



Draft for discussion*

*This document is work in progress and we hope to receive timely and appropriate feedback from relevant companies and stakeholders.

Company operations in weak governance zones: a practical guide for non- extractive industries

**Operaciones en zonas de conflicto y
governabilidad frágil: guías prácticas para
empresas en sectores no extractivos**

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Summary

The objective of this text is to lay the foundation for a voluntary business code of conduct based on the Voluntary Principles of Security and Human Rights created by governments, companies and NGOs working together in 2000 for companies in the extractive sector (oil, gas and mining). The idea is to design a code/guideline drawing on this experience and that is adapted for other industries, for example in food and agri-business. The code should contain practical guides that help them deal with the complexities typically found in countries or locations where democratic governance has not been fully consolidated or where armed and social conflicts are ongoing.

The actual problems operations encounter may vary: they can focus on tense labour relations; terrorist attacks or kidnappings by groups looking to destabilize governments, market relations, or the march of globalization; armed groups or criminal networks looking to extort companies and contractors. At the same time, companies are overexposed to transnational advocacy networks seeking to protect innocent and vulnerable local populations, which brings about an increasing scrutiny on company conduct.

A code for companies in the sector that operate in zones of active armed conflict or fragile govern ability could contain the following elements:

- Guidelines for risk assessment and political and security impact so that companies systematize and deepen their understanding of their surroundings and the role of the company within their environs.
- Guidelines for their security policies put into practice by their own departments.
- A commitment to the non-payment of extortion.
- Guidelines to promote human rights, transparency and respect for political and ideological pluralism that contemplates permanent training for employees and contractors.
- Protocols for the protection of unionized labor.
- Commitments by unions to verify that their members act in accordance with law and do not support illegal armed groups.

I. Introduction

The objective of this text is to lay the foundation for a voluntary business code of conduct based on the Voluntary Principles of Security and Human Rights created by governments, companies and NGOs working together in 2000 for companies in the extractive sector (oil, gas and mining). The idea is to design a code/guideline drawing on this experience and that is adapted for other industries and the challenges they encounter when balancing safeguarding security while ensuring the respect and promotion of human rights. The initiative came about in 2004 as a group of experts observed with optimism the emergence of new ways of thinking and new practices in the extractive industry with regards to their political, social and security impacts. Their process was improving communication between companies and NGOs, helping to overcome mutual prejudices and aligning expectations on both sides regarding the social, political, and economic role of the companies. We thought then that companies in sectors and their key stakeholders could also benefit from a similar process.

In April of 2005, Fundación Ideas para la Paz and the International Business Leaders Forum, with the participation of International Alert, convened a meeting with several Colombian companies to better understand their problems and interests in the launching of a new process similar to the one used by multinationals in the extractive sector.² Companies from the food and agro-industrial industries along with representatives from multinationals, including staff from Coca-Cola, attended this meeting. It became clear at the consultation that companies in other industries had fewer problems in their relations with law enforcement agencies (they don't have major agreements with public security forces) but that they were still exposed to security threats, political complications due to the armed conflict and the increasing scrutiny by NGOs and public opinion.

That same year, the Fundación participated in another round of consultations with Colombian companies in Medellín, who expressed interest in a better understanding of the Voluntary Principles and the possible development of a similar process for their interests. Companies' response was positive. Part of their motivation was brought about by their vision of the inherent challenges of globalization in the 21st century and by their desire to contribute to a solution to Colombia's conflicts.

¹ We would like to underscore the contributions and enthusiasm of Jonas Moberg, previously at IBLF and now Senior Advisor to the Global Compact in New York. Jonas has been a keen supporter of this idea. In Colombia, Rubén Darío Lizarralde, President of Indupalma has also been extremely supportive.

Now, in 2006, we have come upon a climate favorable to this proposal and we hope that this document will serve to catalyze the formal launching of a process similar to that which resulted in the Voluntary Principles.

II. Economic, legal, and political challenges in weak governance zones

In recent years, multinational and domestic companies have had to confront complex challenges due to their operations in countries or specific zones where democratic governance is not entirely solid. It is possible that said locations present problematic situations such as terrorist attacks or kidnappings by groups looking to destabilize governments, market relations, or the march of globalization; armed groups or criminal networks looking to extort companies and contractors; money laundering by narco-traffickers; underdeveloped laws and regulations of economic activities which further misunderstandings between companies and local courts; corrupt public officials; military and police which engage in human rights abuses in the protection of the company; local communities which develop dependency on social investment programs and donations from private companies which are implicitly asked to act in the role of the state; instability and political polarization; an overexposure to transnational advocacy networks seeking to protect innocent and vulnerable local populations; rogue contractors; historical difficulties in labor relations; and dis-

In Sudan, Canadian petroleum company **Talisman** was accused of complicity in human rights violations because of their dealings with the military. The company permitted the Sudanese armed forces to use their runway during a bombing campaign between 1999 and 2000. **Talisman** was charged in a US court under the *Alien Tort Claims Act* and confronted with an international protest campaign which resulted in the termination of their operations in Sudan.

In May of 2004, US banana producer **Chiquita Brands** admitted to paying paramilitary groups for employee protection in Urabá and Magdalena, Colombia. They were also linked to the death of a union leader, prompting the US State Department and Colombian office of the prosecutor general (the *Fiscalía*) to open investigations into the matter. This resulted in a drop in company stock prices forcing them to sell off assets and leave Colombia.

sents regarding the social, economic, and political roles of private sector actors.

The exact effects vary from company to company. Some are more exposed to sabotage by armed groups, others are more vulnerable to the illegality surrounding their environment, while others have serious problems with employees and unions. With globalization, which brings wider coverage by the media, better communication networks between local civil society and transnational activists, the consequences remain the same: reputation, legal, financial and operational problems. Some companies have been sued in US courts for alleged complicity in human rights abuses perpetrated by private or public security forces which protect them. Others have suffered the fall in share prices or boycotts by consumers concerned with company misconduct including the exacerbation (inadvertent or not) of armed conflicts. Some have even been forced to close, sell off and relocate to other countries or locations. One result of this has been the introduction of the human rights component to company agendas.

This has caused many companies to rethink their investment strategies and external relations. Some have opted to abandon old-fashioned approaches, such as keeping a “low profile” to avoid criticism. They now favor more open dialogue with employees, NGOs, the academic community and the media regarding their political, social and security concerns. Others have refined their understanding of corporate social responsibility to go beyond philanthropy and traditional social investment projects. Others have introduced better controls for transactional transparency and have taken more care in choosing who they do business with. Others still have offered human rights training to their employees or reformed their security departments. Therefore, external relations are no longer an exercise in superficial imagery and old-fashioned publicity. They have become more sophisticated and, since they are clearly subject to global scrutiny, they have become a necessary component of the business core.

III. What are the rules to operate in such areas?

To date, there is no binding international regulation on these issues. There is, however, an emerging “doctrine”, which at the moment is scattered in discourse, practices and various codes of conduct. This doctrine recognizes that companies cannot solve all the problems some expect them to and that often criticism against them is unfounded. Nevertheless, companies still have room for

The **Kimberley** process is a diamond certification strategy designed to prevent the sale of “blood” or “conflict” diamonds by armed groups which finance wars in countries like Angola y Sierra Leona. The agreement stipulates that only countries participating in the certification process can legally trade their diamonds. Today there are 45 participating nations.

The **Extractive Industries Transparency Initiative (EITI)** contains a series of principles and guides designed to promote the responsible use of industry royalties by the local governments through their publication and verification. There are more than 20 adherent countries.

major improvements in their practices and attitudes and do more to prevent potential negative impacts. Surely, there will always be radical individuals and organizations that will condemn private sector activity and view companies with deep distrust.

For their part, companies want clear rules to know what to expect and objectively measure their good conduct to demonstrate their genuine and good behavior commitment to the rule of law. Because of this, new codes of conduct and tools for corporate responsibility have emerged. The objective is as practical as it is political: to offer companies concrete solutions to their problems while at the same time attending to public expectations of their actions.

Today there exists a wide variety of creative initiatives, the majority of which are the product of inter-company relations, NGOs, governments, and international organisations. Among these, the Voluntary Principles on Security and Human Rights have developed into an attractive model to gain experience from.

IV. Useful lessons from the Voluntary Principles in Security and Human Rights

1. What are the Voluntary Principles?

It is a corporate code of conduct framed within the new generation of initiatives looking to promote a more positive articulation between the private sector and its environment. Aimed at getting companies to promote the rule of law, transparency, security, peace, and human rights, it also takes into account the companies’ own internal market functions and the responsibilities of states. The characteristics of corporate responsibility have slowly changed,

forming a doctrine based on particular expectations when operating in areas of social and armed conflict.

The Voluntary Principles were designed specifically for multinationals in the extractive sector (oil, gas, and mining), particularly for those operating in unstable areas where there is weak government or armed conflict. Its specific objective is to avoid the possible negative impacts of company security arrangements on human rights and the rule of law. The code also sees that multinationals better understand, mitigate, and prevent the political, economic, and security effects of their operations on the environment and the well being of local communities. In practice, the Voluntary Principles have become a useful tool for companies, governments, and various stakeholders (employees, unions, NGOs, and local communities) desiring a more open dialogue on the political challenges confronting companies which operate in unstable regions. It deals with employee and community expectations and needs as well as the standards companies need to follow in demonstration of their conduct. The Voluntary Principles is as much a process for companies, NGOs and governments to engage in as it is a code of conduct on how to balance their need for security and the respect for human rights,

The code emerged because of problems in the petroleum industry in places such as Colombia, Nigeria, and Indonesia. The strongest criticisms came from local NGOs and transnational activists. The political, reputational, and legal challenges emerged from this clash of expectations between civil society and companies. This was how representatives from multinationals, NGOs (such as Human Rights Watch, Amnesty International, and International Alert), and the US and UK governments met to try untangling the problem: reach better understandings of the political and security problems faced by companies; understand and address the major concerns of the NGOs and verify what type of information were they receiving from their sources in the field; and establish acceptable practices for all parties. It was the first time these three parties had met to discuss these subjects in the hopes of finding consensus solutions. The parties agreed in December of 2000 on the content of the code and launched the implementation process on a global level. Colombia is one of the countries where the process is more advanced. Many of the signatory companies have introduced adjustments to their management systems and have promoted human rights among their employees, contractors, and surrounding communities.

The code is written in simple language and is developed as practical guide covering three areas:

- **Risk and impact assessments** that identify security risks, potential violence and examines the impact of

the operations on human rights as well as social and armed conflict dynamics.

- **Recommendations for company interaction with public security forces.** Among others, companies should consult regularly with host governments and local communities about the impact of their security arrangements.
- **Recommendations for company interaction with private security firms.** Among others, independent monitoring by third parties is desirable.
(For a complete version of the Principles see the Annex below)

2. What are the distinctive characteristics of the code?

The code is concrete and refers to practical measures the company can do everyday.

There are several voluntary codes and mandatory legal regulations which govern company behavior. Many of them are formulated as general principles and broadly approach the external relations ethics of private companies. An example is the principles of the UN Global Compact. On the other hand, the Voluntary Principles are about a specific subject – the security of the companies and risk analysis – and it offers practical recommendations to the companies regarding their relations with public and private security forces. It also lays out clear categories for quality analysis of social, political, and security risk and impacts.

The code enjoys a tripartite legitimacy grounded on the approval and signature by governments, NGOs, and companies.

The Voluntary Principles differ from any typical voluntary business code that companies and their business associations are used to elaborate. They were negotiated and signed by three different key actors - companies, NGOs and governments – that managed to bridge their differences, integrate their perspectives and reach a “political” agreement over some basic issues. As governments and NGOs enjoy some moral authority before domestic and international public opinion, the legitimacy basis of the Voluntary Principles is particularly solid.

² The IFC finances various projects in Colombia. This means that their standards will reach both multinationals and domestic companies operating in the country.

³ The first and only report on the implementation of the Voluntary Principles at the global level was elaborated by its participants and was presented to the public in the first semester of 2006. The discussion in this text takes into consideration the report as well as the experience of the Fundación Ideas para la Paz at the collaborative implementation with different companies of Voluntary Principles in Colombia.

The Principles have already been embodied or referred to in other policy instruments such as the International Finance Corporation's *Performance Standards on Social & Environmental Sustainability* (2006) and the OECD's *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones* (2006).³

3. How has the daily practice of the Principles unfolded?³

Political will and organizational adaptation of the companies.

The adoption and the implementation has required the political will of top-managers at the headquarter and/or the subsidiary level as they are the only ones who can credibly issue directives to all their employees with the required level of authority. Their intervention has also been necessary to foster adequate coordination between the different departments of the company that are involved in code implementation. To be able to back the Principles, the President or the CEO must undergo an awareness-raising process that provides him or her with basic information about the political as well the legal international context that has led to the emergence of the Voluntary Principles. External advisors or academics may help convey the information, which includes, for example, a description of the lawsuits that were brought before the US Courts under the Alien Torts Claims Act against multinationals that were accused of complicity in the violation of human rights.⁴

In general, the implementation of the Principles has required organizational adjustments. One or more people bear the responsibility for the general implementation strategy. As a result, they need to gain exposure to a series of "new" issues for the firm through readings, training and consultations. More specifically, they need to be familiar with the debates on private sector, security, armed conflicts, criminality and human rights. Those responsible for the Voluntary Principles gain a more fine-grained understanding of the world of NGOs and trade unions as well as of the local and international political phenomena that can influence the firm. For this reason, the implementation benefits from staff with the appropriate skills to comprehend the complexity of social and political

phenomena (for example, individuals with formal training in political science, anthropology, law, international relations or history). To manage or assist the implementation of the Voluntary Principles, companies have come to hire new staff. Some have created the position of Human Rights Officer which responds to the Head of Public Affairs and can influence the practices of the security department.⁵

Greater coordination and exchange of information across departments.

Usually, most of the implementation of the Voluntary principles cuts across different departments, among them the legal affairs department, the public relations department, and community relations department, the physical security department, the industrial security and environmental safety department, the human resources department and the finance department. As the Principles have to do with the extractive industry, their implementation also involves the exploration and production departments. Often, the daily routine of the operations departments is quite removed from that of the support departments (legal affairs, public relations, and so on) and typically the physical security department keeps at the margin and maintains a jealous veil of confidentiality over its practices.

The implementation of the Voluntary Principles is not just about image. It rather entails a process that affects in depth operations as such. It involves the departments that deal with operations as much as those that deal with corporate responsibility and public relations. This is how the Voluntary Principles have contributed in a tangible manner to bridge the distance between the core business and the areas that deal with external and labor relations. In other words, it has helped integrate operation management with the management of the broader corporate environment.

More communication between the management and the employees.

As all employees must strive to live by the Principles, it is necessary to explain to them what they are and their reason for being. The design of the implementation strategy at the management level as well as in-house training to all employees call for a sustained dialogue between management and the employees over non-technical matters as well as political and labor issues --topics that have traditionally been restricted to high-level executives. This produces two effects. On the one hand, companies feel the need to reflect more thoroughly and more deeply on their position in society, their response to corruption or extortion, how to help avoid political and social polarization, what democracy is about and how far the company can support it, how to re-

⁴ This Act grants jurisdiction to US Federal Courts over "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." According to the interim report of the United Nations Special Representative on Business and Human Rights, John Ruggie, so far 36 cases have been filed against private enterprises under ATCA.

⁵ If the code tackled the security of unionized employees under threat, it would probably require a different scheme that entails closer relations among the human resources department, the public relations department and the security department.

act before the state, what to do to promote the respect for human rights, how the company private security is to behave, and, for instance, what to do about the reintegration of former combatants or about the post-conflict. On the other hand, companies experience a progressive closing of the gap between their management and their employees, which translates into a better labor environment and a shared view over ethics and good conduct rules.

Changes in risk assessment methodologies: better information management.

One of the explicit recommendations of the Voluntary Principles is to undertake political and security risk assessment that will better examine the effects of operations on human rights and the dynamics of social and armed conflict. For this to happen, companies must have a thorough understanding of their surroundings, who might negatively affect their surroundings and how operations connect with positive or negative dynamics. In the end, this exercise leads the company to:

- improve and even systematize the gathering of information on political and social issues;
- learn to interpret this information, that is, to perform more complex analyses beyond simple statistics or probability charts on robbery or terrorist attacks;
- understand which direct or indirect political, social and economic impacts the operation has as well as the effects of security policies on local and national dynamics;
- understand whether companies inadvertently incite social resentment, ideological polarization, social ruptures, political instability or the existence of illegal armed groups; and
- have a greater awareness of human rights, both civil and political, as well as labor rights, and the way in which the company can help encourage a culture of respect on the part of its employees and contractors.

Development of Human Rights policies.

Many companies have heard about the new debates on business and human rights and the need for companies to have express policies regarding human rights (beyond a mere compliance with labor laws). Voluntary Principles, in and of themselves are a human rights policy which, in this case, seeks to ensure that formal and informal security contracts and agreements by companies do not lead to systematic abuse of human rights nor exacerbate social and armed conflict. In practice, the recommendations have materialized into the following actions and initiatives taken and financed by the companies:

- **Training in human rights and international humanitarian law for company personnel.** They are taught what they are, why they are important, what they have to do with the private sector and with their routine activities. Some companies have consulted specialized agencies, such as the Red Cross and the International Committee of the Red Cross committee, universities and other consultants in order to perform such training. The traditional training packages in these topics have been designed for police, military, public officials or members of international agencies and do not always have suitable material for the training of employees of private companies. Usually, the companies themselves, in the case that they do have qualified personnel, or with the aid of specialized consultants, have had to adapt the traditional manuals to respond to their particular needs. Over time, new aids have appeared (brochures, texts, manuals) produced by those that have been directly immersed in the debate on human rights and international companies. It is useful for training to be done by people with pedagogical experience together with a good understanding of local culture and Western international ideas on human rights and democratic political values.
- **Reports on violations of human rights or cases or corruption.** One of the strongest complaints made against companies is that they have access to a lot of information on the local dynamics and that on occasions they have chosen to ignore, that is, not to report the poor conduct of others. This is what lends them the appearance of indifference or of being accomplices. The implementation of Voluntary Principles has led companies to introduce mechanisms for “reporting incidents” in the case that an employee is witness to the systematic violation of human rights. The companies then acquire the responsibility of letting the national or international authorities or the NGO know what is happening in their environment so that each one can attend to the situation according to their area of competence. That is, so that the State may respond through its justice system, or an international body may investigate or an NGO denounce the act.
- **Support for reinforcement of training in human rights and international humanitarian law for the Public Armed Forces.** Companies have financed reinforcement courses for the police or military forces that protect them and operate within their zone of influence. Depending on how this is done, it can be useful so that the company can make it clear to se-

curity agents what their position is with respect to the topic and that there be no doubt as to their support of human rights.

- **Community awareness of the topic of human rights.** Some companies have supported the public forces or the NGO in extending education in human rights to broader circles of civilian society.
- **Protocol for protection of unionized employees.** In Colombia, civil and political rights of union members have frequently been violated. This has been caused in part by the dynamics of armed conflict. Historically, infiltration of or influence on unions made up part of the political strategy of Colombian guerrilla groups, which contaminated union activity and sharpened the gap between entrepreneurs and unions. Entrepreneurs expressed their distrust of unions, which were seen as platforms for guerrillas to put forward their own political agendas unrelated to the welfare of the employees. It also exposed unions to the pressure and threats of the extreme right, including paramilitary forces. For this reason, many union members have had security problems and their protection has become, today, a topic of discussion between companies and their unions. Some companies have decided to formalize a response protocol in the case of receiving requests for help from their unionized employees. This has provided them with an opportunity to convey to the unions and other interest groups a clearer message with respect to their position on the tragedy of those workers who are respectful of the law -- thus, companies do not appear indifferent toward the situation of their employees, nor supportive of the violation of labor rights.

Platform for interlocution with local authorities and central government.

On an international level there are certain rules for the relations between private companies, the public sector and political parties in order to avoid undue influence or lobbying with the government by the company --taking into account that companies seek their particular business interest and that government must safeguard public goods and collective interests. This has been the case, particularly with multinational companies that often have enormous economic and political resources compared to host countries in the Third World where they operate. For this reason, the interlocution between the private company and government is not easy, since it may be misinterpreted. Nevertheless, communication and coordination between companies and government is necessary in many cases, especially in difficult zones where there are security problems, political instability or great rup-

tures between companies and unions. On the other hand, it is sometimes difficult for the companies to reprimand a government in the case of errors or state inefficacy, above all, when the topic is a sensitive one for security.

Voluntary Principles has become a structured and legitimate platform for multinationals to be able to enter into dialogue with or call the attention of state agencies. The code stipulates that companies are obliged to consult and report to government the existence of problems or difficult situations and that government, headed by the State, has its own obligations and that it may not discharge these duties on companies.⁶

Platform for interaction with NGO.

Globalization has had both positive and negative effects for States, enterprise and individuals. Some negative effects, such as the extreme poverty experienced by some populations or the accumulation of power by enterprise and individuals have generated rejection by some NGOs and sectors of civilian society on the global level. This in addition to the traditional animosities between right and left, have made the relations between enterprise and NGOs uneasy. The Voluntary Principles have become a constructive effort for both sides to become better acquainted, understand their respective points of view and find some key points of consensus on basics, such as the need to have transparent and stable institutions that are respectful of human rights -- which is in the best interest of the companies and ultimately inspires the work of NGOs.

At the international level, the Voluntary Principles have annual plenary meetings in which enterprise and NGOs sit at a common table and on a local level some signatory enterprises have developed relations with the local representatives of transnational NGOs or with their local allies through processes of dialogue to collectively identify risks or specific programmes for social investment and protection of human rights.

V. Possible application for other sectors

1. What challenges do other sectors face when operating in zones with fragile governability or those affected by armed conflict?

It is necessary to undergo a process of systematic and focused consultation in Colombia and other countries in order

⁶ In Colombia, the National Committee on the Voluntary Principles has worked as bridge between the companies and the national government. In this case the Colombian Petroleum Association has played a facilitating role.

to understand the particular problems that companies in sectors other than extractive industry face and at the same time identify which concrete expectations the interest groups have with respect to the company. Nevertheless, there is now sufficient information to make a preliminary analysis. Through the different projects in the Entrepreneurial Sector and Conflict Programme, the Fundacion Ideas para la Paz has identified that, at least in Colombia, many companies face **security problems** similar to those of the large oil companies:

- They are victims of extortion by illegal armed groups or criminal networks. This unwanted link involves them in the economy of conflict, can cause them legal problems and nourishes the negative perception that certain sectors have of these companies. In Colombia, in particular, the existence of direct or indirect connections with paramilitary organizations of the extreme right is especially problematic.
- They are victims of kidnapping.
- They must hire private security companies whose personnel come largely from the police or military forces. Although they are already retired and therefore “civilians”, some continue to maintain tight bonds with active agents, generating a comradeship that ends up involving the private security with military operations and legal complications arising from misconduct.
- Sometimes they must resort to formal or informal arrangements with the local police or local military battalions, although they do not have specific agreements for support that imply the transfer of equipment and funds, such as many of the oil, gas and mining multinationals have. Even though agreements may be small or informal, the companies still face problems of reputation or legality on the account of the conduct of the police or military agents. The agreements, and the fact that they are usually made in secret or under absolute reserve makes the company appear to be an accomplice to the misconduct. It also enhances the perception that companies prefer to invest in “hard security” instead of helping solve the causes or manifestations of the structural problems of poverty.

They are also affected by **international politics and the perception** that is held of the governments where they have their headquarters and particularly of the **host government**:

- They are perceived as conservative elements of society, motivated only by the personal gain of a few and not the general welfare.

- They are seen as the allies of political elites and able to exercise influence on the public sector and Congress.
- They are perceived as favoring hard-handed security policies or abuse of authority as long as it neutralizes the threats to their security (robberies and attacks) even though it might have negative consequences for other less favored sectors of society. These security policies also include censorship, neutralization or disrepute of sectors that are critical of the company’s operations, for example, stigmatizing or persecuting intellectuals, NGOs and unions.
- They are seen as indifferent to poverty, armed conflict and the suffering of innocent civilians.
- In the case of Colombia, many are seen as allies of paramilitary groups.

Fairly frequently, companies of other sectors have **serious labor problems related more to the political dynamics of union relations** and the way it is contaminated by armed conflict:

- They are accused of discouraging union activity whether by subtle legal means or aggressive illegal means.
- They are accused of being indifferent or accomplices to persecution or assassination of union leaders.

2. What elements could a voluntary code for the food and agro-industrial sector contain?

A code for companies in the sector that operate in zones of active armed conflict or fragile govern ability could contain the following elements:

- Guidelines for risk assessment and political and security impact so that companies systematize and deepen their understanding of their surroundings and the role of the company within their environs.
- Guidelines for their security policies put into practice by their own departments
- A commitment to the non-payment of extortion.
- Guidelines to promote human rights, transparency and respect for political and ideological pluralism that contemplates permanent training for employees and contractors.
- Protocols for the protection of unionized labor.
- Commitments by unions to verify that their members act in accordance with law and do not support illegal armed groups.

Annex

1. Voluntary Principles on Security and Human Rights

Governments of the United States and the United Kingdom, companies in the extractive and energy sectors (“Companies”), and non-governmental organizations, all with an interest in human rights and corporate social responsibility, have engaged in a dialogue on security and human rights.

The participants recognize the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society –including non-governmental organizations, labor/trade unions, and local communities– can play in advancing these goals. Through this dialogue, the participants have developed the following set of voluntary principles to guide Companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. Mindful of these goals, the participants agree to the importance of continuing this dialogue and keeping under review these principles to ensure their continuing relevance and efficacy.

Acknowledging that security is a fundamental need, shared by individuals, communities, businesses, and governments alike, and acknowledging the difficult security issues faced by Companies operating globally, we recognize that security and respect for human rights can and should be consistent;

Understanding that governments have the primary responsibility to promote and protect human rights and that all parties to a conflict are obliged to observe applicable international humanitarian law, we recognize that we share the common goal of promoting respect for human rights, particularly those set forth in the Universal Declaration of Human Rights, and international humanitarian law;

Emphasizing the importance of safeguarding the integrity of company personnel and property, Companies recognize a commitment to act in a manner consistent with the laws of the countries within which they are present, to be mindful of the highest applicable international standards, and to promote the observance of applicable international law enforcement principles (e.g., the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials), particularly with regard to the use of force;

Taking note of the effect that Companies’ activities may have on local communities, we recognize the value of engaging with civil society and host and home governments to contribute to the welfare of the local community while mitigating any potential for conflict where possible;

Understanding that useful, credible information is a vital component of security and human rights, we recognize the importance of sharing and understanding our respective experiences regarding, inter alia, best security practices and procedures, country human rights situations, and public and private security, subject to confidentiality constraints;

Acknowledging that home governments and multilateral institutions may, on occasion, assist host governments with security sector reform, developing institutional capacities and strengthening the rule of law, we recognize the important role Companies and civil society can play in supporting these efforts;

We hereby express our support for the following voluntary principles regarding security and human rights in the extractive sector, which fall into three categories, risk assessment, relations with public security, and relations with private security:

2. Risk assessment

The ability to assess accurately risks present in a Company’s operating environment is critical to the security of personnel, local communities and assets; the success of the Company’s short and long-term operations; and to the promotion and protection of human rights. In some circumstances, this is relatively simple; in others, it is important to obtain extensive background information from different sources; monitoring and adapting to changing, complex political, economic, law enforcement, military and social situations; and maintaining productive relations with local communities and government officials.

The quality of complicated risk assessments is largely dependent on the assembling of regularly updated, credible information from a broad range of perspectives -- local and national governments, security firms, other companies, home governments, multilateral institutions, and civil society knowledgeable about local conditions. This information may be most effective when shared to the fullest extent possible (bearing in mind confidentiality considerations) between Companies, concerned civil society, and governments.

Bearing in mind these general principles, we recognize that accurate, effective risk assessments should consider the following factors:

- **Identification of security risks.** Security risks can result from political, economic, civil or social factors. Moreover, certain personnel and assets may be at greater risk than others. Identification of security risks allows a Company to take measures to minimize risk and to assess whether Company actions may heighten risk.
- **Potential for violence.** Depending on the environment, violence can be widespread or limited to

particular regions, and it can develop with little or no warning. Civil society, home and host government representatives, and other sources should be consulted to identify risks presented by the potential for violence. Risk assessments should examine patterns of violence in areas of Company operations for educational, predictive, and preventative purposes.

- > **Human rights records.** Risk assessments should consider the available human rights records of public security forces, paramilitaries, local and national law enforcement, as well as the reputation of private security. Awareness of past abuses and allegations can help Companies to avoid recurrences as well as to promote accountability. Also, identification of the capability of the above entities to respond to situations of violence in a lawful manner (i.e., consistent with applicable international standards) allows Companies to develop appropriate measures in operating environments.
- > **Rule of law.** Risk assessments should consider the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses and for those responsible for violations of international humanitarian law in a manner that respects the rights of the accused.
- > **Conflict analysis.** Identification of and understanding the root causes and nature of local conflicts, as well as the level of adherence to human rights and international humanitarian law standards by key actors, can be instructive for the development of strategies for managing relations between the Company, local communities, Company employees and their unions, and host governments. Risk assessments should also consider the potential for future conflicts.
- > **Equipment transfers.** Where Companies provide equipment (including lethal and non-lethal equipment) to public or private security, they should consider the risk of such transfers, any relevant export licensing requirements, and the feasibility of measures to mitigate foreseeable negative consequences, including adequate controls to prevent misappropriation or diversion of equipment which may lead to human rights abuses. In making risk assessments, companies should consider any relevant past incidents involving previous equipment transfers.

3. Interactions between companies and public security

Although governments have the primary role of maintaining law and order, security and respect for human rights, Companies have an interest in ensuring that actions taken

by governments, particularly the actions of public security providers, are consistent with the protection and promotion of human rights. In cases where there is a need to supplement security provided by host governments, Companies may be required or expected to contribute to, or otherwise reimburse, the costs of protecting Company facilities and personnel borne by public security. While public security is expected to act in a manner consistent with local and national laws as well as with human rights standards and international humanitarian law, within this context abuses may nevertheless occur.

In an effort to reduce the risk of such abuses and to promote respect for human rights generally, we have identified the following voluntary principles to guide relationships between Companies and public security regarding security provided to Companies:

Security Arrangements

- > Companies should consult regularly with host governments and local communities about the impact of their security arrangements on those communities.
- > Companies should communicate their policies regarding ethical conduct and human rights to public security providers, and express their desire that security be provided in a manner consistent with those policies by personnel with adequate and effective training.
- > Companies should encourage host governments to permit making security arrangements transparent and accessible to the public, subject to any overriding safety and security concerns.

Deployment and Conduct

- > The primary role of public security should be to maintain the rule of law, including safeguarding human rights and deterring acts that threaten Company personnel and facilities. The type and number of public security forces deployed should be competent, appropriate and proportional to the threat.
- > Equipment imports and exports should comply with all applicable law and regulations. Companies that provide equipment to public security should take all appropriate and lawful measures to mitigate any foreseeable negative consequences, including human rights abuses and violations of international humanitarian law.
- > Companies should use their influence to promote the following principles with public security: (a) individuals credibly implicated in human rights abuses should not provide security services for Companies;

(b) force should be used only when strictly necessary and to an extent proportional to the threat; and (c) the rights of individuals should not be violated while exercising the right to exercise freedom of association and peaceful assembly, the right to engage in collective bargaining, or other related rights of Company employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.

- In cases where physical force is used by public security, such incidents should be reported to the appropriate authorities and to the Company. Where force is used, medical aid should be provided to injured persons, including to offenders.

Consultation and Advice

- Companies should hold structured meetings with public security on a regular basis to discuss security, human rights and related work-place safety issues. Companies should also consult regularly with other Companies, host and home governments, and civil society to discuss security and human rights. Where Companies operating in the same region have common concerns, they should consider collectively raising those concerns with the host and home governments.
- In their consultations with host governments, Companies should take all appropriate measures to promote observance of applicable international law enforcement principles, particularly those reflected in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.
- Companies should support efforts by governments, civil society and multilateral institutions to provide human rights training and education for public security as well as their efforts to strengthen state institutions to ensure accountability and respect for human rights.

Responses to Human Rights Abuses

- Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host government authorities. Where appropriate, Companies should urge investigation and that action be taken to prevent any recurrence.
- Companies should actively monitor the status of investigations and press for their proper resolution.
- Companies should, to the extent reasonable, monitor the use of equipment provided by the Company

and to investigate properly situations in which such equipment is used in an inappropriate manner.

- Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence. The security and safety of sources should be protected. Additional or more accurate information that may alter previous allegations should be made available as appropriate to concerned parties.

Interactions between companies and private security

Where host governments are unable or unwilling to provide adequate security to protect a Company's personnel or assets, it may be necessary to engage private security providers as a complement to public security. In this context, private security may have to coordinate with state forces, (law enforcement, in particular) to carry weapons and to consider the defensive local use of force. Given the risks associated with such activities, we recognize the following voluntary principles to guide private security conduct:

- Private security should observe the policies of the contracting Company regarding ethical conduct and human rights; the law and professional standards of the country in which they operate; emerging best practices developed by industry, civil society, and governments; and promote the observance of international humanitarian law.
- Private security should maintain high levels of technical and professional proficiency, particularly with regard to the local use of force and firearms.
- Private security should act in a lawful manner. They should exercise restraint and caution in a manner consistent with applicable international guidelines regarding the local use of force, including the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials, as well as with emerging best practices developed by Companies, civil society, and governments.
- Private security should have policies regarding appropriate conduct and the local use of force (e.g., rules of engagement). Practice under these policies should be capable of being monitored by Companies or, where appropriate, by independent third parties. Such monitoring should encompass detailed investigations into allegations of abusive or unlawful acts; the availability of disciplinary measures sufficient to prevent and deter; and procedures for reporting al-

legations to relevant local law enforcement authorities when appropriate.

- All allegations of human rights abuses by private security should be recorded. Credible allegations should be properly investigated. In those cases where allegations against private security providers are forwarded to the relevant law enforcement authorities, Companies should actively monitor the status of investigations and press for their proper resolution.
- Consistent with their function, private security should provide only preventative and defensive services and should not engage in activities exclusively the responsibility of state military or law enforcement authorities. Companies should designate services, technology and equipment capable of offensive and defensive purposes as being for defensive use only.
- Private security should (a) not employ individuals credibly implicated in human rights abuses to provide security services; (b) use force only when strictly necessary and to an extent proportional to the threat; and (c) not violate the rights of individuals while exercising the right to exercise freedom of association and peaceful assembly, to engage in collective bargaining, or other related rights of Company employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.
- In cases where physical force is used, private security should properly investigate and report the incident to the Company. Private security should refer the matter to local authorities and/or take disciplinary action where appropriate. Where force is used, medical aid should be provided to injured persons, including to offenders.
- Private security should maintain the confidentiality of information obtained as a result of its position as security provider, except where to do so would jeopardize the principles contained herein.

To minimize the risk that private security exceed their authority as providers of security, and to promote respect for human rights generally, we have developed the following additional voluntary principles and guidelines:

- Where appropriate, Companies should include the principles outlined above as contractual provisions in agreements with private security providers and ensure that private security personnel are adequately trained to respect the rights of employees and the local community. To the extent practicable,

agreements between Companies and private security should require investigation of unlawful or abusive behavior and appropriate disciplinary action. Agreements should also permit termination of the relationship by Companies where there is credible evidence of unlawful or abusive behavior by private security personnel.

- Companies should consult and monitor private security providers to ensure they fulfil their obligation to provide security in a manner consistent with the principles outlined above. Where appropriate, Companies should seek to employ private security providers that are representative of the local population.
- Companies should review the background of private security they intend to employ, particularly with regard to the use of excessive force. Such reviews should include an assessment of previous services provided to the host government and whether these services raise concern about the private security firm's dual role as a private security provider and government contractor.
- Companies should consult with other Companies, home country officials, host country officials, and civil society regarding experiences with private security. Where appropriate and lawful, Companies should facilitate the exchange of information about unlawful activity and abuses committed by private security providers.