PILLAR 4
GOOD CORPORATE CITIZENSHIP

19 POLICYMAKING INFLUENCE

STANDARD

Group discussion.
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Commitment

Refrain from activities that increase company influence over policymaking to achieve company or industry interests at the expense of achieving the 2030 Agenda. Support government efforts to achieve the SDGs.

Corporate political engagement can be a legitimate avenue for providing insights and data to improve policymaking.[1] However, undue business influence in public policymaking can provide companies with unfair advantages at the expense of the State's ability to safeguard the environment and human rights, undermining a country's achievement of the SDGs.

The use of company influence in public policymaking may occur through illegal means, such as bribery, extortion, embezzlement, and fraud.[2] Legal channels include lobbying (in local, national, regional, and international contexts), financial support to political parties and election campaigns,[a] threatening or bringing claims against States through investor-state dispute settlement systems,[b] filing amicus curiae briefs,[c] exploiting the 'revolving door,'[d] and diverting attention through public relations activities.[3] Furthermore, indirect political contributions through intermediaries, such as lobbyists or trade associations allow companies to circumvent legislation that limits the amount companies can spend on political parties and campaigns.[4]

For example, a study from 2021 shows that in the U.S., between 1998 and 2019, the agribusiness industry spent $2.5 billion on lobbying, compared to $2.4 billion by the defense industry. The same study shows that taken as a share of each company's total revenue since 2000, Tyson has spent double what Exxon has on political campaigns and 33% more on lobbying. Meat and dairy-related trade associations in the U.S. have "spent nearly $200 million on lobbying since 2000, lobbying yearly on climate-related issues."[5]

Soft drink companies and their trade associations have spent tens of millions of dollars globally trying to strip states, cities, and towns of their abilities to tax soda.[6] Where extraordinary lobbying efforts succeed against public opinion, they can undermine public trust in democratic institutions and processes. Finally, amid the COVID-19 pandemic, some companies in the food sector with operations in the U.S. used their influence to lobby Congress, directly and through trade associations, to limit liability for exposing their workers to COVID-19.[7]

If a company or its representatives (including trade associations) exercise or seek to exercise influence over the legislative, regulatory, policy, or legal actions of State officials or entities in a way that interferes with the realization of the 2030 Agenda, it cannot be aligned with the SDGs. Companies may use their policymaking influence in support of the SDGs, however. For example, when informed by the perspectives of potentially affected stakeholders and relevant experts, a company may, on its own or with peers, lobby for enforcement of climate regulation that aligns with the ambitions of the Paris Agreement or write an amicus brief to the high court advocating for more stringent regulation of their sector's impacts on the environment, nutrition, or labor rights.

Nevertheless, the norm so far has been for companies to use their policymaking influence to undermine the 2030 Agenda. While many companies have human rights and environmental policies and management systems, these rarely refer to or apply to policymaking influence activities. Instead, companies directly or indirectly advocate against robust government regulation or enforcement that would hold themselves and their peers accountable for meeting their sustainability commitments. Moreover, the undue influence of business activities in policymaking is rarely addressed by rankings and assessments of firms' corporate social responsibility and environmental, social, and governance (ESG) efforts.

A Ceres report shows that while a growing number of companies have emissions-reduction targets, many of these lobby against pro-climate policy, and while about three-quarters of the S&P 100 are members of the anti-climate action U.S. Chamber of Commerce, only 7% "disclosed that they have engaged with the Chamber to evolve its climate change position to align with climate science."[8] An OECD report found "it may be necessary to specify the due diligence companies should undertake to ensure that their lobbying activities are aligned with their sustainability commitments." This standard aims to contribute to that effort.

Because government action is necessary to guide and enforce business alignment across the SDGs, efforts to influence regulation or enforcement can impact a company's meaningful alignment with all of the SDGs and all of the issue-specific standards across the Four Pillars.

a. Monetary contributions to political campaigns influences policymakers. One study found that in the United States, "every additional $10,000 a representative received from [climate change] countermovement industries significantly decreased odds of their taking the pro-environmental stance even when controlling for representatives' demographics, districts, Congressional polarization and time-period." (Source: Kerry Ard, Nick Garcia, and Paige Kelly, "Another Avenue of Action: An Examination of Climate Change Countermovement Industries' Use of PAC Donations and Their Relationship to Congressional Voting over Time," *Environmental Politics* 26, no. 6 (November 2, 2017): 1107–31, https://doi.org/10.1080/09644016.2017.1366291.) Another study measuring the relationship between political influence and benefits from the largest COVID-19 stimulus package passed by Congress found, "Generally, a dollar spent on political influence by 2,758 unique firms on COMPUSTAT is associated with $20.67 of higher annual earnings in the future. This return is orders of magnitude larger than the payoff to R&D or advertising." (Source: John A. Barrick, Adam J. Olson, and Shivaram Rajgopal, "Returns to Seeking Political Influence: Early Evidence from the COVID-19 Stimulus," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, April 28, 2021), https://doi.org/10.2139/ssrn.3845677.)

b. Investor-State Dispute Settlement (ISDS) mechanisms are commonly included in bilateral investment treaties between States in order to stimulate international investments and protect foreign investors against decisions that might create instability or unpredictability for companies from one country investing in the other. Multinational companies can thus use these mechanisms to bring claims against the State if they believe regulatory action threatens the profitability of their investments. Companies have used these mechanisms to take States to international arbitration to challenge the adoption of robust regulation that would protect human rights or the environment while regulating the conduct of business.

c. Amicus Curiae, or "friend of the court," briefs seek to influence the court's decision filed by a person or group who is not a party to an action, but has an interest in the matter. These briefs are allowed in common law jurisdictions, but others, including across the European Union and in Brazil, have begun to allow amicus curiae briefs, as well. Amicus briefs can influence the lawmaking function of courts. For example, in the United States, the U.S. Chamber of Commerce filed 448 amicus curiae briefs with the Supreme Court between 2005 and May 2020, and the Court sided with the Chamber's position 70% of the time. (Source: Senator Debbie Stabenow, Senator Chuck Schumer, and Senator Sheldon Whitehouse, "Captured Courts: The GOP's Big Money Assault on the Constitution, Our Independent Judiciary, and the Rule of Law," May 2020, https://www.democrats.senate.gov/imo/media/doc/Courts%20Report%20-%20FINAL.pdf.)

d. 'Revolving door' refers to the flow of personnel from policymaking and enforcement posts in government offices to the private sector and lobbying roles, and vice versa. The revolving door is a means through which companies may influence regulation of their company and industry. For example, an empirical analysis of the linkages between government officials professional background and financial regulation found that the revolving door has real-world implications ("[C]entral bank governors with past experience in the financial sector deregulate significantly more than governors without a background in finance" and finance ministers "are more likely to be hired by financial entities in the future if they please their future employers through deregulatory policies during their time in office.") (Source: Elisa Maria Wirsching, "The Revolving Door for Political Elites:," 2018, 19.)

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SDG-ALIGNMENT: ALIGNING CORPORATE PRACTICES WITH THIS STANDARD DIRECTLY CONTRIBUTES TO EACH OF THE 17 GOALS, given the importance of regulation in achieving each of the goals. In addition, doing so contributes to the process- and institution-related SDGs:

SDG 17 – Partnerships for the goals

Target 17.15: Respect each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development.

SDG 16 – Peace, justice and strong institutions

Target 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all.

Target 16.5: Substantially reduce corruption and bribery in all their forms.

Target 16.6: Develop effective, accountable and transparent institutions at all levels.

Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels.

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BOX 26: POLICYMAKING INFLUENCE ACTIVITIES

Companies might take positions for or against regulation, enforcement of regulations, or the content of specific regulations. This standard covers the ways they advocate for those positions through directly and indirectly influencing the rules and rule-makers which govern their business conduct.

Activities companies might undertake to influence policymaking to align with its positions include:

- Illegal activities such as bribes and other forms of corruption
- Lobbying through meetings with lawmakers
- Making political contributions (financial payments to candidates or parties)
- Exploiting the revolving door by holding a position for a lawmaker
- Submitting amicus curiae briefs
- Submitting investor-state dispute settlement claims
- Providing testimony before Congress, parliament, or regulatory bodies
- Funding research centers and think tanks
- Engaging in public relations campaigns and social media strategies to change public perceptions

Specific examples of policymaking influence activities that may undermine the achievement of the SDGs include:

- Lobbying to weaken mandatory disclosure of accurate nutritional information on packaging
- Writing an amicus brief in a case that would limit access to justice or cap damages for workers or communities harmed by company activities
- Investor-state dispute system claims against environmental regulation
- Lobbying for corporate tax cuts
- Exploiting preferential treatment by the State through "Special Economic Zones."

STEPS TO MEET THE COMMITMENT

1. ADOPT A POLICY AND EMBED IT INTO GOVERNANCE AND MANAGEMENT SYSTEMS

1.1. ADOPT A POLICY

SDG-aligned companies adopt a policy centered on a public commitment to democracy, the right to public participation, the State's right to regulate and enforce regulations in the public interest, and the importance of public institutions and laws that are responsible, accountable, and protect equality before the law. The policy:

- Specifies that the companies (1) prohibit bribery and corruption in its own activities and business relationships, (2) support government efforts to achieve the SDGs, and do not directly or indirectly engage in policymaking influence activities to achieve company or industry interests at the expense of achieving the SDGs, and (3) do not make political contributions.[9]
- Aligns with and references the international standards listed in Box 27.
- The commitment stipulates oversight of policymaking influence activities of the company and its business relationships by the highest governing body, establishes a systemic approach to anti-bribery and anti-corruption supported by appropriate controls, and establishes engagement and escalation processes to manage instances in which corruption or misalignment is identified.[10]

BOX 27: INTERNATIONAL HUMAN RIGHTS STANDARDS ON DEMOCRACY AND PUBLIC PARTICIPATION

- Universal Declaration of Human Rights, Article 21.[11]
- International Covenant on Civil and Political Rights, Article 25.[12]

1.2. EMBED THE POLICY INTO GOVERNANCE & MANAGEMENT SYSTEMS

To embed the policy, SDG-aligned companies:

- Build the capacity of internal stakeholders, including in-house government relations, counsel, marketing, communications, and public relations teams, to ensure they understand they are expected to engage in ways that support and do not undermine the achievement of the SDGs and the company's overall SDG-aligned sustainability strategy.[13]
- Set expectations for those who represent the company and other business relationships, including trade associations, marketing, public relations, political consultants, law firms, and third-party lobbyists, and embeds these expectations in contracts with business relationships, and builds their capacity to comply with the company's policymaking influence policy.[14]

2. ASSESS ACTUAL & POTENTIAL IMPACTS

SDG-aligned companies identify and assess the actual or potential impact of direct and indirect policymaking influence activities on people and the environment in all geographies.[15] Policymaking influence activities that may undermine the SDGs include lobbying to undermine the achievement of any of the SDGs or any of the standards included in the Four Pillar Framework for the Food Sector (see Box 26 above with examples of policymaking influence activities).

The companies also assess the policymaking influence activities of business relationships, including trade associations, to ensure they accurately represent the company's commitments to social and environmental sustainability.

The assessments of these impacts are informed by social and environmental sustainability experts and the views and perspectives of stakeholders potentially impacted by public policy decisions, with a focus on those most vulnerable to negative impacts due to poverty and other forms of inequality.

3. INTEGRATE BY SETTING TARGETS & TAKING ACTION

SDG-aligned companies integrate the findings of their assessments of any actual or impact of direct and indirect policymaking influence activities into relevant internal functions and processes by **setting targets** and then **taking action** to align with the standard within set target dates.

3.1. SET TARGETS

SDG-aligned companies set specific time-bound intermediate and long-term targets to prevent and mitigate related impacts that are ambitious enough to contribute significantly to the SDGs' achievement. The intermediate targets are relevant for companies to monitor their and their business relationships' continuous improvement towards meeting the standard. Where possible, indicators measure outcomes rather than outputs or activities.

3.2. TAKE ACTION

SDG-aligned companies integrate the findings of assessments into relevant internal functions and processes. They take appropriate actions to ensure their due diligence processes prevent, mitigate or remediate impacts on people and planet that may result from policymaking influence activities.[16] Depending on the specific risks and impacts identified, measures to address actual or potential instances of workers receiving less than a living wage or producers earning less than a living income include:

- **Centering on people and the environment and aligning with national sustainable development plans when engaging in activities that influence policymaking** in support of government achievement of the SDGs.[e] Fill gaps in knowledge by engaging with potentially affected stakeholders, civil society organizations, and relevant experts.
- **Eliminating bribery and corruption in all its forms** in relation to company and value chain activities.
- **Actively identifying, preventing, and removing any conflicts of interest** that persons linked to the company's activities, services, or products may have.[17]
- **Refraining from or ceasing all lobbying** that seeks to influence legislation, regulation, trade agreements, and treaties in ways that undermine the 2030 Agenda.[18]
- **Refraining from or ceasing promoting deregulation of industry or threatening to withdraw investments** if new public health, social, or environmental policies aligned with achieving the SDGs are introduced or enforced.[19]
- **Refraining from or ceasing all direct and indirect financial and in-kind contributions** to political parties, election campaigns, candidates, and politicians.[20]
- **Refraining from filing investor-state dispute settlement claims** to constrain the legitimate lawmaking or policymaking of States to regulate the conduct of corporate actors in the public interest.
- **Bringing legitimate claims through domestic channels** that allow an appropriate application of domestic law.
- **Refraining from or ceasing exploiting preferential State treatment.**
- **Avoiding application of the generally applicable law** through stabilization clauses, Special Economic Zones granting relative impunity in relation to environmental and human rights laws, and other contractual arrangements.
- **Focusing on company efforts to ensure products are healthful and environmentally sustainable**, rather than emphasizing the role of consumer behaviors, including through lobbying and public relations campaigns aimed at shifting responsibility from industry to consumers.[21]
- **Addressing risks associated with the revolving door phenomenon**, which requires top leadership, government relations, and lobbying staff to sign 'non-complete-type' clauses that stipulate they may not undertake roles in lobbying, drafting, or enforcing legislation or regulations related to the industry within three years after employment with an SDG-aligned company. This three-year cooling-off period also applies to hiring people directly from government positions.[f]
- **Refraining from or ceasing creating or funding organizations to produce an impression of widespread grassroots opposition** to robust social and environmental measures that would impact the company's business interests (also known as "astroturfing").[22]
- **Refraining from or ceasing influencing the discussion of social or environmental issues at hand**, including by diverting attention through commissioning research or public relations campaigns that support a company's interests[g] (also known as "smokescreens").[23]

e. For example, over four hundred businesses and investors signed an open letter to President Biden expressing their support for setting a federal climate target to reduce emissions by 50% below 2005 levels by 2030. The letter was coordinated by The B Team, We Mean Business Coalition, and Ceres. (Source: We Mean Business Coalition, "Businesses and Investors Support U.S. Federal Climate Target in Open Letter to President Biden," We Mean Business Coalition (blog), April 13, 2021, https://www.wemeanbusinesscoalition.org/ambitious-u-s-2030-ndc/.)

f. France's Penal Code (Article 432) "places restrictions on private-sector employees' appointed to fill a post in the public administration. For a period of three years after the termination of their functions in their previous employment, they may not be entrusted with the supervision or control of a private undertaking, with concluding contracts of any kind with a private undertaking or with giving an opinion on such contracts. They are also not permitted to propose decisions on the operations of a private undertaking or to formulate opinions on such decisions… Any breach of this provision is punished by two years' imprisonment and a fine of EUR 30,000." (Source: OECD, "Lobbying in the 21st Century: Transparency, Integrity and Access," March 20, 2021, https://www.oecd.org/corruption-integrity/reports/lobbying-in-the-21st-century-c6d8eff8-en.html.)

g. For example, studies funded by the beverage industry are four to eight times more likely to show a finding favorable to the industry than independently-funded studies. (Source: Lenard I. Lesser et al., "Relationship between Funding Source and Conclusion among Nutrition-Related Scientific Articles," *PLOS Medicine* 4, no. 1 (January 9, 2007): e5, https://doi.org/10.1371/journal.pmed.0040005..)

- **Engaging company representatives and other business relationships to influence their activities to align with the SDGs**. SDG-aligned companies increase their leverage by (1) taking a more active role in the organization's committee or advisory group to advocate for a change in stance, including by amending membership rules; and (2) partnering with peer members of such groups and through engagement with other parties, including civil society organizations, to change the organization's stance.[h] Where one of its business relationship's activities do not change to align with the SDGs within a reasonable timeframe, a company publicly terminates its relationship, citing its reasons for doing so, including the respective areas of misalignment.[24]

h. For example, some companies have publicly ended their memberships with the U.S. Chamber of Commerce over its lobbying practices in opposition to climate action on their behalf. In 2009, Apple, PG&E, Exelon, and PNM Resources all left the Chamber, while General Electric and Johnson & Johnson issued statements regarding their disagreements with the Chamber's climate policy. (Source: The Guardian, "Apple Joins Chamber of Commerce Exodus over Climate Change Scepticism," the Guardian, October 6, 2009, http://www.theguardian.com/environment/2009/oct/06/chamber-commerce-apple-climate-change.) In its statement explaining why it resigned from the Chamber's board of directors, Nike stated "we fundamentally disagree with the US Chamber of Commerce on the issue of climate change and their recent action challenging the EPA is inconsistent with our view that climate change is an issue in need of urgent action. We will continue our membership to advocate for climate change legislation inside the committee structure and believe that we can better influence policy by being part of the conversation. Moving forward we will continue to evaluate our membership." (Source: Nike News, "Nike Statement Regarding U.S. Chamber of Commerce," Nike News, September 30, 2009, https://news.nike.com/news/nike-statement-regarding-us-chamber-of-commerce.) In 2017, food sector companies Nestlé, Unilever, Danone, and Mars left the US-based Grocery Manufacturers Association over disagreements regarding the trade association's stance on key policy issues. (Source: Caitlin Dewey, "Four of the World's Largest Food Companies Have a New Plan for Fixing Food and Farm Policy," Washington Post, 2018, https://www.washingtonpost.com/news/wonk/wp/2018/07/12/four-of-the-worlds-largest-food-companies-have-a-new-plan-for-fixing-food-and-farm-policy/. (Source: Jessica Piper, "After Leaving Prominent Trade Group, Alliance of Food Giants Hires First Lobbyists," OpenSecrets News, June 12, 2019, https://www.opensecrets.org/news/2019/06/after-leaving-prominent-trade-group-alliance-of-food-giants-hires-first-lobbyists/.) Unilever's CEO Alan Jope wrote an open letter to the company's trade associations in October 2019 asking them to confirm their lobbying position aligned with the Paris Agreement. (Source: Alan Jope, "Letter to Trade Associations on Climate Policy," 2019, https://www.unilever.com/Images/letter-to-trade-associations-on-climate-5-june-2019_tcm244-537495_en.pdf.)

4. ESTABLISH AND PARTICIPATE IN EFFECTIVE GRIEVANCE MECHANISMS & PROVIDE OR ENABLE REMEDY

4.1. ESTABLISH GRIEVANCE MECHANISMS

SDG-aligned companies establish effective, confidential, and anonymous grievance mechanisms that are available to all stakeholders to ensure that victims of adverse occupational health and safety impacts have access to remedy. They also establish whistleblower protections to enable and protect both internal and external stakeholders reporting cases of misconduct related to corruption and other policymaking influence activities.[25]

4.2. COOPERATE IN STATE-BASED GRIEVANCE MECHANISMS

Where a company's policymaking influence activities contribute to negative impacts, the company participates in legitimate public grievance mechanisms and sanctions regimes for their involvement in the harm caused.

4.3. PROVIDE OR ENABLE REMEDY

Where a company's direct or indirect activities contributed to harm, the company provides remedy, which includes, depending on the circumstances, a public apology, acknowledgment of its role in the harm, and contributions to reparations funds. Where the company did not cause or contribute to the harm directly, it enables remedy through legitimate processes.

5. TRACK PERFORMANCE

SDG-aligned companies monitor and review the effectiveness of the implementation of its policies and procedures covering policymaking influence to ensure that the strategy, policies, and procedures are effective and to support continuous improvement to meet the standard.[26] The companies track progress based on assessments of the social and environmental impacts of policy positions they have directly and indirectly advocated for, informed by experts and affected stakeholders.

6. DISCLOSE PERFORMANCE

To enable transparency and accountability, SDG-aligned companies communicate publicly on their performance against their policymaking influence commitment and targets, particularly when concerns are raised by or on behalf of affected stakeholders. Where relevant, SDG-aligned companies also share aggregate data and high-level findings directly with affected stakeholders and organizations, including human rights organizations and researchers.

Regular public disclosure is accurate, clear, accessible, and third-party verified information about the actual and potential impacts related to their policymaking influence activities, their efforts to address these to implement their policy commitment, and performance against targets. Disclosure includes sufficient information to evaluate the adequacy of the company's approach and activities. Formal disclosure includes information on the following:

- Methods used to identify direct and indirect legal and illegal policymaking influence activities in specific locations across company operations and value chain.[27]
- Methods used to assess impacts of direct and indirect policymaking influence activities for alignment or potential undermining of achievement of the SDGs and the decisions made based on the assessments.
  - **Direct influence:**
    - Where a company took positions and engaged in influencing activities on specific policies and regulations during the reporting period. These may include written or oral submissions to regulatory or lawmaking processes (e.g., input into formal rulemaking processes, roles on any advisory bodies or committees, testimony given in public hearings before Congress or parliament).[28]
    - How those activities may impact the achievement of the SDGs[29,30] Where relevant, position papers on policymaking influence objectives that explore coherence with the company's policymaking influence policy commitment.
    - If a company continues to make political contributions in contravention of this standard, it clearly reports contributions in every country where it makes them, including the total monetary value of financial and in-kind political contributions made directly and indirectly by country and recipient/beneficiary.[31]
  - **Indirect influence:**
    - All monetary and non-monetary contributions to third parties (political parties, trade associations, and lobbyists)[32] and whether a company restricts the use of its fees for lobbying activities;
    - A company's membership and involvement with all third-party trade associations and lobbying groups;
    - The positions of these third-party associations and groups the company is a member of;
    - What lobbying activities and expenditures the third-party engaged in during the reporting period;
    - Where the third party continues to make political contributions, the company uses leverage to ensure transparency of those contributions in every country where they are made, including the total monetary value of financial and in-kind political contributions made directly and indirectly by country and recipient/beneficiary;
    - Where the third-party associations and groups do not align with the SDGs or the company's social and environmental sustainability commitments, the company discloses efforts it has made to use its leverage to influence the positions of these groups to bring them into alignment;
    - If the company terminates any relationships with third-party associations or groups due to SDG misalignment during the reporting period, the company makes a public statement about the termination and cites the specific areas of misalignment.[33]
- Where a company hires or seeks to hire a former public official, (1) if an offer or agreement was made before the official resigned, what that offer or agreement was; (2) what qualification, tasks, and compensation were offered; and (3) the results of an external review of the individual's performance.

ENDNOTES

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