

Dear Tokelo, Erin, Emily, and Varsha,

I sincerely thank you for inviting our feedback on the SBTN Stakeholder Engagement Guidance, and its harmonization with TNFD's draft Guidance on Engagement with Indigenous Peoples, Local Communities and Affected Stakeholders. Accountability Counsel supports the development of these Guidances with the aim of addressing the biodiversity crisis in rights-compatible ways. I've decided to respond via written comment rather than through the online form template to provide specific comments on two themes most appropriate to the focus and expertise of our organization: (1) disclosure of redress and remediation mechanisms as a crucial component of meaningful stakeholder engagement, and (2) integrating meaningful stakeholder engagement into accountability processes. At the end of these comments I have also provided some reflections on how reliance on artificial intelligence might hinder meaningful stakeholder engagement, necessitating a principled precautionary approach to AI.

About Accountability Counsel (AC)

Accountability Counsel is a legal non-profit organization that advocates for the rights of communities impacted by international finance and demands that investors establish accountability channels to hear from and redress E&S harm to local communities. We apply a respect-based and community-centered approach to our policy advocacy; accordingly, we strive to relate the experiences of communities we have worked with in our advice, and indeed base our advice on their lived experiences.

1. Disclosure of Redress and Remediation Mechanisms.

Each guidance recognizes a distinction between grievance mechanisms and the process of stakeholder engagement, *i.e.*, that "neither is a substitute for the other, but they are complementary and mutually reinforcing." (*see*, TNFD Guidance, § 5.3.1; *see also*, SBTN Guidance, p. 31 ["Effective grievance mechanisms are distinct from the process of stakeholder engagement; they are complementary and mutually reinforcing"]). We support articulating this distinction, and we hope to see an express statement that disclosure of grievance mechanisms to community stakeholders is an integral component during the consultation and outreach efforts.

To better articulate the mutually reinforcing interaction between meaningful stakeholder engagement¹ and effective grievance redress, each Guidance should advise companies on the

¹ To note, each Guidance references the terms "effective stakeholder engagement," and "meaningful stakeholder engagement." We recommend consistently deferring to "meaningful stakeholder engagement," as it is more commonly referenced in international instruments (*see, e.g.,* [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector](#); [United Nations Practical Guide on Stakeholder Engagement & the 2030 Agenda](#); [UNGPs 10+ Roadmap for the Next Decade of Business and Human Rights](#)), and it semantically centers on the subjective experiences of communities.

importance of leveraging grievance mechanisms to ensure accountability for stakeholder engagement. The SBTN Guidance touches on this concept to the extent that it advises companies to “ensure that they have the internal policies, processes and accountabilities in place to support effective stakeholder engagement” (see, p. 21). The TNFD likewise reaches this by setting the expectation that companies have “internal systems for integrating the views and proposals of stakeholders into decision-making,” and that they ensure “accountability for action” under those plans (see, p. 33).

The ability to ascertain adverse impacts to nature and effectively address stakeholder concerns throughout operational activities is hindered if communities are unaware of the channels to relay concerns and grievances. Proactive disclosure and notification of avenues for redress should therefore be foundational to effective stakeholder engagement.

It may be helpful to consider the approach of the Green Climate Fund (GCF) and the German International Climate Initiative (IKI) as strong models for disclosure as a part of stakeholder engagement. For example, the revised [Environmental and Social Policy](#) of the GCF requires each of its clients to provide communities with “[t]he details for sending complaints containing the contact information and the appropriate modes by which these will be received,” and to also disseminate that information to other involved institutions. The [policy](#) of IKI’s independent accountability mechanism is supported by important requirements that IKI clients inform project-affected communities about the mechanism and report back on those outreach efforts. Moreover, it is worth noting that the EU Parliament’s [position](#) on the forthcoming Corporate Sustainability Due Diligence is that “Companies should raise awareness among affected stakeholders of the existence, objectives and processes of notifications and grievance mechanisms, in the official language(s) of the state where they are operating, including on how to access them, decisions and remedies relating to a company and how the company is implementing them.”

We recommend the following language:

SBTN Guidance, **Preparing for engagement with affected stakeholders**, p. 21

Laying the groundwork internally for effective **and meaningful** stakeholder engagement....

Companies will need to ensure they have the internal policies, processes and accountabilities in place to support effective stakeholder engagement. This includes:

- 1. Ensuring all staff are aware of the stakeholder engagement policy and processes;*
- 2. Informing third-parties who interact with affected stakeholders in connection with the business about the policy and all current engagement processes or resulting agreements, in order to help ensure that these are supported and not undermined.*

3. *Establishing clear responsibilities and accountabilities for the appropriate conduct of engagement with affected stakeholders, in line with the company's policies;*
4. *Making sure all staff responsible for stakeholder engagement have appropriate training and experience and understand the local context and operating environment;*
5. *Building a culture where staff who are not part of formal engagement processes with affected stakeholders recognize their own responsibility for supporting and sustaining positive relationships with stakeholders through their own practices;*
6. *Having appropriate processes and expectations for informing senior management and the Board of significant issues arising in the conduct of stakeholder engagement or regarding significant issues raised through those processes.*
7. *Ensuring that all staff and third-parties are aware of the effective grievance mechanisms intended to facilitate stakeholder engagement throughout operational activities, and that affected stakeholders are proactively apprised of those channels during consultation processes.*

****We further recommend updating the corresponding "Guide for Engaging Stakeholders in Action" (p. 29), to reference the duty to notify communities about effective grievance mechanisms and their respective policies as a "Do Disclose" requirement.****

SBTN Guidance, **Implementation of engagement processes w affected stakeholders**, p. 24

Principles for *meaningful* stakeholder engagement

Respected guidance on stakeholder engagement identifies a range of principles that should guide any stakeholder engagement process, regardless of the mode of engagement concerned. These include that the engagement process should be

- *supportive for ~~enable~~ stakeholders to raise concerns, grievances, and issues for discussion, including outside of formal meetings;*
- *on-going to the extent of the issues/activities/impacts/initiative concerned, and responsive to new developments and changes, including unintended harm warranting remediation;*

TNFD Guidance, **Preparedness for stakeholder engagement**, p. 19

5.1.1. Policies and systems for engagement with Indigenous Peoples, Local Communities and stakeholders

. . . . To be effective, this should include a clear policy framework on engagement with Indigenous Peoples, Local Communities and stakeholders that takes a long-term view and focuses on building relationships, avoiding and providing redress for negative effects on stakeholders, achieving positive outcomes for stakeholders and identifying opportunities for mutual benefit.

*The organisation should **have publish** robust policies to respect Indigenous Peoples' and Local Communities' rights and that prevent and address any coercion, manipulation, intimidation, redress and grievances of Indigenous Peoples, Local Communities and affected stakeholders.*

5.1.2. Information flows, responsibilities and accountability

... Setting an organisation up for success in its engagement with stakeholders involves:

- *Ensuring all staff are aware of the Indigenous Peoples, Local Communities and stakeholder engagement policy and processes;*
- *Ensuring that all staff and third-parties are aware of the effective grievance mechanisms intended to facilitate stakeholder engagement throughout operational activities, and that affected stakeholders are proactively apprised of those channels during consultation processes; ...*

2. Articulating the overlap between Meaningful Stakeholder Engagement and Effective Grievance Redress

We recommend expressly stating that the principles of stakeholder engagement should be applied to grievance redress processes to ensure that investigations and mediations are sensitive to and safe for those aggrieved. Accordingly, remedial actions to address harm should be developed in consultation with local communities and with the Free, Prior, and Informed Consent of Indigenous Peoples.

This recommendation might be best supported by the experience of Indigenous Communities displaced by a “Ridge to Reef” conservation project in the Tanintharyi region of [Myanmar](#). The UNDP-financed project was intended to protect land from development, but stakeholder engagement and consultation deficiencies resulted in a project design that failed to consider impacts on Indigenous land stewards. Utilizing the UNDP’s compliance review and stakeholder response mechanisms, Indigenous Karen communities were able to relay consultation and FPIC shortcomings, and present an alternative indigenous-led conservation plan to protect the rich biodiversity in the region, and respect the rights and knowledge of Indigenous People.

The final bullet point under the header “Engaging affected stakeholders in setting targets” (p. 27) of the SBTN Guidance speaks directly to the Myanmar situation by asking companies to consider how certain targets could undermine the rights and traditional land use of Indigenous Peoples. Nonetheless, we encourage that this consideration also be extended to remedial actions intended to address unintended harm enabled by a company’s actions in furtherance of specific targets.

Remedies for harm, and especially harm enabled by shortcomings in stakeholder engagement, must be developed in consultation with aggrieved communities to ensure that remedial actions are rights-compatible, avoid exacerbating harm, and do not worsen tension or mistrust between communities and companies.

Moreover, meaningful stakeholder engagement must be supported by *effective* grievance redress, that is to say that processes for receiving and responding to stakeholder concerns are legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and designed with the input of their stakeholders (see Principle 31 of the UNGPs). Both the SBTN and TNFD Guidances reference the importance of effectiveness, but we feel this could be made more express.

Accordingly, we recommend the following language:

SBTN Guidance, **Grievance Mechanisms**, p. 31

Effective Grievance Mechanisms

... Identifying grievances early and addressing them before they escalate and undermine the engagement process is key. In some instances, for frontline and fenceline communities this may be the difference between life and death. International standards on responsible business conduct define key criteria for the effectiveness of stakeholder grievance mechanisms, identifying the need for them to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, based on dialogue and engagement, and a source of continuous learning. They make clear that companies should embrace dialogue when addressing disputes and have a formal means of referring issues to appropriate and independent third parties for any adjudication of outcomes. Internal personnel in positions of decision-making power who are actively part of the target community can also lessen uneven and negative impacts on frontline and fenceline communities.

Effective grievance redress entails incorporating the principles of meaningful stakeholder engagement in the design and implementation of remedial actions intended to respond to adverse impacts to nature and community stakeholders. Grievance redress processes must approach remedy in consultation with affected communities and with the Free, Prior, and Informed Consent of Indigenous Peoples. Further, feedback channels should be established to ensure full and timely implementation of remedy.

TNFD Guidance, **Preparedness for stakeholder engagement**, p. 21

5.3.1. Effective Grievance mechanisms and remediation

... The international standards on responsible business conduct (i.e., the UNGPs and OECD guidelines) set out an expectation that all businesses should have in place an effective

operational-level grievance mechanism for individuals and communities who may be adversely affected by the company's activities, which includes its responses to nature-related issues. They establish clear criteria for the effectiveness of such mechanisms in Guiding Principle 31, i.e., that they be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and designed with the input of their stakeholders.

Grievance mechanisms are distinct from the process of stakeholder engagement itself – neither is a substitute for the other, but they are complementary and mutually reinforcing. Effective grievance redress entails incorporating the principles of meaningful stakeholder engagement in the design and implementation of remedial actions intended to respond to adverse impacts to nature and community stakeholders. Grievance redress processes must approach remedy in consultation with affected communities and with the Free, Prior, and Informed Consent of Indigenous Peoples. Further, feedback channels should be established to ensure full and timely implementation of remedy.

3. Foreseeing the Implications of Artificial Intelligence on Stakeholder Engagement.

The SBTN Guidance prudently anticipates that “Both the recommendations and requirements for stakeholder engagement within the first release of target-setting methods will likely be updated” in subsequent interactions of the Guidance (p. 28). The convergence of advancements in sustainability due diligence and artificial intelligence may indeed prompt such an update. Companies concerned with the potential overhead of stakeholder engagement [may seek](#) to rely on AI to both identify and connect with affected communities. It is possible that it could be done effectively, but there are clear risks to accessibility and meaningfulness. Applying a precautionary approach, we urge that each Guidance reflect that stakeholder engagement and grievance redress not be reduced to automated systems, but rather involve human interactions in the service of trust-building and cooperation.

We recommend the following language:

SBTN Guidance, **Principles for stakeholder engagement**, p. 25

Respected guidance on stakeholder engagement identifies a range of principles that should guide any stakeholder engagement process, regardless of the mode of engagement concerned. These include that the engagement process should be . . .

- *taking into account the different access and communications needs of various groups and individuals, especially those who are vulnerable or disadvantaged, and use formats and techniques that are culturally appropriate;*
- *centered on and facilitated by human-to-human interactions; . . .*

TNFD Guidance, **General principles of good engagement**, p. 25

6.1 General principles of *good meaningful* engagement

Engagement process principles should

- *Consider the different access and communications needs of various groups and individuals, especially those who are vulnerable or disadvantaged, and use language, formats and techniques that are culturally appropriate;*
- *centered on and facilitated by human-to-human interactions;*

Conclusion

We hope you find these recommendations helpful to bring more precise language pertaining to the relationship between meaningful stakeholder engagement and effective grievance redress. We see great potential in the use of these metrics to support rights-compatible and nature-forward business practices in this time of important transition.

We'd be happy to follow up on any questions or concerns you may have.

All the best,



Gregory Berry

gregory@accountabilitycounsel.org
accountabilitycounsel.org