiality in all phases of business transactions, professionals will enhance the reputation and good standing of their employer, the supply management profession and themselves.

Fairness and impartiality should be extended to all legitimate business concerns. While it may be desirable to build long-term relationships with selected suppliers, such relationships should not prevent the establishment of similar working relationships with other suppliers.

Recommended guidelines for maintaining positive supplier relationships:

- Establish parameters for bidding, rebidding and/or negotiations prior to the issuance of a request for quotation or similar document to ensure a fair, consistent and unbiased process.

- Maintain confidentiality regarding proprietary information as well as suppliers' prices and terms, unless otherwise required by government regulation.
- Achieve a prompt and fair resolution of problems.
- Avoid unreasonable demands.
- Ensure prompt and open communications.
- Exercise professional, cooperative and objective behavior in business relationships, and avoid partiality, or the appearance of partiality, in business dealings.

7. RECIPROCITY

Avoid improper reciprocal agreements.

When supply management professionals or their organizations give preference to suppliers because they are also customers, or when the organization influences a supplier to become a customer, the professional or the organization is engaging in a practice known as reciprocity. Agreements involving a specific commitment to buy in exchange for a specific commitment to sell also constitute reciprocity. These purchasing actions are illegal if they tend to restrict competition or trade or if they are coerced, since such acts may be construed as "restraint of trade" in violation of Sections 1 and 2 of the Sherman Act.

Reciprocity is both a legal and an ethical issue that may result in legal sanctions against the organization, its management and/or its supply management personnel.

Supply management professionals and their organizations must be able to recognize reciprocity and its ethical and legal implications.

Recommended guidelines for dealing with reciprocity:

- Dealing with a supplier that is also a customer may not constitute a problem if, in fact, the supplier is the best source.
- Supply management strategy must include a positive effort to oppose any corporate or organizational commitment to, or pursuit of, any form of improper reciprocity.
- Supply management professionals should become sufficiently knowledgeable of the provisions in antitrust laws to recognize a potential legal problem and to know when to seek legal counsel.
- A supply management professional who believes the potential for improper reciprocity exists or believes he or she is being encouraged by marketing, sales or management to engage in reciprocity should seek legal counsel.
- Lists of suppliers should not be provided to sales or marketing for their use in pursuing improper reciprocal agreements.
- When making sourcing decisions, supply management professionals must be especially careful when dealing with suppliers that are customers.

8. APPLICABLE LAWS

Know and obey the letter and spirit of laws applicable to supply management.

Supply management professionals should obtain and maintain an understanding of the legal concepts that govern their activities as agents of their employers and of the various laws that govern the purchase and sale of goods and services. These include laws and regulations at the international, national, state, provincial and local levels.

The laws and regulations that supply management professionals should be aware of include:

- Agency law
- Contract and commercial laws
- Electronic commerce laws
- Antitrust laws

- Trade regulations
- Industry-specific laws and regulations
- Government procurement regulations
- Patent, copyright, trade secret and trademark laws
- Environmental laws
- Employment laws and regulations
- Worker health and safety laws
- Transportation and logistics laws and regulations
- Financial laws and regulations
- Additional laws as appropriate

Laws specific to the United States include:

- Uniform Commercial Code (UCC) and the Uniform Computer Information Transactions Act (UCITA)
- Uniform Electronic Transactions Act (UETA) and the Federal Electronic Signatures in Global and National Commerce Act (E-Sign)
- The Sherman Act, the Clayton Act and the Robinson-Patman Act
- The Federal Trade Commission Act
- The Federal Acquisition Regulations (FARs) and the Defense Acquisition Regulations (DARs)
- Environmental Protection Agency (EPA) laws
- Equal Employment Opportunity Commission (EEOC) laws
- Occupational Safety and Health Administration (OSHA) laws
- The Foreign Corrupt Practices Act
- The Public Company Accounting Reform and Investor Protection Act of 2002 (Sarbanes-Oxley Act of 2002)

Selected international laws:

- Agency law
- Contract and commercial laws
 - [U.N. Convention on Contracts for the International Sale of Goods \(CISG\)](#)
 - India: [Indian Contract Act](#)
 - EU: [Principles of European Contract Law 1998](#)
 - New Zealand: [Contractual Mistakes Act 1977](#)
- Electronic commerce laws
 - EU: Privacy and Electronic Communications Directive
 - India: [Electronic Commerce Act](#)
 - Australia: [Electronic Transactions Act](#)
 - UK: [Electronic Commerce Regulations 2002](#)
- Antitrust laws
 - [United Nations Conference on Trade and Development Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices](#)
 - Canada: [Competition Act](#)
 - EU: [Articles 81 and 82 of the EC Treaty](#)
 - UK: [Competition Act 1998](#)
- Trade regulations
 - UK: [Office of Fair Trading](#)
 - Australia: [Trade Practices Act 1974](#)
- Industry-specific laws and regulations
- Government procurement regulations
 - Canada: [Industrial and Regional Benefit policy](#)
 - UK: [Government Procurement Code of Good Practice](#)
 - Poland: [Act of June 10, 1994 on Public Procurement](#)
- Patent, copyright, trade secret and trademark laws
 - [World Intellectual Property Organization](#)
 - EU: [Community patents and trademarks](#)
 - Canada: [Copyright Act](#)
 - Canada: [Trade-marks Act](#)

- Environmental laws
 - India: [Environment Protection Act](#)
 - Canada: [Canadian Environmental Protections Act 1999](#)
 - UK: Environment Agency
 - EU: [Strategy for Sustainable Development](#)
- Employment laws and regulations
 - Mexico: Federal Labor Law
 - UK: Employment Relations Act
 - EU: [Treaty of Amsterdam](#)
 - Canada: [Employment Equity Act](#)
- Worker health and safety laws
 - Canada: [Workplace Hazardous Materials Information System](#)
- Transportation and logistics laws and regulations
 - EU: [European Energy and Transport Forum](#)
 - Canada: [Transportation of Goods Regulations](#)
- Financial laws and regulations
 - Australia: [Corporations Act 2001](#)
 - Phillipines: [Commission on Audit](#)

Note: See the ISM Web site, www.ism.ws/ISMMembership/PrincipleStandards.cfm, for more information.

Recommended guidelines for understanding and complying with applicable laws:

- Supply management professionals should pursue training in the legal aspects of supply management to understand the laws that govern their conduct and to know when to seek legal counsel.
- Supply management professionals involved in international procurement must understand and apply laws that are specific to the country within which they are doing business, unless such laws conflict with the laws of the country where the buyer resides.
- Interpretation of the laws should be left to legal counsel. It is often beneficial to involve legal counsel early in analysis and planning in order to identify and avoid potential legal pitfalls, rather than to involve legal counsel only after problems arise.
- Supply management professionals involved in governmental procurement must understand and apply laws that are specific to their particular governmental body.

9. SOCIALLY DIVERSE PRACTICES

Encourage support for socially diverse practices.

All business concerns, large or small, majority- or minority-owned, should be afforded an equal opportunity to compete. Many government entities and businesses have developed specific guidelines and procedures to enforce policies designed to support and stimulate the growth of socially diverse practices.

Recommended guidelines for support of socially diverse practices:

- Adhere to all applicable laws and regulations.
- Work to ensure development and implementation of programs within your organization, as appropriate.
- Actively strive to attain organizational and/or governmental goals regarding purchases and employment.
- Participate in organizations whose purpose is to stimulate growth of socially diverse entities.
- Actively identify socially diverse businesses as potential suppliers.
- Encourage organizations and employees to support development of socially diverse suppliers.
- Proactively promote diverse employment practices throughout the supply chain.
- Encourage diversity within your own organization.

10. PROFESSIONAL COMPETENCE

Develop and maintain professional competence.

Professional competence is expected of supply management professionals by their employers, their supply management peers, others in their organizations, suppliers and society at large.

A distinguishing characteristic of a profession is that its practitioners combine ethical standards with the performance of technical skills. Because of the impact that the conduct of supply management professionals has on the stature of the profession, it is important for all those in the profession to consider what is meant by professional competence and how it is perceived by others.

Professional competence can be defined in many ways. Most definitions include the concept of mastery of a body of knowledge, continued efforts to increase one's ability and knowledge of the profession, communication skills, the willingness to share knowledge with others and conformance to the highest standards of ethical behavior.

Professional competence is also assessed by others, based on the professional's dress, conduct in business settings and presentation of himself or herself.

Recommended guidelines for achieving a high level of professional competence:

- Ensure a basic understanding of all the requirements to be recognized as a competent supply management professional.
- Monitor trends and the development of new knowledge in the profession.
- Conduct a self-assessment of talents and skills.
- Establish a self-development program designed to meet the needs of immediate and future employment.
- Seek out mentors and role models.
- Serve as a mentor.
- Earn and maintain the C.P.M. or other credentials.
- Become actively involved in one or more professional associations.

11. NATIONAL AND INTERNATIONAL SUPPLY MANAGEMENT CONDUCT

Conduct supply management in accordance with national and international laws, customs and practices, your organization's policies and these ethical principles and standards of conduct.

Legal systems vary throughout the world, as do business customs and practices. Supply professionals therefore must be knowledgeable about these variations, and potential conflicts inherent in them, when doing business across borders.

Recommended guidelines:

- Be especially sensitive to customs and cultural differences with respect to social and business behavior and issues of influence.
- Recognize that suppliers may not be familiar with laws, customs and practices of various countries or with your organization's policies. Consequently, it is important to ensure that appropriate information is effectively communicated to them.
- Recognize that national laws may not apply in other countries.
- Utilize organization management, legal counsel and other available resources for guidance whenever there is uncertainty as to actions to take.
- Maintain an awareness of national and international standards (e.g., ISO 9000, ISO 14000, Ethical Trade Initiative, etc.).

12. RESPONSIBILITIES TO THE PROFESSION

Enhance the stature of the supply management profession.

The stature of the profession is enhanced through ethical actions and behavior of supply management professionals. When individuals combine in professional groups or associations, their actions and behavior become highly visible and enhance the stature of the profession. This has a direct impact on the profession and on the professional's organization, peers and suppliers.

Recommended guidelines dealing with enhancing the stature of the profession:

- Support professional development and interchange of ideas through membership in professional and service organizations.
- Actively seek and support change in ethical standards and practice when appropriate (e.g., changes in the environment or technology).
- Be aware that supply professionals are obligated to support only those actions and activities that uphold the highest ethical standards of the profession.
- Support the ethical principles and standards of the organization(s) with which you are affiliated.
- Encourage, support and participate in ongoing ethical training and review within business and professional organizations.
- Strive to achieve acceptance of and adherence to these principles and standards by all those who influence the supply management process.

ACKNOWLEDGMENTS

In 1986, the Purchasing Management Association of Arizona, after two years of development, published its "Guidelines for Ethical Procurement Practices."

When the NAPM Ethical Standards Committee began deliberations for creation of the *Principles and Standards of Purchasing Practice*, the Arizona association kindly gave permission for us to use its guidelines as the model. For this, ISM is grateful.

In 2000, the NAPM Ethical Standards Committee began deliberations for the update of the standards. The standards became known as the *Principles and Standards of Ethical Supply Management Conduct*. The guidelines were reviewed and updated to consider today's technology environment and other changes in the supply management environment.

In 2004-05 the ISM Ethical Standards Committee reviewed and revised these standards to integrate more fully the ISM social responsibility principles and standards, update language and build in a more global perspective.