

VOLUNTARY PRINCIPLES FRAMEWORK FOR ADMISSION AND PARTICIPATION OF NEW GOVERNMENTS

Recalling the Voluntary Principles Participation Criteria, which state that the core objective of the Voluntary Principles is 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" and that "engagement and dialogue among the Participants are central to reaching this objective",

Recognizing that it is fundamentally incompatible with and contrary to the objectives and spirit of the Voluntary Principles for any Government involved in the Voluntary Principles to commit acts of genocide, crimes against humanity, or widespread or systemic war crimes,

and

Recognizing the wish to welcome more governments in to the Voluntary Principles, the Voluntary Principles Participants have decided as follows:

1. Admission Process

1.1 Any Government may formally request admission to the Voluntary Principles (hereinafter referred to as "Applicant Government"). The request is to be made in writing to the Secretariat and is to include a statement of the Applicant Government's commitment to the Voluntary Principles.

1.2 Applicant Governments are admitted to the Voluntary Principles as Engaged Governments with the benefits and responsibilities set forth in Section 2 unless they are excluded from participation under the terms set forth in Section 1.5.

The status of "Engaged Government" applies irrespective of whether the Government is home or host to extractives companies, a combination of such or is a Government without such affiliations.

1.3 Engaged Governments may at any time request status as Participating Governments under the terms set forth in Section 3 and with the benefits and responsibilities set forth in Section 4.

The status of "Participating Government" applies irrespective of whether the Government is home or host to extractives companies, a combination of such or is a Government without such affiliations.

1.4 Participation in the Voluntary Principles does not constitute endorsement by the Voluntary Principles Participants of the human rights performance of the Government.

1.5 An Applicant Government is not to be admitted to the Voluntary Principles if:

- a) a Participating Government uses its veto power to exclude the Applicant Government. This veto power is to be exercised solely on the basis that a Participating Government has grave concerns that an Applicant Government is committing acts of genocide, crimes against humanity, widespread or systemic war crimes or has other grave concerns with regard to its willingness to implement or assist in the implementation of the Voluntary Principles. A proposal to admit a vetoed Government can be submitted to the body of Participating Governments (hereinafter “the Government Pillar”) if there is consensus within the company or NGO pillar to admit that Government. The proposal may be accompanied with a request for consultations with the Government Pillar. Any Participating Government may use its veto power on the same basis as the initial veto or
- b) there is a consensus within the company or NGO pillar to propose the exclusion of the Applicant Government (the “Proposal”) and there is consensus within the Government Pillar on this Proposal. If there is not consensus with the Government Pillar on this Proposal, then the matter will be resolved through a vote by a supermajority (66%) of government participants, a simple majority (51%) of non-governmental organization participants, and a simple majority (51%) of company participants. Such Proposals may be introduced solely on the basis that there are grave concerns that the Applicant Government is committing acts of genocide, crimes against humanity, widespread or systemic war crimes or the proposing pillar has other grave concerns with regard to its willingness to implement or assist in the implementation of the Voluntary Principles.

1.6 An Engaged Government’s status will be reviewed under the procedures set forth in 1.5 if there is a consensus within any pillar that the Engaged Government is committing acts of genocide, crimes against humanity, or widespread or systemic war crimes.

1.7 An Applicant Government that is not admitted under the terms set forth in Section 1.5 or an Engaged Government excluded under the terms set forth in Section 1.6, may at any time submit a renewed request for admission.

2. Engaged Governments

Engaged Governments may inter alia:

- a) Attend and contribute to events organized by the Voluntary Principles, including appropriate sessions at the Voluntary Principles Plenary Meeting,
- b) Seek advice and support from the Secretariat for Voluntary Principles-recognized activities,
- c) Contribute to discussions regarding implementation of the Voluntary Principles, including sharing of experiences and best practices.

3. Advancement to status as Participating Government

3.1 Engaged Governments may at any time request the Steering Committee to initiate a process enabling them to gain status as Participating Governments. Such a process would require that the Engaged Government develops and implements a national plan (hereinafter: “the Plan”) consistent with the framework set out in Annex A. The Plan is to focus on steps to promote security and human rights in the extractives industry of the Engaged Government’s country.

3.2 The Plan is to be presented to the Steering Committee for approval on the basis of a balanced super-majority vote (‘3+1’, i.e. four out of six votes with at least one from each Pillar). The Steering Committee is to indicate a time-frame for the Government’s reporting to the Steering Committee on progress in implementing the Plan.

3.3 The Steering Committee is to decide, based on balanced super-majority voting arrangements (‘3+1’, i.e. four out of six votes with at least one from each Pillar), if and when a Government has made significant progress in implementing the Plan enabling it to gain status as a Participating Government. As necessary, the Steering Committee may recommend assessments in order to determine the level of progress by the Government. This may include organizing an in-country review mission consisting of a group of Voluntary Principles Participants.

4. Participating Governments

4.1 Participating Governments are inter alia:

- a) Included in the Government Pillar with the veto powers set forth in Section 1.5,
- b) Eligible to participate fully in all other aspects of the Voluntary Principles, including governance and other decision-making forums, and
- c) Required to comply with the Participation Criteria.

ANNEX A: PLAN FRAMEWORK

1. An Engaged Government seeking status as a Participating Government is to submit a Plan to the Steering Committee outlining the steps it plans to take to promote the objectives of the Voluntary Principles within its country.
2. The Plan is to be developed by the Government in consultation with appropriate stakeholders in country. The Government may also consult with appropriate stakeholders located outside the country.
3. The Plan is to include measurable targets enabling subsequent assessment of progress. The Plan is to include an appropriate time-frame for achieving the targets.
4. The Plan's schedule of proposed activities and goals may include the following elements as applicable to security and human rights in the extractives industry of the Engaged Government's country:
 - a. Demonstrate that there are, as appropriate, laws, regulations, policies, and/or procedures in place to ensure that actions of public or private security providers are consistent with applicable international human rights and international humanitarian law obligations and other laws. This may include providing human rights training and education for such security providers.
 - b. Promote the observance of applicable international law enforcement principles (e.g. UN Code of Conduct for Law Enforcement Officials, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials), particularly with regard to the use of force.
 - c. Demonstrate progress in strengthening Government institutions' ability to ensure accountability and respect for human rights and to take actions to prevent recurrence of human rights abuses. The efforts should take into account the rights of the victim(s) and of the accused. The Government should also demonstrate progress to show that it is holding perpetrators accountable by taking actions including investigating, prosecuting, and/or other measures that would effectively address human rights violations or prevent them.
 - d. Demonstrate commitment to the Voluntary Principles by, when applicable, the Engaged Government leading its own inclusive, multi-stakeholder in-country process that recognizes the important roles companies and civil society organizations play in implementing and assisting in the implementation of the Voluntary Principles.

VOLUNTARY PRINCIPLES PLAN: Engaged Governments

ANNEX A: PLAN FRAMEWORK

Overview of Entry Process for becoming a Participating Government

1. Governments interested in joining the Voluntary Principles on Security and Human Rights (VPs) should submit a Letter of Intent to the Steering Committee (STC). This initiates the process enabling them to gain eventual status as a Participating Government.*
2. If the Letter of Intent is accepted by the STC, in consultation with the Plenary, the VPs Secretariat informs the interested government that it has gained Engaged Government* status.
3. Within 18 months of becoming an Engaged Government, the Government should submit a National Plan ("Plan") to the STC outlining the steps it intends to take to promote the objectives of the VPs.
4. If the Plan is accepted by the STC, in consultation with the Plenary, the VPs Secretariat informs the Engaged Government that it has gained Participant status.

Elements of a Letter of Intent

See attached appendix for suggested elements to be included in a Letter of Intent.

Elements of the Plan

The Plan should outline the steps the government plans to take to promote and implement the VPs. The Plan should include a road map that sets out clear objectives, a plan of activities and a timetable for promotion and implementation. The Plan should be developed by the Engaged Government in consultation with, and drawing on input, from relevant government agencies (e.g. commerce, defense, justice, energy, and economic issues). The Government should also consult with embassies and missions in countries where the Voluntary Principles are relevant, and with industry and civil society. Consultations should continue on promoting and implementing the VPs even when a country achieves Participant status.

The Plan should include details of how the Engaged Government intends to:

- a. demonstrate commitment to and implement the Voluntary Principles on Security and Human Rights both domestically and overseas;
- b. promote the Voluntary Principles and encourage companies, NGOs and other governments to join and implement the Voluntary Principles;

(Examples of potential activities designed to promote and implement the VPs include regular multi-stakeholder roundtables; establishing interdepartmental VPs promotion strategies; demarches; administering training; developing national legislation; joint Government-Corporate-NGO outreach; presentations at international fora).

The Plan might also include:

1. details of appropriate laws, regulations, policies, and/or procedures which are designed to ensure that actions of public or private security providers are consistent with applicable international law and humanitarian law, or provide details of what steps will be taken to enact such laws, regulations and policies. This could include human rights training and education for security providers;
2. details on how the Government intends to promote the observance of applicable international law enforcement principles, particularly with regard to the use of force;
3. an explanation of the Government's efforts to ensure accountability and respect for human rights and to mitigate human rights abuses. The Government could also detail how it holds perpetrators accountable by taking actions including investigating, prosecuting, and/or other measures that effectively address human rights abuses or prevent them.

VPs Timeframe for Engaged Governments

1. Engaged Governments should, on a quarterly basis, update the STC on progress of their drafting of the Plan.
2. Governments should transition from Engaged Government to Participant Government status within 18 months of becoming an Engaged Government. However, some flexibility may be required in this transition period as governments will be required to provide a large amount of information in the Plan. If a Plan is not submitted within 18 months, the STC and Secretariat should work with the Engaged Government to ensure that a Plan is submitted within 6 months after the end of the 18-month period.

3. For a period of one (1) month following submission of the Plan, the STC should review the Plan and work to clarify issues related to the Plan with the Engaged Government. If ongoing collaborative work (between the STC and the Engaged Government) is needed, the STC should inform the Engaged Government, set a new timeline and work with the Government to address outstanding issues in a timely fashion.

Note - Financial Commitments and Reporting as an Engaged Government

Engaged Governments are expected to pay a percentage equal to one half of the costs attributed to a Participant during their first year of Engaged Government status. The Government is expected to share in the costs as a Participant thereafter. A Government's inability to share in any of the costs would be addressed on a case by case basis.

All Governments, both Engaged Government and Participating, should expect to produce an Annual Report (see reporting guidelines for more information).

Appendix

The Letter of Intent may include (but is not limited to) incorporating the following elements:

Express interest in joining the Voluntary Principles on Security and Human Rights (VPs):

- Describe your commitment to adhering to the VPs.
- Identify what ministry will manage the Voluntary Principles, as well as any other ministries and/or bureaus which may contribute and/or have a stake in implementing the VPs.

Describe and identify experience with the extractive sector:

- Include information outlining the number of transnational and/or national extractive companies operating in your country.
- Identify the size of mining and extractive-related components in terms of numbers of companies (both home and transnational for which your country is host), size(s) of companies, and estimated fiduciary investments.
- Name some of the large transnational and national companies in your country.
- Cite national and/or transnational companies with operations in the country that work efficiently and effectively.
- Identify experience(s) with transnational and/or national companies operating in areas of armed conflict and/or areas where significant security operations pose risks of human rights abuse.

Describe how the VPs may be of Assistance to Your Country's Efforts:

- Distinguish ways in which your country could both contribute to and learn from the VPs and participate in the multi-stakeholder approach of the VPs.
- Explain how the VPs multi-stakeholder forum could help identify practical guidelines and build upon best practices for your government.
- Explain how your government can contribute to the knowledge-base on issues related to the intersection of security and human rights and provide its own unique perspective. Cite examples when possible.

Highlight what your government is currently doing that relates to the VPs:

- Cite specific interest in, or current experience your country has undertaken that involves the VPs.

- Identify and cite examples of what your government is doing on its own, with businesses, and with members of civil society to collaborate and work on multi-stakeholder initiatives to discuss issues of human rights. (Examples are holding monthly multi-stakeholder roundtables, administering training, developing national legislation etc...)
- Explain how current or future initiatives may be forming the beginning of an in-country action plan for addressing security and human rights in the extractive sector.
- Describe how participating in, or being members of, other initiatives (such as the Extractive Industry Transparency Initiative) may work in tandem with your governments VPs participation.

Commitment to business & human rights initiatives:

- Share how your government will raise international awareness and standards for the VPs and contribute to improving human rights.
- Describe your commitment to the VPs to help reduce the risk of human rights abuses in extractive projects specifically in volatile zones.
- Explain why the VPs are beneficial to the interests of your government and the national and transnational companies within your country.
- Share ideas for future initiatives to implement the VPs in your country.
- Indicate your initial thoughts and/or examples on what may be included in your national action plan.
- Identify companies in your country that are already VPs members, and describe how you can work with them to promote the VPs.
- Share regional dynamics and issues around security and human rights and identify ways in which joining the VPs can help alleviate or proactively address these issues.

Please identify the department where the VPs will be managed and the points of contact.

Send to:

Mr. Gare Smith, Secretariat
Voluntary Principles on Security and Human Rights Secretariat
Foley Hoag LLP
1875 K Street, N.W.
Suite 800
Washington, D.C. 20006-1238

Or email: voluntaryprinciples@foleyhoag.com