

Update on Stakeholder Consultations for Kakuzi OGM Development January 2022

1. Background

In October 2020, Kakuzi Plc. started the development of an Operational Grievance Mechanism (OGM) to provide a systematic and transparent process for receiving, investigating, and addressing company-related grievances from affected communities, workers, farmers who supply avocados through Kakuzi's economic empowerment program, and other relevant stakeholders. In February 2021, the OGM development process was enhanced by technical support from Triple R Alliance, an independent, internationally recognized human rights and social performance consultancy. Subsequently, an Independent Monitor was appointed to oversee the entire OGM design and implementation process.

Since February 2021 the OGM has been developed in **consultation with more than 505 internal and 203 external stakeholders**.¹ In December 2021 and January 2022, **a total of 3,944 community members were informed about the OGM design** during community meetings (*barazas*). This note provides a summary of all those consultations.

2. Overall Objective

The overall objective of the OGM is to enhance Kakuzi's existing processes to respect human rights, to provide access to remedy through a transparent process of fact finding and respectful dialogue aimed at mutually agreed outcomes, and to strengthen Kakuzi's relationships with all its stakeholders. The OGM's local name is *SIKIKA*, meaning "to be heard".

3. Structure of the OGM

The OGM consists of two different processes: Tier 1 is for grievances about operational impacts, e.g. employment, health and safety or other issues that can be handled and resolved internally. Tier 2 is for grievances that concern allegations of severe human rights impacts that have been caused by, contributed to or directly linked with Kakuzi and/or its (sub)contractors. For Tier 2, Kakuzi is in the process of establishing an Independent Human Rights Mechanism with a special mandate, procedures, supports and safeguards to review complaints about severe human rights impacts and, if confirmed, provide remedy to victims of such impacts. A standard operating procedure for Tier 1 has already been completed and a procedural manual for Tier 2 is under development.

Information about the SIKIKA process has been publicly disclosed on Kakuzi's website (see: <https://www.kakuzi.co.ke/operational-grievance-mechanism> and also: <https://www.kakuzi.co.ke/sikika-process>) and shared in local languages during public awareness raising meetings in local communities in the Kakuzi area.

¹ The majority of Kakuzi's staff, in particular the general workers, supervisors and guards are also members of the various local communities living in the wider Kakuzi area. For the purposes of stakeholder analysis and participatory OGM design, all Kakuzi employees and workers are here referred to as 'internal stakeholders', whereas non-staff or non-workers are referred to as 'external stakeholders'. External stakeholders therefore comprise community members/representatives, civil society actors, government representatives, etc.

4. Alignment with Kenyan Law and International Human Rights Standards

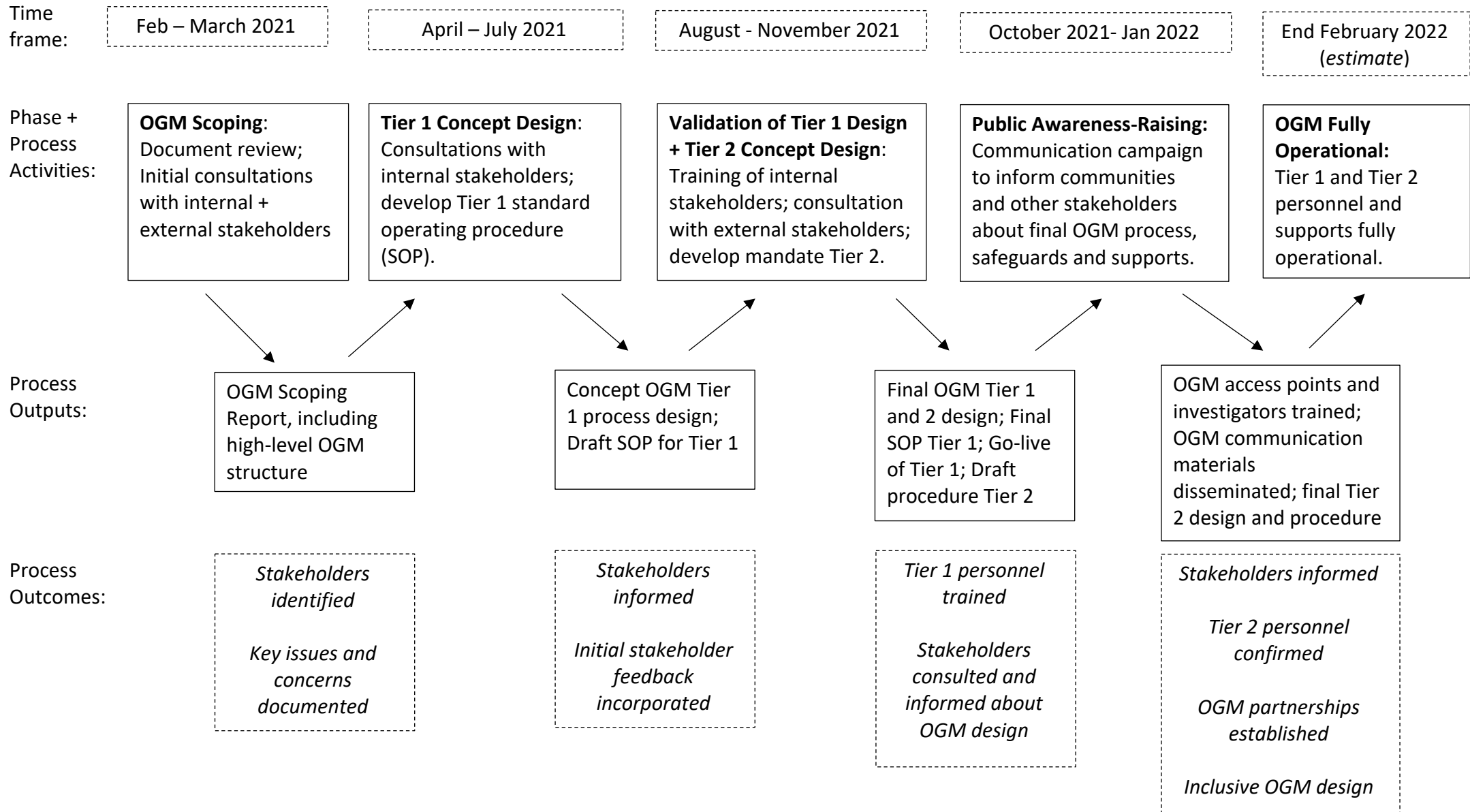
The design of the OGM recognizes the role of the Government of Kenya to provide access to remedy through judicial and non-judicial mechanisms. The OGM does not substitute for State-based mechanisms but is complementary to such mechanisms. At any point, complainants are free to present their grievance to any available State-based mechanisms. The OGM is aligned to respect the laws of Kenya and seeks to contribute to the wider dialogue about strengthening access to remedy as outlined in the National Action Plan on Business and Human Rights in Kenya.

The OGM also assists Kakuzi in implementing and fulfilling several policy commitments and international standards, including ongoing human rights due diligence and the development of a Human Rights Policy in line with the UN Guiding Principles on Business and Human Rights.

5. Participatory OGM Design Process, Outputs and Outcomes

Figure 5.1 below presents the iterative design and consultation process that has been followed to develop the OGM in a participatory manner.

Figure 5.1 Participatory OGM Design Process, Outputs and Outcomes



6. Phases of OGM Engagement²

This section provides a summary overview of all stakeholders consulted, the type of engagement activities and number of participants till date. A more detailed overview is presented in Annex 1 and Annex 2.

6.1 Scoping Phase

The scoping phase took place between 15 February and 12 March 2021 and included face-to-face and online meetings as well as a larger town-hall meeting. In total, the scoping team engaged with **51 employees and worker representatives and 47 external stakeholders**.

6.2 Development Phase

Based on the information obtained during the scoping mission, the TRA and Kakuzi team commenced the OGM development phase in April 2021, which is still ongoing at the time of writing (January 2022). During this phase **a total of 454 employees and worker representatives, 187 community representatives and 16 other external stakeholder representatives** have been directly engaged. The different rounds included the following types of engagement:

a) Initial dialogue with Kakuzi staff (May 2021)

To ensure the OGM design would be sensitive to any employee concerns, TRA and Kakuzi staff held several meetings with a broad cross-section of staff. A total of 104 employees were reached during these initial dialogue meetings.

b) Face-to-face feedback sessions with Kakuzi staff in smaller groups (July 2021)

During a concerted engagement effort, TRA and Kakuzi staff organized a series of extensive consultation sessions with Kakuzi staff from all parts of the organization to present the provisional grievance mechanism design and to solicit feedback. **A total of 350 staff** were involved in these consultation meetings.

c) Training sessions for Kakuzi access points, investigation officers and community liaison officers (July and August 2021)

As part of internal awareness-raising, as well as to obtain internal legitimacy for the grievance mechanism, TRA and Kakuzi **trained 107 employees and worker representatives** during the months of July and August 2021. These training sessions offered another opportunity to solicit feedback from potential users of the grievance mechanism as well as from those involved in the implementation phase.

d) Face-to-face feedback sessions with community representatives (August and Oct 2021)

In August and October Kakuzi organized a series of consultation meetings with the Chiefs and community representatives (opinion leaders) of the 10 locations in the Kakuzi area of influence: Makuyu, Kimorori, Kirimiri, Wempa, Kamahuha, Saba Saba, Kambiti, Wempa,

² Where face-to-face meetings and trainings were held, relevant Covid protocols were strictly observed.

Acting Kakuzi, Kamahuha, Ithanga, Ngelelya. In total, **187 people** took part in these community consultations.

e) *Online meetings with external stakeholders (September and December 2021)*

Between late September and December 2021 the TRA team have been conducting a series of mainly online consultation meetings with **16 external (national and international-level) stakeholders**. The main focus has been to validate the Tier 1 design with those met during the scoping phase as well as to solicit feedback on the safeguards and supports, appeals mechanism, a potential local observer panel for Tier 2 and potential candidates for the key positions of Tier 2 (Independent Human Rights Mechanism).

6.3 Public Awareness-Raising Phase

Using (pictorial) communication materials that are adapted to the local context and languages, the Kakuzi team has organized a series of community meetings (*barazas*) in the following 25 sub-locations around Kakuzi to explain the SIKIKA process and access points: Mihango, Kamahua & Kaharati, Iganjo, Sabasaba & Wathiani, Thangira, Gachagi, Gathungururu, Makuyu, Gakungu, Kimiriri, Mutithi, Mithiini, Kambiti, Maranjau, Karia-Ini, Wempa, Kangangu, Kituamba, Ngelelya, Kiathani, Kaguku, Mianyani, Kinyangi. So far, **a total of 3,944 community members** have participated in these meetings.

6.4 Next Steps for OGM Implementation

Once the Tier 2 personnel have been onboarded, SIKIKA is expected to be fully operational by March 2022. From that moment onwards, an Independent Monitor will conduct participatory evaluations of the implementation and effectiveness of the OGM on a yearly basis, with a summary of the Independent Monitor's reports made publicly available.

7. Integration of Stakeholder feedback into the OGM Design

The feedback and ideas suggested during the discussions with hundreds of internal and external stakeholders have been incorporated into the design of the OGM in several ways. Following is a summary (non-exhaustive) overview of the comments and suggestions and how they have been incorporated:

- **Broad range of access points.** Recognizing that different stakeholders prefer different ways of lodging a complaint, SIKIKA offers a broad range of access points to both internal and external stakeholders.
- **Importance of access points for anonymous grievances.** Various internal stakeholders stressed the importance of maintaining suggestion boxes as potential access points, as a way to submit anonymous grievances. Despite the practical challenge that anonymous grievances pose to investigations, SIKIKA does accept them. The expectation is that as SIKIKA gains credibility and users trust the mechanism, the need for anonymous grievances will diminish over time.
- **Involvement of Managers as access points.** Kakuzi managers expressed the desire to remain involved as potential access points for the grievance mechanism. This suggestion

was taken on board and various managers have been trained. A review of all access points 6 months after implementation of the grievance mechanism will determine if this approach needs to be adjusted.

- **Accessibility and support for vulnerable groups and others.** Recognizing that vulnerable groups, including children, people with disabilities, elderly people and certain women, may face particular logistic or socio-economic challenges to submit their complaint, OGM staff (in Tier 1 and Tier 2) will work with respected organizations and specialist service providers to organize targeted (rights) awareness activities, psycho-social / counseling support, child protection services, legal advice or logistic support to ensure such groups can access and use the OGM in an equitable manner. These supports will also be available for any complainant who needs them.
- **Importance of safeguards.** In response to comments and questions from various employees and community members, the SIKIKA process includes several measures to protect and respect confidentiality of people's identity and information shared, use of intermediaries, trusted persons and (legal) representatives, and assess other risks. In addition, the fear for potential retaliation when lodging a grievance was highlighted in several feedback sessions. In response, SIKIKA integrated a series of safeguards to ensure this risk is minimized, as well as developed an explicit protocol for allegations of retaliation. Depending on the nature of the allegation, this includes the option for referral to the Independent Human Rights Mechanism (Tier 2 of SIKIKA).
- **Appeals mechanisms.** Whereas involvement of local community representatives as part of the Tier 1 Appeals Mechanism was supported by the various stakeholders, the initial idea of using Court Annexed Mediation for Tier 2 had to be adjusted based on stakeholder feedback that such a mechanism is only available to cases that already are in court. For Tier 2 there will be an Appeals Panel consisting of former (retired) judges.
- **Female guards.** The TRA and Kakuzi teams sought to ensure that specific feedback sessions were organized with female guards, which were identified as a potentially vulnerable stakeholder group.
- **Maintaining the integrity of the complaint mechanism in the Sexual Harassment policy (SHARP).** Since the complaints mechanism of the Sexual Harassment policy is having internal credibility and is appreciated by people who have used it (especially to lodge confidential complaints that may or may not be registered), it has been important to maintain, and strengthen this mechanism as a critical access point.
- **For Tier 2: realistic understanding of the grievance process and explicit consent upfront.** Based on advice from human rights and legal experts, the Tier 2 mechanism will use a consent procedure during intake to ensure that complainants understand the nature of investigations, the safeguards, supports and scope of remedies available as well as the

potential for referral to other relevant authorities, particularly in case of complaints related to criminal offences.

- **For Tier 2: local observer panel.** To ensure the inclusion of local civil society and community perspectives in continuous learning for the OGM, the Tier 2 mechanism will feature a local observer panel with representatives from respected local or national civil society organizations, local communities, and national-level human rights institutions, to observe key parts of the Tier 2 process and provide independent advice and feedback. Providing a local/national perspective, this panel will complement the work of the (international) Independent Monitor.

Annex 1. Key Stakeholders Consulted in the OGM Design

To ensure that the OGM is as legitimate, accessible and transparent as possible, the following *internal* and *external* stakeholders were consulted:

Internal Stakeholder Category	Positions
Managers	<ul style="list-style-type: none"> ▪ Board Member ▪ Heads of departments ▪ Managers ▪ Supervisors ▪ Admin staff
Workers and union representatives	<ul style="list-style-type: none"> ▪ Shop stewards (union representatives) ▪ General workers ▪ Worker committee representatives: Health & Safety committees ▪ Village & Environment Committees
Security guards	<ul style="list-style-type: none"> ▪ Male guards ▪ Female guards

External Stakeholder Category	Positions / organizations
Community representatives	<ul style="list-style-type: none"> ▪ Community chairmen ▪ Community members ▪ Small-holder farmers
County- and national-level civil society organizations (NGOs) ³	<ul style="list-style-type: none"> ▪ Business and Human Rights Resource Research Centre (BHRRC) ▪ International Federation of Women Lawyers (FIDA) - Kenya ▪ Transparency International (TI) - Kenya ▪ International Commission of Jurists (ICJ) – Kenya
International NGOs	<ul style="list-style-type: none"> ▪ SOMO
Local representatives of national government	<ul style="list-style-type: none"> ▪ Chiefs ▪ County commissioner ▪ Deputy county commissioner ▪ Officer Commanding Station (OCS)
State-based judicial or non-judicial mechanisms	<ul style="list-style-type: none"> ▪ Former Chief Justice ▪ Deputy Registrar of Court-Annexed Mediation ▪ State Law Office at the Office of the Attorney General and Department of Justice ▪ Kenyan National Commission on Human Rights (KNCHR) ▪ National Gender and Equality Commission (NGEC)
Industry associations	<ul style="list-style-type: none"> ▪ Kenyan Plantation and Agricultural Workers Union (KPAWU) ▪ Fresh Produce Exporters Association of Kenya (FPEAK) ▪ Ethical Trading Initiative (ETI) ▪ Kenya Private Sector Alliance (KEPSA) ▪ Agricultural Employers Association (AEA)
Human rights experts & OGM practitioners	<ul style="list-style-type: none"> ▪ Independent Human Rights Advisory Committee (IHRAC) ▪ UN Global Compact ▪ IBIS

³ Until now, Ndula Resource Centre (NRC) and Kenya Human Rights Commission (KHRC), who are also active in the Kakuzi area, did not respond to several invitations from TRA to participate in the OGM consultations.

	<ul style="list-style-type: none"> ▪ SHIFT
Academia	<ul style="list-style-type: none"> ▪ University of Nairobi ▪ Institute of Business Ethics, University of St Gallen (Switzerland)
Media	<ul style="list-style-type: none"> ▪ Kenyan and European newspapers

Annex 2. Stakeholder Engagement Record for Kakuzi OGM (*status: 10 January 2022*)

Table 1. Kakuzi Staff Consulted During OGM Scoping Phase (15 February – 12 March 2021)

Internal Stakeholder Category	Specifics	# People Consulted
Managers	<ul style="list-style-type: none"> ▪ Board Member ▪ Heads of departments ▪ Managers ▪ Supervisors ▪ Admin staff 	7 (+ 50 in town-hall meeting)
Workers and union representatives	<ul style="list-style-type: none"> ▪ Shop stewards (union representatives) ▪ General workers ▪ Worker committee representatives: Health & Safety committees ▪ Village & Environment Committees 	35
Security guards	<ul style="list-style-type: none"> ▪ Male Guards ▪ Female Guards 	9
Total		51 (+ 50)

Table 2. External Stakeholders Consulted During OGM Scoping Phase (15 February - 12 March 2021)

External Stakeholder Category	Positions / organizations	# People Consulted
Community representatives and civil society organizations	<ul style="list-style-type: none"> ▪ Community Advisory Boards (organized by Ndula Resource Centre) ▪ Community chairmen ▪ Community liaison officers ▪ Business and Human Rights Resource Centre (BHRRC) ▪ Small-holder farmers 	27
Local representatives of national government	<ul style="list-style-type: none"> ▪ Deputy county commissioner ▪ Local chiefs ▪ Officer Commanding Station (OCS) 	4
State-based judicial or non-judicial mechanisms	<ul style="list-style-type: none"> ▪ Former Chief Justice ▪ Deputy Registrar of Court-Annexed Mediation 	3
Human rights experts & OGM practitioners	<ul style="list-style-type: none"> ▪ UN Global Compact ▪ IBIS ▪ Former Chief Justice of Kenya ▪ SHIFT 	9
Industry associations	<ul style="list-style-type: none"> ▪ Kenyan Plantation and Agricultural Workers Union (KPAWU) 	3

	<ul style="list-style-type: none"> ▪ Fresh Produce Exporters Association of Kenya (FPEAK) ▪ Ethical Trading Initiative (ETI) 	
Media	<ul style="list-style-type: none"> ▪ Journalist of a European newspaper 	1
Total		47

Table 3. Internal Stakeholders Consulted During Initial OGM Dialogue sessions (17 – 20 May 2021)

Internal Stakeholder Category	Male	Female	# People Consulted
Village Environment Committees Representatives			16
Community Liaison Officers			3
Health and Safety and Gender Committee Representatives			25
Employee Representatives (mixed group)			25
Employee Representatives (female employees only)			25
Shop Stewards			10
Total			104

Table 4. Kakuzi Staff Consulted During Internal OGM Feedback Sessions (5, 6, 7, 8, 9, 15 July 2021)

Internal Stakeholder Category	Stakeholder Sub-Category	Male	Female	Total
Heads of Departments (HODs)				13
HODS and Managers				67
Horticulture West	General Workers	5	8	13
	Supervisors	3	2	5
Horticulture East	General Workers	7	6	13
	Supervisors	3	2	5
Macadamia - Kitito	General Workers	4	11	15
	Supervisors	2	1	3
Macadamia - Kakuzi	General workers	8	4	12
	Supervisors	2	1	3
Livestock	General workers	16	5	21
	Supervisors	9	1	10
Forestry	General workers	16	5	21
	Supervisors	7	1	8
Administration		12	7	19
Engineering	General Workers	15	0	15
	Supervisors	4	1	5
Security	Lead Guards	26	11	37
	General Guards (mixed)	11	13	24
	Female only general guards		18	18
Union Representatives		9	1	10
Herders		11		11
Office Staff	General Workers	13	4	17
Livestock	General Workers	15		15
	Supervisors	1		1
<i>Total (incl. multiple contacts with same person)</i>		170	98	381
Total (excl. multiple contacts with same person)				350

Table 5. Kakuzi Staff Trained on OGM Access Points and Investigation Process (23, 26, 28, 30 July 2021)

Internal Stakeholder Category	Male	Female	# People Trained
Heads of Departments (HODs) and Managers			68
Supervisors			23
Shop stewards (union representatives)			13
Total			104

Table 6. Kakuzi Community Liaison Officers Trained on OGM Process (7 August 2021)

Internal Stakeholder Category	Male	Female	# People Trained
Community Liaison Officers (CLOs)	2	1	3
Total			3

Table 7. Community Representatives Consulted on OGM Design During Feedback Sessions (9, 10, 11, 12 August 2021)

External Stakeholder Category	Male	Female	# People Consulted
Chiefs from 10 locations: Makuyu, Kimorori, Kirimiri, Wempa, Kamahuha, Saba Saba, Kambiti, Acting Kakuzi, Ithanga, Ngelelia	9	1	10
Community representatives from 10 locations.	30	12	42
Total			52

Table 8. Community Representatives Consulted on OGM Design During Feedback Sessions (18 – 21 October 2021)

External Stakeholder Category	Male	Female	# People Consulted
Community 'opinion leaders' from 10 locations: Kamahuha, Saba Saba, Kimorori, Wempa, Makuyu, Kambiti, Kirimiri, Kakuzi, Ithanga, Ngelelia			135
Total			135

Table 9. External Stakeholders Consulted on OGM Design (27 July, 28 September – 24 December 2021) (process still ongoing)

Internal Stakeholder Category	Male	Female	# People Consulted
Local representatives of national government in Murang'a County	1	1	2
State-based judicial or non-judicial mechanisms	1		1
County and national-level civil society representatives	4	2	6
International NGOs		2	2
Human rights / legal experts	1	3	4
Industry associations	1		1
Total	8	8	16

Table 10. Community Members Consulted During OGM Public Awareness Sessions (2 Dec 2021 – 7 Jan 2022)

External Stakeholder Category	Date of <i>Baraza</i>	Male	Female	# People Informed
<i>Community members from 25 sub-locations:</i>				
Mihango	2 December 2021	19	42	61
Kamahua, Kaharati, Iganjo	6 December 2021	50	30	80
Sabasaba, Wathiani	7 December 2021	35	25	60
Thangira	8 December 2021	130	140	270
Gachagi	9 December 2021	10	30	40
Gathungururu	10 December 2021	129	50	179
Makuyu	14 December 2021	56	46	102
Gakungu	15 December 2021	70	80	150
Mutithi	16 December 2021	96	154	250
Kirimiri	17 December 2021	80	106	186
Mithini	20 December 2021	-	400	400
Kangangu, Wempa	4 January 2022	960	720	1680
Ngelelya, Kituamba	5 January 2022	45	41	86
Kinyangi, Kiathani, Kaguku, Mianyani	6 January 2022	200	50	250
Kambiti, Maranjau, Karia-Ini	7 January 2022	64	86	150
Total				3,944