ISEAL
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Stakeholder Consultation Practices in Standards Development

R044 - Public Version 1

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Introduction

The purpose of this paper is to examine the issues that arise in implementing multi-stakeholder consultations in standards development, both on a conceptual basis as well as in its practical application. It has been claimed that private voluntary standards are developed with a perceived "democratic deficit"[1], in part due to insufficient government oversight. However, in contrast to government regulations that frequently have little or no citizen involvement, many private voluntary standards seek out stakeholder input and, as a result, have greater credibility with consumers and with civil society organizations.

The ISEAL Alliance Code of Good Practice for Setting Social and Environmental Standards requires that interested parties "be provided with meaningful opportunities to contribute to the elaboration of a standard" (Criterion 7.2) and, "that participation reflects a balance of interests among interested parties in the subject matter and in the geographic scope to which the standard applies." (7.1) While these may seem fairly straightforward requirements, applying them in practice is much more complex. The ISEAL report on the implementation of the Code of Good Practice (R038) reveals that "meaningful stakeholder engagement is among the most difficult elements of the standard-setting process." This paper explores some of the causes of this difficulty, including: understanding what constitutes acceptable consultation; identifying and engaging stakeholders; and differing capacities among the stakeholders themselves.

In his review of the development of four regional Forest Stewardship Council standards in North America, Fred Gale refers to the Bridgman and Davis "'consultation continuum', that ranges from the provision of mere information at the minimal pole to full public control over the policy process at the maximum end. Intermediate points along the continuum are characterized as 'consultation', 'partnership' and 'delegation'."[2] The ISEAL Code of Good Practice requires that consultations fall along the upper end of this continuum. Gale goes on to note that while there is not a one-to-one relationship between standards development methodology and the quality of the standard, it does indeed exist, with a more bottom-up approach producing a more rigorous standard. Gale found that, "…there is a strong association of elite negotiation agreements with less onerous regional standards."[3]

The enormous challenge of multi-stakeholder processes is to find the balance between logistical and financial constraints on the part of the convener of the process. The Pi Report on Governance and Multi-stakeholder Processes provides a survey of issues relating to multi-stakeholder governance. The authors propose that "core to the essence of viable systems are the interlinked notions of *legitimacy* and *efficiency* of the structure and process… Additionally, legitimacy depends on the ability of the process to engage the stakeholders in a meaningful dialogue in which they feel ownership and the possibility to derive benefits."[4]

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[1] Vorley, Roe and Bass, p. 9
[2] Gale, p. 58
[3] Gale, p. 80
[4] Vallejo & Hauselmann, p. 4

Developing the Consultation Process

Multi-stakeholder consultations are an explicit requirement of the Code of Good Practice. However, they are more than simply a requirement to fulfill; they are the basis for ensuring relevant and effective content of the standard. A successful consultation rests on a clear understanding of the process and the substance of the consultation by both the convener and those being consulted. When stakeholders have confidence in the process and its legitimacy, differences among stakeholders can co-exist without disrupting the process.

The following factors should be considered by each organization undertaking a multi-stakeholder consultation for the purpose of creating or reviewing a standard. They will be discussed further in this section:

- Assess what activities are important and necessary for the legitimacy (internal and external or perceived) of their process;
- Assess what mechanisms (membership base, networks, communication vehicles etc) are already in place and which can be utilized for the consultation process;
- Undertake a thorough stakeholder analysis to help determine where the boundary is between under and over-consulting (where under-consulting can result in the need for additional consultations and over-consulting is a waste of resources);
- Determine how to elicit the full range of information necessary for the development of the standard (through stakeholder consultations, internal staff expertise and other mechanisms);
- Assess what mechanisms and procedures need to be put in place to successfully implement a legitimate multi-stakeholder consultation; and,
- Assess the funds in place and fundraising possibilities.

Setting Parameters

The scope of a standard is often constrained by the objectives or structure of the convening organization. Most ISEAL members work within certain parameters when developing a standard. For some it will be their own "standard for standards" such as IFOAM's *Basic Standards*, or FSC's *Principles and Criteria for Forest Stewardship*. Others, such as Social Accountability International, will be constrained by their commitment to conventions of the International Labour Organisation (ILO).

Conveners of a multi-stakeholder consultation also need to have a clear understanding from the start of the process whether the consultation will result in a standard developed by and accountable to those consulted or if it is simply the input of the stakeholders that is being sought. If the consultation is purely for extractive or advisory purposes, then this must be made clear to stakeholders, even before they agree to be part of the process.

In setting the timeline and agenda for the standard-setting process, the convener has to address various logistical needs such as how much preparation will be expected of participants in advance of the actual consultation; the time commitment expected of each participant; how many meetings they can expect; where the meetings will be located; and what type of support will be available to the participants (information, financial). Efficiency is greatly increased when

the convener is able to inform participants about their organization as well as the purpose and agenda for the consultation in advance of the actual consultation.

In order to ensure that those who have the most difficulty engaging in a consultation process are able to participate, conveners can involve those stakeholders in the design of the process. As an example, FSC Canada recently commissioned an "Examination of Potential Models for Developing Forest Stewardship Council Standards for Canada's Boreal Forests". The report recommended conducting an Aboriginal strategic planning process that would "provide an opportunity for Aboriginal Peoples to collectively set the terms for their involvement in the boreal standards development process". The recommendation went on to clarify that "this process is not meant to determine a national boreal standard, but to address Aboriginal issues up front and develop a framework for involvement."[5]

Convener's Bias

Whoever convenes the consultation has a profound effect on the process. "Conveners' biases and agendas directly influence the selection of stakeholder groups, the people who represent each group and how the expression of interests is facilitated in the meeting."[6] By being as aware as possible about the implications of this, in terms of perspective, methodology and objectives, the convener can hope to mitigate potential biases.

Clearly the choice of facilitator is an important factor to consider, taking into account language skills, facilitation skills and cultural sensitivity, along with personal and organizational biases. It requires a skilled facilitator to ensure that weaker groups or individuals are able to participate fully. An understanding of the range of stakeholder interests, as well as a thorough grounding in the goal and objectives of the consultation are key factors that contribute to successful facilitation.

The convening organization has to be clear about the lines of responsibility for both overseeing and carrying out the consultations. Ideally, communications related to the consultation should come from a consistent source within the organization. The facilitator must be empowered enough, and have the flexibility to deal with problems that may arise during the actual consultations. These can have process, financial and logistical implications. It is important for the convener and the facilitator to have a mutual understanding of their respective roles and decision-making authority. Since not all problems can be anticipated, this understanding could be based on a set of commonly agreed criteria.

Funding

It may seem obvious that the organization convening the consultation has to be committed to the process and allocate sufficient resources for the full process. However, the implications of this are that some advance work is necessary to determine the range of human and financial resources that will be required. Sources of information for determining an appropriate and sufficient budget include an analysis of the scope of interested stakeholders and their respective needs (see section on Identifying Stakeholders), as well as previous experience with

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[5] McEachern, Gillian p. 4
[6] Edmunds & Wollenberg, p. 4

consultations. Most importantly, conveners should determine the extent to which they need to support the participation of disadvantaged stakeholders in order to achieve balanced representation. The legitimacy and credibility of the consultation process is at risk if the participation of disadvantaged stakeholders can not be supported, leaving the consultation to those who are better resourced.

The sources of funding also need to be considered as a factor in the credibility of the consultation. If there is one primary source or donor for the process, this has the potential to create undue influence in the development of the standard, unless the role of that donor is clearly spelled out. Ideally, "participants should not have a direct role in funding the process they are involved in."[7]

Decision-Making

Preparation for the consultation process must also include "marking out the decision territory"[8] where both the convener and those consulted are clear about the areas in which they can have input and participate in the decision making. It is often the case that participants in a consultation make the final decision on the content of the standard but the authority to adopt and implement the standard rests with a designated body that is part of, or associated with, the convener (such as an organization's Board of Directors). This must be made clear to stakeholders before the process is undertaken.

Nick Tyler has made the point that when stakeholders are kept out of the decision making stage, they feel "alienated from the …process".[9] Stakeholders who are impacted in their workplace or home environment by the implementation of the standard are, in some ways, more accountable for the standard than the organization that convened the consultation since they have a greater stake in the application of the standard. On this basis alone, directly-affected stakeholders should be empowered to participate at least in the decision on the content of the standard.

Consultations will involve decisions at various stages before the final draft of the actual standard. The process for making decisions may be pre-determined by the convener or developed and agreed upon by the participants. If the decision on the content of the standard rests with those consulted, then the facilitator has to ensure that the group process is at a place where it is appropriate to make that decision. Premature decision-making can mask differences of opinion and preclude full information gathering.

Documentation

The convener must have mechanisms in place from the very beginning to document both the process and the substantive outcomes of the consultation. The process design and ground rules need to include a clear decision by both the stakeholders and the convener on what form the documentation will take and whether or not the records of the consultation meetings will be verbatim text of the proceedings, summary notes or just group decisions.

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[7] Hemmati, p. 224
[8] Tyler p. 268
[9] Tyler, p. 256

Documenting the process from beginning to end contributes to both the legitimacy and transparency of the consultation. Internal legitimacy is increased when this documentation exists and is approved by the relevant participants. External legitimacy is increased when the records of the process are available for public scrutiny. Sufficient time must be allocated to representative stakeholders to enable them to circulate the document to their constituency before they are able to approve it. If a document is circulated which the participants feel does not reflect the deliberations or outcomes, this can undermine the credibility of the consultation, both internally and externally.

There also needs to be clear guidelines for participants, facilitators and the convener regarding communication about the consultation to the general public. Each participant should have the right and ability to talk about their experiences with members of their community and the general public. Communication guidelines should cover who is responsible for creating and disseminating any "official" records of the consultation as well as what communication vehicles will be used (locally and internationally). Ultimately, public dissemination of information about the consultation should heighten interest and even participation in the process. Transparency in the development of a standard also increases its legitimacy with the general public.

Participation Quotas
There is a both a lower and upper limit to the number and range of stakeholders that is desirable for a consultation process. As Pi Environmental Consulting proposed in their *Governance and Multi-stakeholder Processes* study, "Below a certain threshold, legitimacy is not significantly improved by additional stakeholders. Above this threshold, it increases significantly, until it reaches a ceiling where the addition of further stakeholders does little to improve legitimacy."[10] The reverse is true for efficiency, based on the premise that a small number of stakeholders will have less diversity of perspectives. "With diversity, the speed of the process then drops more rapidly, but never completely stalls."[11]

Any standard-setter has to be able to determine when they have fulfilled their commitment to a multi-stakeholder consultation. As Fred Gale indicates, "private regulatory regimes are especially susceptible to under- and over-consultative arrangements."[12] Having a participation quota established before the consultation process begins is a useful tool in this regard but must also be open to reconsideration if the events or findings of the consultation warrant it.

Identifying Stakeholders
Identifying potential stakeholders is a key component of the pre-consultation phase of any standard-setting initiative. A clear understanding of the objectives of the consultation will assist the convener in determining the range of stakeholders that needs to participate in order to achieve a legitimate outcome. As the Pi study suggests, "It is the nature of the envisaged objectives and products that will help to decide which institutional structure is required and the

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[10] Vallejo and Hauselmann, p. 6
[11] Vallejo and Hauselmann, p. 6
[12] Gale, p. 57

appropriate combination of stakeholders that should take part in the initiative."[13]   It is important to note that the internal and external legitimacy of the process can be greatly impacted by which stakeholders are or are not involved: not having a broad enough representation among the stakeholders can undermine credibility as much as having stakeholders involved who have a perceived or actual conflict of interest with the standard under development.

Stakeholder analysis is one means of categorizing the range of potential stakeholders, along with their priorities, needs and capabilities. It is a useful tool to help identify both the range of stakeholders and what is necessary to enable them to participate in the consultation. "Multistakeholder analysis is all the more needed where resources crosscut different administrative, social, economic and political systems operating at micro and macro levels."[14] Each convener needs to develop a list of interested or affected groups from categories relevant to the standard under development. The convener needs to be aware of the limitations that they could place on the breadth of stakeholders identified, due to their own organizational objectives, culture and perspectives. The information gathered on stakeholders should be used to create a database that is maintained over the life of the standard, facilitating follow-up when the standard comes up for revision.

As recommended by the Marine Stewardship Council in their *Guidance for Certification Bodies on Stakeholder Consultation in Fishery Assessments* the pre-consultation phase is a time to answer some key questions regarding potential stakeholders:

"6.1.3.2   How wide a net will need to be cast to capture key stakeholder input? What is likely to be the appropriate scope of stakeholders to consult (local, regional, national, international) and in what categories of interest (industry, government, conservation groups, community or tribal/indigenous interests, etc.)?…

6.1.3.4   What, if any, cultural issues, sensitivities, or protocols may be relevant to successfully approaching and engaging the stakeholders identified?

6.1.3.5   What are the technological capacities of the stakeholders or stakeholder groups (particularly with regard to communication)?

6.1.3.6   How internally cohesive are key stakeholder groups? How are they organized and what are their intra-organisational communication mechanisms or capabilities? (e.g. are there mechanisms in place for representatives to inform and consult with their constituents, and what kind of time do they need to do so?)"[15]

Different stages or sections of the development of the proposed standard can also require different combinations of stakeholders. The Forest Stewardship Council elaborates this concept in their Standard on *Stakeholder consultation for forest evaluation.* Annex 1 of the Standard[16] provides examples of potential stakeholder groups broken down for each of the ten principles of the *FSC Principles and Criteria for Forest Stewardship*. In selecting specific groups or individuals for given stages or objectives of the consultation, the convener should consider who is generally excluded from such a consultation and whether that exclusion is warranted. An

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[13] Vallejo & Hauselmann, p. 4

[14] Chevalier. ~ p. 2 (pages not numbered)

[15] Marine Stewardship Council, p13

[16] Forest Stewardship Council, FSC-STD-20-006, p. 7

appropriate way to deal with this is to engage a key group of stakeholders for a given element of the standard while keeping the process transparent for all stakeholders and enabling them to engage as they see fit.

Seeking Input

Having laid out the consultation process and defined the draft list of stakeholder groups to be included in the consultation, it is now necessary to identify the actual participants. There are significant hurdles to overcome in engaging a balanced and representative range of stakeholders. Foremost among these is to convince stakeholders that their input is valuable and that the end product will have a positive impact on their lives or on their goals and activities. This section outlines the various elements that need to be considered in seeking the input of stakeholders.

Notification Mechanisms

Engaging stakeholders begins with notifying them about the consultation. Having identified different categories of stakeholders, the convener is in a position to determine the range of mechanisms that will be necessary for notifying these stakeholders. Communication channels must be chosen to reflect the availability, needs and abilities of the participants, as well as the methods of consultation. The consultation will be more successful if the relevant information is accurately and fully conveyed in terms of convener, goals, contact information, schedule etc. Consultation mechanisms also need to be culturally appropriate for those being consulted.

Many organizations depend on the internet and postal mail as their primary vehicles for communication. Electronic communication (web forum, dedicated listservs, electronic submission forms) are the least resource-dependent forms of communication. However, the advantages of face-to-face consultations are that they help build trust and enable a dynamic exchange of ideas. Electronic communications eliminate non-verbal communication among participants (for better and worse), but can also be a means of addressing power imbalances, provided all the participants in question have internet access. Achieving consensus can be very difficult amongst a group linked only through electronic means.

Where a consultation involves those in rural and remote communities, the notification mechanisms will need to be supplemented in creative ways, drawing on individuals residing in those areas to access more rudimentary communication vehicles. These include, but are not limited to:
- Direct personal contact;
- National and local print and radio media;
- Signage posted on community bulletin boards and in the offices of relevant local organizations – in the local language; and,
- Engaging local organizations, political, religious or otherwise, to notify their constituencies.

A benefit of a multi-stakeholder consultation process is that it inevitably helps increase awareness of the organization and its standards. Stakeholders who have been consulted often

feel a sense of ownership over the standard which may make them more likely to choose that particular standard if their community or organization is considering certification. They may also disseminate information about the standard and the convener to their networks.

Finally, with regards to communication channels, it is important to note that the commitment to and connection with the community of stakeholders does not end when the formal consultation period is over. There needs to be a procedure in place so that the standard-setting organization can continue to receive comments, complaints and appeals on the consultation process and the substance of the standard. All stakeholders must be made aware of these procedures and how they can access them. The comments need to be collected and incorporated into the next scheduled review of the standard.

Engaging Stakeholders

While guidelines and clear objectives are necessary for a transparent and open consultation process, adaptability is required on the part of the convener in order to make the process work as well as possible for the stakeholders. This can include flexibility in scheduling of the consultations, time commitment expectations of the stakeholders, and choice of location. Even with a basic consultation framework in place, the convener still needs to be able to adjust specific engagements to meet the needs of diverse groups and individuals.

The convening organization must ensure that comprehensive and consistent information is supplied to those participating in the consultations. This need can be met most effectively if there is a clearly designated staff member or unit within the organization that will be responsible for the information collation and dissemination. They must also ensure that all participants have access to this information, both in terms of physical access and in terms of the language and means of conveying the information (for instance, when illiteracy or local dialects are issues).

The language used in the consultation process, from notification through to final standard can be a huge barrier to participation if it is not consciously and conscientiously used in ways that acknowledge the needs of the stakeholders. This can be as obvious as different languages and dialects but also includes the use of technical language. Not only must the information conveyed to the stakeholders be in accessible language and terminology, there must not be a requirement that comments or submissions fulfill certain technical parameters. In analyzing why there was a lack of women's participation in a poverty reduction strategy development project in the Honduras, the point was made that the women could not present "concrete policy proposals designed in the technocratic language of state administration."[17]

It is necessary to carefully consider the timing and time limits when planning both the overall consultation as well as individual sessions. "Local time constraints such as those imposed by agriculture, urban, and domestic work routines can influence community attention spans [or availability] and, hence, the quality of information received. The method should, therefore, be flexible enough to not place too great a burden on community workloads, especially those of women."[18]

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[17] Seppänen, p. 66
[18] Rachel, p. 64

The locations chosen for consultation events can also greatly influence their accessibility in terms of both physical and psychological access. When choosing a location, the make-up and needs of the group's participants must be carefully reviewed and factored into the decision. Social barriers can exist that may not be apparent to outsiders, such as cultural traditions that exclude portions of the community from accessing certain locations. The participation of individuals from remote communities can also be abruptly curtailed by weather-related events.

Balance and Composition

It is important that the diversity among participants sought for the consultation does not get quashed in the actual process. Edmunds and Wollenberg state that "power imbalances persist, if in no other way than through historical relationships among stakeholders. Rather than assuming that neutral conditions can ever be achieved, we need to assume that we can only work towards this ideal."[19] These power imbalances, if not acknowledged and accommodated can be perpetuated in the consultation process and pose risks for the disadvantaged. They can also result in an apparent homogeneity among the stakeholders involved that does not truly exist.

"Since [consultations] are an iterative process rather than a single event, practitioners need to think about how power relations also change, how to keep track of these changes and to use a diversity of approaches to best meet disadvantaged groups' evolving needs."[20] This is particularly relevant where the goal of standards is to ameliorate the social conditions of disadvantaged groups.

It is also useful to recognize the different capacities of stakeholders: "Institutional stakeholders are those organized lobby groups representing the interests of a large group of individuals, an industry or large public or private organization. Institutional stakeholders typically have at their disposal both technical expertise and the resources to participate fully in even the most convoluted of consultation procedures. Local stakeholders, on the other hand, are those much smaller groups and individuals who may lack the organizational capacity or resources to make their voices heard unless the consultation processes engage effectively with them."[21]

Minu Hemmati makes some important points on the composition of a group involved in a multi-stakeholder process (MSP): "An MSP should always include at least two representatives of each stakeholder group, and preferably in a gender-balanced manner. Research on minority influence has shown that a single member with a divergent view will be less heard and may become reluctant to contribute her or his divergent view."[22] Further, she differentiates between balance of stakeholders and balance in their respective areas of expertise. "Regional balance is particularly important for international processes; ensuring equitable participation from developing countries and countries in transition is the key. However, in addition to such balances what matters is what and who is to be represented; gender balance, for instance,

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[19] Edmunds and Wollenberg, p. 2
[20] Edmunds and Wollenberg, p. 2
[21] McGlashen & Williams, p. 87
[22] Hemmati, p. 226

cannot by itself ensure that gender aspects will be addressed. It is the inclusion of participants with expertise on gender issues that is the crucial factor."[23] On the relative merits of limiting participation to experts, Hemmati acknowledges that, "A mix of experts and novices is not harmful; indeed, it can be helpful. Within the MSP framework, we can consider all participants experts and novices at the same time - experts of their own views and knowledge, and novices to much of the others' views and knowledge."[24]

Some ISEAL members have in place, in their governance structures or consultation procedures, special considerations for stakeholders from the South. The Forest Stewardship Council's Bylaws provide for a balance of decision-making power between the North and the South. Further, the FSC, in their procedure document, *The development and approval of FSC International Standards*, include procedures for ensuring participation of stakeholders from the economic south. "These include:
- Seeking funding to hold Technical Working Group meetings in southern countries, where appropriate;
- Seeking opportunities to meet with southern stakeholders in association with other meetings;
- Carry out pilot testing/field testing in at least some southern countries;
- Aiming to include southern, and in particular regional representation in Technical Working Groups;
- Working with National Initiatives in southern countries to hold telephone conferences with southern stakeholders; and
- Seeking funding to facilitate consultation by southern National Initiatives."[25]

Representation
It is generally agreed that a stakeholder is someone who has "the capacity of [a] group or individual to affect or be affected by the objectives under consideration."[26] Where the definition gets more complicated is the issue of representative versus individual stakeholders and how one determines whether a claim of representation includes a genuine constituency that should be involved in the consultation.

Multi-stakeholder consultations will inevitably include representatives of groups of stakeholders. A key point raised by Edmunds and Wollenberg is that "bringing an individual from a disadvantaged group to the negotiating table does not ensure that they represent the interests of a constituency."[27] To ensure accountability and legitimacy of the representative stakeholders, the Marine Stewardship Council suggests that "Interest groups should be prepared to describe the mechanisms they have for communicating with their constituents."[28] It is also highly recommended that participants not represent more than one group, since confusion can arise when several groups are being represented, even when the individual makes it explicit on behalf

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[23] Hemmati, p. 226
[24] Hemmati, p. 226
[25] Forest Stewardship Council, FSC-PRO-01-001, p. 24
[26] McGlashan and Williams, p. 87
[27] Edmunds and Wollenberg, p. 4
[28] Marine Stewardship Council, p.10

of which group s/he is communicating. The convener should also be aware of the potential that constituency members may object to the outcomes of a process to which they have delegated a representative.

The roles and responsibilities of someone who is a representative are different than those of individuals. This must be factored into facilitation of the group and when processing comments and submissions. It is important to identify, both in the process and in the documentation, when an individual is speaking on her or his own behalf or on behalf of a group. It is also essential to factor enough time into the consultation process for representatives to consult as necessary and appropriate with their constituencies. When working with communities or cultures that have a long history of communal decision making one needs to ensure that they have adequate time for that consultation in addition to making sure that they are aware of options for later input.

Rules of Engagement

It is essential to have clear roles and rules of engagement for all stakeholders and to make sure that they understand them at each stage of the process. These rules can be conveyed in a Terms of Reference document that should be made available to all potential participants.

All participants need to be treated respectfully and to be able to see that their input is taken into account in a transparent way throughout the course of the consultation. This is achieved, in part, by ensuring that the ground rules include a recognition that no one person has all the answers and that everyone brings some knowledge; there are no "experts", only a communal sharing of information. The ground rules also need to cover issues such as granting permission to share information gathered; if and when confidentiality and/or anonymity will be enforced; and consensus and decision-making procedures. Even if the consultation only convenes one meeting with a given set of participants, it may be necessary to address what happens when someone removes him/herself from the process (i.e. will an alternate be allowed to join the meeting part way through?). It is also useful to have information available on the process to be undertaken when a participant refuses to abide by the ground rules.

Working with a diverse group (which should be the goal of a multi-stakeholder process) means that there will inevitably be divergent and, at times, opposing views that could result in conflict. The process design should include mechanisms that work to overcome confrontational relationships between the stakeholders. In addition, it is advisable to have a conflict resolution procedure in place that is effectively communicated to participants as part of the communication ground rules.

Minu Hemmati suggests the following list as effective guidelines for face-to-face multi-stakeholder processes:
- "During discussion, participants must make every effort to be as frank and candid as possible, while maintaining a respectful interest in the views of others. Participants need to refrain from personal attacks and avoid placating, blaming, preaching, dominating or passively resisting. Confrontation, blank ultimatums and prejudicial statements are not helpful. An atmosphere that cultivates directness, openness, objectivity and humility can be viewed as a prerequisite for successful dialogue and consensus-building.
- Participants need to be honest and trustworthy.

- A true dialogue cannot be entered into with the goal of 'getting one's way'. It must be entered into with the expectation of learning and change.
- All participants and their contributions need to be treated equally.
- Participants are asked to address the group as a whole, while showing concern for each point of view, rather than confronting and criticizing individuals.
- To help understanding and to clarify perceptions, participants and facilitators should be encouraged to restate one another's views in their own words ('active listening').
- Participants should refrain from presuming the motives of others and rather be encouraged to ask direct questions.
- Participants must argue on a logical basis and be prepared to back up their opinions with facts.
- Brain-storming can be helpful: conducting a session of putting forward ideas and collecting them without judgement for later discussion can create a larger pool of more creative ideas.
- When an idea it put forward, it becomes the property of the group. This sounds simple but it is a very profound principle: all ideas cease to be the property of any individual, subgroup or constituency. This can reduce the impact of personal pride and make it easier for others to adopt an idea.
- Allow space and time for different modes of communication, both socio-emotional and strictly task-oriented. Humour – a good laugh and space for informal encounters are legitimate tools and can go a long way to help the group to build trust and a sense of common ownership of the process, as well as release tension arising from differences."[29]

Relating to Non-participating Stakeholders

If the organization is not able to meet its participation quota because some stakeholders are refusing to engage in the process, it is important to review and understand the reasons for this refusal. As the Marine Stewardship Council *Guidance for Certification Bodies on Stakeholder Consultation in Fishery Assessments* indicates, "There are a number of reasons why a stakeholder or stakeholder group might demonstrate a lack of interest or resist participation….As a general rule, reluctance by key stakeholders to engage should trigger more active outreach to determine the reason for their reluctance."[30]

Depending on who is abstaining from the process, their non-participation can undermine the credibility of the consultation if they are identified as, or perceived to be key stakeholders. Whether or not those abstaining are publicizing this fact, the records of the consultation process will make their absence public.

The reasons that exist for non-participation can be substantive or procedural. They include access problems (physical, cultural, language), timing (too large of a time commitment required, scheduling conflicts, or not enough notice for meetings), and political differences (perceived or actual) between the convener and the non-participants. To encourage participation in the process, capacity building efforts may be needed or changes to the consultation methodology

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[29] Hemmati, pp. 232- 233
[30] Marine Stewardship Council, p. 17

may be required. Flexibility is important when power is genuinely shared with a broad base of stakeholders.

Those abstaining from the consultation process may still want to submit comments or information to the development of the standard. There needs to be clear mechanisms and guidelines for receiving input from non-participants that include how this input will be weighed against input received from those who engage actively in the consultation process.

Lastly, it may be appropriate for the convener or the group being consulted to decide how to deal with non-participants who are disruptive of the process. This may take a public or private form, depending on the circumstances. Ultimately, proactive policies and efforts aimed at non-participants can help to support the actual and perceived legitimacy of the consultation and resulting standard.

Capacity Building

Capacity building of stakeholders serves two fronts: the first is to ensure greater balance between weaker and stronger interests; the second is to support meaningful participation by all interested stakeholders. Capacity building for a consultation process can take many forms and should be tailored to meet the needs of those actually participating. Areas where capacity building may be relevant include technical language and terminology, conflict management, standards structures (criteria, indicators and benchmarks), and submission procedures.

Capacity building can also be about simply enabling access to the consultation process through adjusting the structure, location or timing of the consultation. Whether or not the technical language element is addressed, capacity among participants to effectively and efficiently contribute is greatly increased when clear information is provided. Further, unless there is funding to compensate those being consulted for their time, "… it is sometimes difficult to achieve committed participation by stakeholders who, in effect, are undertaking unpaid work that competes with their other responsibilities."[31] Given the low likelihood of being able to adequately fund stakeholders to participate, the convener must determine how best to use their limited resources. Stakeholders are more likely to prioritize time to participate in the process if they can be convinced of the importance and relevance of the standard-setting activity.

It is important to note that capacity building may also be necessary for the convening organization in areas that include cultural awareness, language and dialects, and the ability to convey technical aspects of standards development or international regulations in lay language.

Follow-up

One of the questions related to the efficiency of the consultation is the matter of knowing when stakeholders have been adequately consulted. It cannot merely be the case that no additional comments are being submitted but also has to include an assessment of whether or not all relevant stakeholders have been given a genuine opportunity to participate. Having mechanisms in place to hear from those who may have been excluded can enable an

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[31] Keskitalo, p. 431

organization to complete a formal consultation phase while still keeping the door open to interested stakeholders.

Conveners should also enable stakeholders to provide feedback on the consultation process itself, both during and after the consultation. Hemmati stresses the importance of a mechanism that allows participants to reflect on the process in which they are engaged[32]. It can be a formal or informal process that includes an evaluation of the consultation, incorporating criteria such as whether or not all the stakeholders are being engaged and not marginalized, are committed and participating etc. This can allow observations about process or participant needs to surface and be addressed. It may also give rise to observations about the standard being developed itself and give the convener a sense of the level of support for the standard.

All participating stakeholders must know that the resulting standard is a living document which can continue to be adapted and revised over its life. They must be made aware of the mechanisms for this input. Information should also be made available to consultation participants about additional mechanisms for getting involved in the convening organization itself, if they so desire.

Relationships of trust are built over time, especially when working with disadvantaged stakeholders. Where possible, it is advisable for the standard setting organization to maintain communication, even if sporadic, with stakeholders in order to both maintain their stakeholder database and facilitate communication for the next round of consultations. Standard setting organizations that are able to initiate and maintain a long-term relationship with stakeholders could consider special capacity building events to assist the participation of groups who appear to be under-represented.

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[32] Hemmati, p. 245

Annex 1: Additional Resources

MacCuish's Common Flaws in Participatory Procedures

Derek MacCuish, in his paper entitled *Participatory processes in international financial policy – engaging civil society in the policy process* warns, from experience, of the common flaws in participatory procedures. He breaks them into five areas that are all relevant to consultations for standards development. For our purposes MacCuish's 'institutions' are understood as standard-setting organizations and 'CSO's' (Civil Society Organizations) are the stakeholders:

"Expectations:
- Insufficient transparency on part of institution(s) as to their expectations and parameters of process;
- Insufficient attention to investigating CSO's expectations and reconciling these with expectations of institution(s);
- Lack of clarity over who is accountable for the process and its outputs.

Timing:
- Insufficient notice given CSOs of pending events or processes;
- Insufficient time allowed for genuine consultation or participatory process to occur.

Information:
- Not disseminating widely enough or in appropriate language, styles or formats;
- Not disseminating in good time for CSO representatives to prepare their inputs, including consulting with constituencies;
- Not enough access to alternative, impartial analysis, produced by actors other than the principal institution(s) involved;
- Inadequate attention by institutions to provision of feedback to CSOs on what happened to their inputs – on what basis these were not included.

Representation:
- Participation is usually by invitation, and invitation by criteria which is not transparent nor devised on the basis of close knowledge of civil society in the country;
- Those elements of the population which are the hardest to reach – the poorest, furthest from the capital city etc. – are rarely represented.

Follow-up:
- Insufficient provision made for conducting follow-up with CSOs involved;
- Failure to take into account likelihood of changes in government etc. which could threaten sustainability of process." [33]

While MacCuish addresses only the failings in participatory processes, it is a useful admonitory list to refer to in designing and implementing a standard consultation.

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[33] MacCuish, pp. 8 - 9

Edmunds & Wollenberg on Power Imbalances

Edmunds and Wollenberg suggest some practical steps that a convener can take in multi-stakeholder negotiations when there are power imbalances among those consulted:

- "Inform participants fully about to whom conveners and facilitators are accountable.
- Give disadvantaged groups the option to not participate in negotiations and to not be made more visible to powerful stakeholders.
- Create possibilities for disadvantaged groups to use alliances with more powerful groups in negotiations.
- Acknowledge the right of disadvantaged groups to identify 'non-negotiable' topics, or items they view as inappropriate for discussion in the negotiations.
- Acknowledge the each group may not fully and unconditionally support proposed agreements. Encourage stakeholders to express their doubts about agreements. View 'consensus' as likely to mask differences in perspective and discount the input of disadvantaged groups.
- Assess the likelihood that external events will require revisions in agreements and make provisions for disadvantaged groups to be involved in those revisions.
- Prepare disadvantaged groups for the possibility that the good will demonstrated among groups in multi-stakeholder forums may not last.
- Approach negotiations as one strategy among several that disadvantaged groups may pursue simultaneously.
- Assess the legitimacy of processes, decisions and agreements in terms of the role and implications for disadvantaged groups. Analyze the reasons for participation or non-participation by each group in negotiations, how groups are represented, the roles of conveners and facilitators, and the history of relationships underlying agreements.
- View negotiations as a long-term, iterative process and be ready to monitor impacts and adjust strategies to assist disadvantaged groups accordingly.

These steps do not eliminate the vulnerability and representation of disadvantaged groups, but do help to place these issues at the center of the process." [34]

WWF Principles for working with Indigenous Peoples

The WWF *Statement of Principles on Indigenous Peoples and Conservation* describes specific principles and actions that govern their interactions with indigenous populations around the world. "With respect to the existing knowledge of indigenous communities….WWF will establish agreements with the indigenous organizations representing local communities, to ensure that they are able to fully participate in decisions about the use of knowledge acquired in or about the area they inhabit, and equitably benefit from it. These agreements will explicitly determine the ways and conditions under which WWF will be allowed to use such knowledge." [35] Even where such principles are adhered to, however, indigenous people may still choose to not disclose traditional knowledge, particularly if their history of sharing information has not been a positive one.

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[34] Edmunds and Wollenberg, p. 6

[35] Principle 28, accessed in April, 2005 from:
http://panda.org/about_wwf/what_we_do/policy/indigenous_people/statement_principles.cfm

Hemmati's Principles and Strategies for Multi-stakeholder processes[36]

Principles	Strategies
Accountability	Employing agreed, transparent, democratic mechanisms of engagement, position finding, decision-making, implementation, monitoring, evaluation; making these mechanisms transparent to non-participating stakeholders and the general public
Effectiveness	Providing a tool for addressing urgent sustainability issues; promoting better decisions by means of wider input; generating recommendations that have broad support; creating commitment through participants identifying with the outcome and thus increasing the likelihood of successful implementation
Equity	Levelling the playing-field between all relevant stakeholder groups by creating dialogue (and consensus-building) based on equally valued contributions from all; providing support for meaningful participation; applying principles of gender, regional, ethnic and other balance; providing equitable access to information
Flexibility	Covering a wide spectrum of structures and levels of engagement, depending on issues, participants, linkage into decisionmaking, time-frame, and so on; remaining flexible over time while agreed issues and agenda provide for foreseeable engagement
Good governance	Further developing the role of stakeholder participation and collaboration in (inter) governmental systems as supplementary and complementary vis-à-vis the roles and responsibilities of governments, based on clear norms and standards; providing space for stakeholders to act independently where appropriate
Inclusiveness	Providing for all views to be represented, thus increasing the legitimacy and credibility of a participatory process
Learning	Requiring participants to learn from each other; taking a learning approach throughout the process and its design
Legitimacy	Requiring democratic, transparent, accountable, equitable processes in their design; requiring participants to adhere to those principles
Ownership	People-centred processes of meaningful participation, allowing ownership for decisions and thus increasing the chances of successful implementation
Participation and Engagement	Bringing together the principal actors; supporting and challenging all stakeholders to be actively engaged

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[36] Hemmati, pp. 249 - 251

Partnership/ Co-operative Management	Developing partnerships and strengthening the networks between stakeholders; addressing conflictual issues; integrating diverse views; creating mutual benefits (win–win rather than win–lose situations); developing shared power and responsibilities; creating feedback loops between local, national or international levels and into decision-making
Societal gains	Creating trust through honouring each participant as contributing a necessary component of the bigger picture; helping participants to overcome stereotypical perceptions and prejudice
Strengthening of (inter)governmental institutions	Developing advanced mechanisms of transparent, equitable, and legitimate stakeholder participation strengthens institutions in terms of democratic governance and increased ability to address global challenges
Transparency	Bringing all relevant stakeholders together in one forum and within an agreed process; publicizing activities in an understandable manner to non-participating stakeholders and the general public
Voices, not votes	Making voices of various stakeholders effectively heard, without disempowering democratically elected bodies

Hemmati's Guidelines for effective facilitation of multi-stakeholder processes (MSP)[37]

- Facilitators should have been involved in the design process of the MSP to ensure their full understanding of it and their commitment to how the group decided to conduct it.
- Facilitating needs to be flexible and responsive to different situations – hence facilitators need considerable diagnostic skill to enable them to assess a given situation correctly.
- Facilitators have an essential role to play to ensure equity in discussions. Chairing in a way that capitalizes on diversity needs to stress the benefits of diversity. The modes of communication and decision-making suggested here largely depend on a facilitator encouraging and guiding the group to put them into practice.
- Facilitators need to be sensitive to the different cultural backgrounds of participants and not impose a 'way of doing things' based on their own culture.
- Facilitators should encourage people to speak freely and invite everybody to take the floor, including drawing out quieter participants.
- Facilitators need to help create an open and positive atmosphere which will encourage respectful listening and possibly learning and changing of views among the participants.
- Facilitators should help the participants and the group to surface 'what is hidden', allowing time for each participant to share concerns, thoughts and feelings. At the same time, facilitators need to help the group to stay focused.
- Facilitators should help to ensure that all participants feel recognized and part of the group.
- Facilitators should keep to agreed timetables and speaking times, which need to be the same for everybody (with obvious exceptions for participants operating in another language, and the like).

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[37] Hemmati, pp. 237 - 239

- Facilitators need to keep track of everybody's contributions to draw together aspects of common ground and to summarize at regular intervals what has been said. They also need to keep track of which points might be missing in the discussion and to encourage the group to address aspects that have not arisen.
- When exploring differences, facilitators should ask problem-solving questions, not judgemental ones, and encourage all participants to do so.
- In cases of conflict, the facilitator should encourage participants to focus on the 'positive intent' or 'grain of fact' in their opponent's position. This can be done by encouraging participants to restate opposing views in their own words (known as 'active listening' or 'mirroring').
- When summarizing, differences should be stated clearly and there should be no pressure to conform. Stating and restating common ground and agreements along the way can help to build confidence and momentum.
- Facilitators need to be sensitive regarding issues on which participants will need to consult with their constituencies.
- The group needs to agree on how to deal with possible substantive contributions from the facilitator. Alternating the role of the facilitator is an option.
- In some cases, it might be worth considering to work with special facilitators as the link into particular stakeholder groups. For example, at the local level, it might be advisable to work with local facilitators to develop the appropriate meeting styles.
- Suggestions regarding how to deal with participants who do not 'play by the rules' have been outlined above and facilitators have a key responsibility to deal with such behaviour and/or concerns appropriately.
- Using flip-charts, meta-plans or other facilitation techniques is recommended in order to transparently keep track of what is being said, enable summarizing and help decision-making. Such techniques also allow for the same pieces of information to be displayed in various modes (oral or written), which helps participants to follow discussions and actively contribute. This can also relieve participants from taking notes themselves, allowing people to look at each other rather than at their notepads, which helps to create trust. Other group work techniques are worth considering and experimenting with. These include scenario, or future, workshops, citizens' juries (depending on the situation, the issue, the cultural context and the group).

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