



Setting up a Multi-Stakeholder Panel as a Tool for Effective Stakeholder Dialogue¹

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The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labor, environment and anti-corruption. In June 2006, the Global Compact Board established a Human Rights Working Group. Chaired by Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland, the goal of the working group is to provide strategic input to the Global Compact's human rights work. The following is one of an ongoing series of notes on good business practices on human rights endorsed by the working group. Rather than highlighting specific practices of individual companies, Good Practice Notes seek to identify general approaches that have been recognized by a number of companies and stakeholders as being good for business and good for human rights.

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I. Introduction

Stakeholder dialogue is an important mechanism for companies to assess and improve their human rights impact in local communities. To this end, multi-stakeholder panels have become popular in many business sectors.² Such panels often provide commentary or advice³ to which the company has committed to respond.⁴ This good practice note is not intended to be comprehensive, but endeavors to touch the surface on some basic good practices with respect to such panels.

➤ Focus of this note

This note focuses on panels which provide advice and external perspectives on the businesses' corporate social responsibility strategy including human rights impacting local communities. Its findings are based on a number of interviews with business representatives from major global companies, panel representatives, and experts on stakeholder dialogue. It aims to identify advantages and pitfalls, and some basic good practices for companies when engaging such a panel. Two types of panels are reviewed here:⁵ Global panels are panels constituted at the *global level*, often with international stakeholders (e.g. international experts, trade unions, and NGOs) addressing issues impacting communities, whereas local panels are panels on the *local level* specifically engaging local stakeholders. While the distinctions are important and substantial, this note outlines commonalities among currently operating panels aiming to address human rights in local communities.⁶

Stakeholders are individuals or groups that are or might be affected by or affect a company. A multi-stakeholder panel is a group of experts, stakeholders, or their representatives who have been convened at the company's invitation to examine aspects of its policy or performance.

² Multi-stakeholder panels represent one of many good practices which companies have usefully employed in dealing with rights-related issues. They are by no means the only mechanism for stakeholder relations and human rights engagement. For an overview of good practices regarding human rights, see the UN Global Compact Good Practice Notes on Human Rights.

³ Assurance may also be a desired output, but those panels are not the subject of this note. Assurance panels have the purpose to complement existing corporate reporting and assurance mechanisms by highlighting sustainability issues material to the company's performance. See Report by Accountability and Utopies, *Critical Friends – The Emerging Role of Stakeholder Panels in Corporate Governance, Reporting and Assurance* (March 2007), available at http://www.stakeholderpanels.net/StakeholderPanels_report.pdf, at 14.

⁴ E.g. Allison Lombardo & Marcos Santiago, *The Mechanics of Accountability: Ad-Hoc Time-Specific Stakeholder Panels* (March 2009), at 5, available at http://www.hks.harvard.edu/m-rcbg/CSRI/publications/studentpaper_3_lombardo_santiago.pdf.

⁵ The panels examined for this note include both standing bodies and time-limited ad-hoc bodies.

⁶ Respective differences will be referred to throughout the note. Of course, not all businesses operate internationally, and so global panels will not be appropriate for them. For national and regional businesses, there still may be local as well as stakeholder panels on the national or provincial/state level. The guidelines herein are intended to be scalable for both national and international businesses.

II. Advantages of Multi-stakeholder Panels

➤ Understanding stakeholders helps the company make better choices

Stakeholder panels serve as a link to information and an avenue for better understanding of the business impact on stakeholders. This form of stakeholder dialogue offers valuable perspectives which the company may not have encountered without directly engaging with stakeholders. Stakeholders have information companies lack in addition to perspectives that companies may not fully appreciate or understand, especially with respect to local communities. Companies need this information in order to operate better, in a more efficient and responsible manner. Stakeholder panels can even help businesses spot opportunities (goods, services, and entire business models). They are also an opportunity to understand the human rights legacy of the business. Thus, some panels are created in response to specific situations, as when, for example, new management after a merger or buyout wishes to address tensions or discrepancies concerning a local community.

Apart from the opportunity to simply be heard, the major incentive for stakeholders to participate is the opportunity to positively affect decisions which impact their constituency. As stakeholders give their time and energy and risk peer criticism, they need to know that the company will engage with them and will consider incorporating the information into its activities.

➤ Informing stakeholders to help them understand the business

By engaging with the company, stakeholders may obtain insights into the realities of business operations and may thus gain a better understanding of the dilemmas companies face. This helps to reduce stakeholder and community skepticism toward the company.

➤ Addressing complex issues more effectively

Several interviewees pointed out that multi-stakeholder panels help companies to adequately and holistically address complex issues – including human rights -- in an ever more complex society. This form of dialogue with stakeholders allows companies to learn about these complexities and address issues quickly, taking into account rapid changes in society.

➤ Engaging in policy dialogue

Companies have the opportunity to use such panels to engage in policy dialogue on specific issues with the stakeholders. By providing a window into discussions taking place in other organizations and forums stakeholder panels make businesses part of policy dialogue which they would otherwise not be able to engage in. This may give the company a “first mover advantage” and could shape the business agenda positively.

➤ Building empathy and trust

If it amounts to an open, authentic, and honest engagement, with both company and stakeholders sharing expertise and speaking freely, a multi-stakeholder panel not only provides networking opportunities but can help build empathy and trust between the company and the stakeholders. This is important not least since stakeholders also have roles as providers of the social license to operate or as consumers.

➤ Mitigating risks

When a multi-stakeholder panel assists the company to effectively face and deal with skepticism and critique, this process can build up trust in the company. As a means of risk management and sustainable business, therefore, multi-stakeholder panels are a proactive approach to reputational concerns and ongoing competitive and business challenges. In today's world, dynamic but risk-prone emerging markets provide some of the most attractive business opportunities, while reports on human rights allegations are quickly distributed worldwide over the internet, global media, and social networking sites.

➤ Preventing disputes

Engaging with stakeholders via a stakeholder panel is especially important with regard to local communities in order to avoid conflicts before they ripen into disputes. While stakeholder panels are distinct from grievance procedures, they promote understanding and contribute to preventing disputes which may be resolved through grievance mechanisms.⁷ Panels also allow stakeholder input into how remediation might be designed or implemented.

➤ Adding value to the business

Engaging a multi-stakeholder panel to advise the company demonstrates the business' commitment to corporate social responsibility including human rights, thereby advancing the company's credibility and legitimacy both within the local community and abroad. Having a panel to facilitate dealing with human rights challenges brought by the local community was seen by many interviewees as "absolutely necessary" especially in developing countries. If implemented with attention to good practice they add the value that derives from businesses truly being "good" businesses. The international community views such panels very positively as a good practice in dealing with human rights issues.

⁷ For an overview of the relationship between stakeholder engagement and grievance procedures, see Corporate Social Responsibility Initiative, John F. Kennedy School of Government, Harvard University, *Rights-Compatible Grievance Mechanisms – A Guidance Tool for Companies and their Stakeholders* (January 2008), at 5-7, available at http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms_May2008FNL.pdf.

III. Pitfalls for Multi-stakeholder Panels

The interviews have identified pitfalls in the current practice of engaging multi-stakeholder panels. Knowing about these challenges will help companies to anticipate and avoid them.

➤ Lack of priority-setting and inefficiency

A very common pitfall is unproductive meetings. Time can be an extremely scarce resource, both for businesses and stakeholders alike. Additionally, many national NGOs have capacity issues as they seek to participate in numerous consultative processes.

The lack of productiveness may be due to a lack of priorities, poor meeting design or facilitation, or the ineffectiveness of panel members. New panel members might not be familiar with the procedures and might slow down the process of reaching a high level of valuable discussion on human rights issues. Some interviewees stated that businesses initially “dragged their feet” in getting the panel work started.

➤ Knowledge gaps due to weak or missing bonds with communities

Interviewees shared the view that knowledge gaps often exist – on both sides – between a panel addressing human rights, and the local community. Global panels sometimes operate from a highly international and more technically oriented perspective that distances them from local concerns. A general misunderstanding as to the nature and mandate of the panel can arise from ineffective communication between the company and the local community. For example, reports of the panels are often published solely on the panels’ internet websites without providing hard copies to the communities that lack access to computers and internet. One interviewee addressed some challenges in finding a member of the global panel who speaks the local language. The interviewee noted that while some community leaders had an idea of what the panel was doing, the rest of the community only had a very distant notion of the panel’s work and the benefits of stakeholder dialogue, due to missing language skills and inadequate time spent with the local community.

For local panels, it may sometimes be challenging to find trustworthy and skilled local community members for the panel who are well known, widely respected and willing to commit to the panel work. This can be particularly difficult where local constituencies and relationships are fragmented and complex.

➤ Deficits in implementing panel recommendations

While interviewees reported improvement in the process of how companies are becoming engaged with stakeholder panels and are publicly reporting out to the shareholders and beyond, it sometimes remains unclear how substantive issues identified by the panels are to be resolved, or how recommendations of the panel will be

implemented.

➤ Conflicts of interest

There is a fear that compensation by the firm creates conflicts of interest for the panel members. As site visits and field investigations are key to the work of effective stakeholder panels dealing with issues in local communities, high travel expenses might be another issue. While the risk of conflicts of interest exists, non-compensated panel members may not dedicate enough time and effort.

IV. Good Practice from Panels Currently Operating and Recommendations

➤ Choose the right form of the panel

Stakeholder panels vary according to several dimensions. Form should follow function. Especially in the highly controversial human rights context, it is important to tailor the panel adequately. On a very general level, various types of panels can be distinguished with respect to their purpose, focus, membership and duration of the mandate.⁸ Focus and membership distinguish global panels from local panels. Global panels at headquarters level usually deal with a range of cross-sector stakeholder issues including human rights, or focus on a specific issue relevant for the entire business. These global panels are useful to address the company's stakeholder-relations globally, but may not be as useful in tackling more specific community-related issues. Another type of global panel may have a more delineated mandate to deal with a particular stakeholder community, e.g. with respect to issues surrounding a particular production site. A local panel instituted to specifically target issues concerning a particular community can typically address particular community issues in a more in-depth way than a global panel.

➤ Clarify to ensure efficiency

It is essential to map out the features of the panel from the beginning and address issues such as mandate and membership based on buy-in from both the company and stakeholders. This will avoid unrealistically high expectations, many tensions and time conflicts in later meetings, and free up time and energy for more productive discussions and proposals regarding substantive issues. Having clear Terms of Reference from the beginning is also important for the mandate of the panel. Sufficient time should be allocated to prepare the meetings and to ensure an adequate response to the issues raised during the meetings.

⁸ While general panels at headquarters level tend to be standing bodies, both global and local panels may have a standing or ad-hoc time-specific mandate depending on the breadth and depth of the issues involved.

➤ Know who to include in the panel

Before the panel assumes work, it is vital to get an agreement, ideally beyond the company perspective alone, as to which stakeholder perspectives to include, and ensure that the composition of the panel fits its objectives. Current panels are usually staffed with both company representatives and stakeholders. Members of global stakeholder panels addressing human rights in local communities typically include individuals from a range of institutional backgrounds including governments, NGOs, labor unions, academia, the UN, and regional organizations, whether representing those organizations or acting in their personal capacity as independent experts. Local panels may include independent experts as well, but more typically focus on including representatives who can faithfully convey the views of the local community. One local panel, for example consisted in equal number of company representatives, and of members of an NGO representing the respective local community. One interviewee emphasized the advisability of “being ready” to engage with additional affected groups representing different interests to ensure a balanced relationship. It is also useful to keep the panel innovative by regularly engaging new members to avoid the panel becoming “too cozy.”

➤ Build strong relations with the local community

In order to avoid knowledge gaps a *global stakeholder panel* specifically established to address issues including human rights in a local community should include one or more members who speak the local language in order to facilitate communication with the community. It is often advisable for global panels to directly engage a community representative to help the panel gain useful insights into human rights dilemmas as seen from a local perspective and enhance the legitimacy of the panel. In addition, a strong presence from and engagement by the global panel in the community is necessary especially when dealing with human rights issues. This may be achieved through durable dialogue and repeated visits to the community, wide distribution of hard copy panel reports in the community language, more accessible and less technical language in the reports, provision of computer and internet access, and requests for local feedback.

In deciding which local community member(s) to include, local stakeholder panels must strive to attain a culturally sensitive grip on how to ensure appropriate representation of the constituencies in the local community taking into account the most vulnerable, and based on a thorough understanding about how the local society and its leadership function.

➤ Know how many members to include

The size of the panel has to allow for constructive discussions and outcomes. Some interviewees considered 5-7 members a good number whereas some thought 10 or more members were too many. But the actual number depends on the objective of the panel: a smaller panel may be suited to get an in-depth, nuanced judgment of a

situation involving a particular dilemma, while a larger panel may be helpful for exploratory purposes to uncover human rights dilemmas and provide for an adequate number of perspectives.

➤ Consider third party facilitators to enhance legitimacy

The panel work may be guided in part by an external consultancy to build trust and enhance legitimacy. A third party as neutral facilitator may serve as an institutional memory and ensure that conflicting stances are taken into account and all perspectives are heard -- which is particularly important in the human rights context.

➤ Ensure a sufficient number of meetings

The interviewees suggested that meetings of the panel need to be set up at least twice a year to be able to stay up-to-date with developments. But the number of meetings held may have to be significantly higher to realize the mandate of the panel. To achieve the advantages referenced above, it is important to avoid the appearance or reality of a “rubber-stamp” panel.

➤ Ensure good leadership

Good leadership is crucial to effectively accomplishing the panel's goals. Highly motivated and effective personalities are necessary to lead the discussions in view of time constraints and the simultaneous need to manage the different perspectives.

➤ Involve senior company representatives

A “direct line” to the company board is very important, especially if the panel has the mandate to advise on company policy changes and how best to address specific human rights situations and dilemmas. Direct engagement by the company board may also help to delineate the roles of the business and stakeholders with respect to the panel work. While attendance at some panel meetings by the CEO may demonstrate commitment to human rights and the panel's advisory role, the CEO's attendance must be carefully considered and appropriately timed as it may otherwise hamper the proceedings.

➤ Avoid and address conflicts of interest

In facilitating the panel, companies provide for the logistics of the panel's meetings, the members' expenses, and field investigations and site visits.⁹ While compensation is typically made available, some panel members decline payment in order to avoid even the appearance of a conflict of interest. Conflicts of interest need to be avoided while the effectiveness of the panel needs to be ensured. Interviewees suggested the

⁹ Field investigations and site visits only concern panels with a focus on local communities and do not always apply to global advisory panels which guide company policy on a general level, sometimes without a local focus.

establishment of blind trusts or contributions to a charity as effective means. Transparency about the compensation of panel members may reduce or avoid the perception of conflicts. The disclosure of the meeting minutes may also cause concern. While a transparent process is desirable, a thoughtful and defensible approach is crucial to ensure vigorous, effective deliberations.

➤ Be transparent

Panel reports should be made publicly available, e.g. on the company's website, and by distributing hard copies to the local communities in local languages. Some company representatives fear raising unrealistic expectations with panel recommendations, and were cautious about being accountable for the recommendations. However, as other company representatives and experts pointed out, since a major purpose of such panels is constructive feedback and criticism, recommendations should be taken into account by the company.¹⁰ As one interviewee shared, to avoid the frustration of taking a middling path, it is worth "going the full nine yards" to achieve an effective, transparent process, and eventually the uncensored publication of the panel's findings. The publication of uncensored, high-quality panel reports confirms serious consideration of human rights issues and dilemmas. In sum, embracing dissent and having stakeholders as "critical friends" through stakeholder panels is generally considered to be a constructive means of managing human rights responsibilities.

¹⁰ While it is important for the panel to speak with one voice where possible, an interviewee pointed out that it may be appropriate to make references to dissenting opinions of panel members. Whether this is appropriate should be decided by the panel and alternative approaches could be provided for in the panel's Terms of Reference.