

**VOLUNTARY PRINCIPLES ON SECURITY AND HUMAN RIGHTS:  
IMPLEMENTATION PROCESS FEASIBILITY STUDY IN PERU**

**Lima- London, April 2010**

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## **I. Introduction**

Since the creation of the Voluntary Principles on Security and Human Rights (VPs) ten years ago, a vast experience in addressing security and human rights issues has been gained. The initiative has also grown considerably: it started with two governments to currently seven; expanded from four to nine non governmental organisations and from five to 18 multinational companies.

The Colombian experience of implementing the Voluntary Principles stands out, especially since it is the only country with a ongoing in-country implementation process that is more robust than individual companies' efforts in other places to implement the VPs, however, not robust enough yet in the face of many challenges facing the particular country.

As the first South American country to be part of the VPs in 2009, the Colombian process has motivated International Alert and Socios Peru to explore the feasibility of implementing a similar process in Peru. Both organisations have been working together since 2007, and prior to that, Socios Peru had been exploring the possibility of implementing VPs in the country. With this common goal in mind, both organisations decided to carry out this study, recognising their joint interest and capacity in opening dialogue spaces that lead to transformation of conflicts in society.

Recognising that it is the State that has primary responsibility for the protection of human rights, adopting and implementing the VPs can be a valuable opportunity for extractive companies to address human rights issues pertinent to security, as well as an opportunity to identify the impacts generated by their operations on local stakeholders, and to raise their standards in corporate performance on security

issues. For NGOs and other civil society organisations, the participation in the implementation of VPs offers an effective and widely accepted means of promoting human rights. For the State, adopting the VPs can reduce conflict between local communities and companies in a particular area can improve the human rights situation (albeit in a limited matter) and generate a more favourable business climate that can in turn lead to an increase in foreign investment.

The report is organised in five chapters, which include a description of the methodology used, a country overview, the main findings, and some ideas on developing a work plan. By exploring these issues, the study wishes to corroborate the viability of implementing the VPs in Peru and to suggest a way forward.

## **II. Study Method**

The aim of this study was to explore the feasibility of a sustainable VPs implementation process. In doing so, local key players needed to be identified and a dialogue platform had to be developed (Annex 1 shows the terms of reference for the study), so it would allow a more dynamic flow of information essential for a gradual building of trust between stakeholders, which is an essential part to start the process of implementation of the Voluntary Principles in Peru.

The exploratory study was carried out throughout January and March 2010. The information was gathered based on interview guidelines for the three main stakeholder groups: companies, state officials and civil society organisations (Annex 2 shows the interview guidelines). Experts in VPs and business and human rights were also consulted in Lima and Bogota.

In order to carry out the interviews, 52 institutions were selected in Peru and Colombia. 35 interviews were carried out in total, out of which eight were in Colombia (Annex 3 lists the interviewees in both countries). As pointed out before, Colombia's leadership in VPs implementation in the region provided valuable information that allowed a better grasp of the particularities of the process in the country as well as the political and business motivations for engagement.

To complement the information captured in the interviews, a discussion forum was organised in Peru, which gathered 20 representatives from the different sectors (Annex 4 shows the list of participants in the forum). This forum allowed participants to express their ideas, expectations and concerns regarding the possibility of having the VPs process in the country.

The discussion forum had two points on the agenda: a) the presentation of the Colombian experience by International Alert, and b) a summary of the feasibility study's main findings in Peru. Both presentations were successful in motivating a debate among the participants and in identifying possible paths of action regarding the implementation of VPs in Peru. The next chapters explore in more detail all the observations and opinions expressed during the forum.

### III. Background

During the last three years, Peru has experienced a sustained growth of its GDP (6.8 in 2005, 7.7 in 2006, 8.9 in 2007, 9.8 in 2008 and 0.9 in 2009)<sup>1</sup>. This growth has gone hand in hand with a poverty reduction, while the actual rate dropped from 54.4% in 2002 to 36.2% in 2008.

However, extreme poverty is still considerably high (in 2008 it reached 12.6%). Differences between rural and urban areas are striking: extreme poverty in cities is 5.8% as opposed to rural areas where it reaches a staggering 21%. Additionally, inequality between the urban (23.5) and rural (59.8) areas has in fact increased.

The provinces with the highest percentage of poverty are Huancavelica (85.7%), Apurímac (69.5%), Ayacucho (68.3%), Puno (67.2%), Huánuco (64.9%), Cajamarca (64.5%) and Pasco (63.4%), all of which are located in the Andean region. This goes to show the inequalities between these areas compared to the coast or even the jungle, which is historically poorer than other regions in Peru. Population living under extreme poverty conditions requires an immediate attention of state institutions, granting access to public services accompanied by investment which will create employment and prevent the reproduction of poverty in future generations

As for private and public investment, in 2007 they reached U\$20,000 million and U\$5,000 million respectively. According to the Chamber of Commerce, private foreign investment in 2011 could exceed U\$100,000 million if the country continues to improve its competitiveness.

Economic growth in Peru has been positive in the last years in terms of GDP and foreign investment. According to the "Ciudadanos al Dia" (a Peruvian consulting firm) 2006 report, "Tax contribution of the economic sectors in Peru", mining and oil industries have been drivers of this growth, experiencing a major expansion themselves (in 2005 these sectors grew 412% compared to 2004).

The main mining products commercialised internationally are gold, copper, zinc and silver. In terms of contribution to the national rent, mining contributed 19.6% to the total percentage of investments, energy 13.2% and oil 20%. In terms of royalties, in the last years their contributions are as shown by the following figures: 4.254 million soles<sup>2</sup> in 2006, 4,435 million soles in 2007 and 3,434 million soles in 2008. In 2009, the mining resources were transferred as follows: 25% to the Ancash province, 15% to Arequipa and 11% to Moquegua. As for the oil industry, the transferred to the regions include 43% to Piura, 24% to Loreto and 13% to Ucayali.

Despite the promising economic outlook, the state's policies have traditionally been ineffective and inappropriately distributed when trying to promote national

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<sup>1</sup> As per the Central Reserves Bank

<sup>2</sup> 1 USD roughly equals 2.8 PEN

development based on the revenues generated by the extractive industry. As a result, the private sector has been forced to develop social responsibility programmes to help satisfy basic needs of local communities in the areas of operations.

Mining projects have considerable economic, political and cultural impacts in the communities located near the project. Such impacts can include altering their environmental conditions and social and economic organizational changes.

These, as well as other factors, if not managed properly, can generate instability, uncertainty and frequently conflicts for communities that have strong ancestral traditions and for whom the land and the water are vital elements for survival. The most recent report by the Ombudsman office (January 2010) records at least 250 social conflicts, out of which 65% (170) are active and 35% are latent. It is important to note that the majority of conflicts are socio-environmental (47%), followed by conflict with the local authorities (14%) and labour conflicts (11%). Most of these conflicts are located in the Cajamarca, Cusco, Ancash, Ayacucho and Puno provinces.

Regarding issues of security and human rights, even though nowadays cases are sporadic, their frequency has been increasing steadily and some events have occurred, raising the need to address them before they act as triggers for other conflicts. Conflicts involving security issues include private and public security issues, mismanagement of social protests and demonstrations, personnel attacks, among others. The emblematic cases involve Yanacocha Mining Company (Newmont investment) in Cajamarca, which was denounced for allegedly spying on local actors who were protesting against companies abuses, other emblematic case involve Majaz Mining Company with their project Rio Blanco, located in the highlands of Piura in the provinces of Ayabaca and Huancabamba, were local people protested violently because the mining explorations took place before dialogue processes start.

In sum, despite the economic growth and the promising prospects for the extractive sector, if structural solutions to poverty and exclusion are not found, it is very likely that the existence of conflicts will continue to threaten the viability of projects and will hinder the country's prospects for development.

#### **IV. Findings**

The findings reflect the perceptions and opinions of representatives of state, extractive industry (or affiliated companies) and civil society. In addition, these findings take into account information obtained from experts in human rights and business interviewed in Lima and Bogota. Stakeholders interviewed in Lima are and will be vital for the development of an in-country implementation strategy in Peru; while Bogota-based interviewees carry importance due to their years-long experience of implementing or accompanying the implementation process of the VPs in Colombia.

The information gathered through various sources allowed us to make assumptions and outline guidelines to follow an implementation process in Peru.

The collected information is divided into the following 5 thematic sections:

*a. Knowledge of the VPs*

The private sector demonstrated the most extensive knowledge of the Voluntary Principles. Employees of companies operating in Peru (frequently with HQs outside of Peru), such as Antamina (BHP Billiton), Yanacocha (Newmont), Quellaveco (Anglo American) and Las Bambas (Xstrata Copper), have been involved in the implementation of the VPs in their companies for a number of years. Despite the different levels of implementation between the companies, the fact that they are having VPs discussions and adapting their organisations accordingly shows awareness towards the positive impact VPs can have in their operations as a means to positively reconfigure their networks and local relationships.

However, one of the main challenges lies in the nature of the implementation process, since the implementation is frequently conducted through training of company personnel in one particular sector/department, usually Security. Security personnel plan and/or implement activities related to the Voluntary Principles and train employees (both permanent and contracted staff). The capacity building does not usually reach communities in the vicinity of the particular project site, nor does it reach 'non conventional' security groups such as rural self-defence committees or *Rondas Campesinas*<sup>3</sup>.

The [interviewed] Peruvian companies have developed and are implementing a "risk & violence identification" matrix, whether following Alert's Conflict Sensitive Business Practice guidance or other methodologies developed by a specific company in question.

Among civil society organisations and state representatives there is a limited awareness of the VPs, usually associated with corporate social responsibility. Moreover, these stakeholders see the VPs as a potential 'social marketing' strategy of companies in Peru.

In conclusion, there is an asymmetrical awareness of the VPs among stakeholders, with companies with foreign HQs having extensive knowledge, as opposed to civil society and state representatives, whose existing knowledge is often misconstrued. Consequently, the implementation process should begin by addressing the lack of knowledge on the VPs through dissemination and training campaigns for relevant stakeholders.

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<sup>3</sup> The rural self-defence committees (*Rondas Campesinas*) were created in Peru originally as community defence organisations, protecting rural population from cattle theft, gradually assuming the role of security and defence providers in their communities. They are widespread in the northern and southern highlands.

*b. Relevance and importance of a potential VPs process in Peru*

A conflict between the three main actors in Peru- the extractive industry, communities and state was identified by all interviewees and mistrust was singled out as one of the main catalysts of the conflict. Peru is socially fragmented, suffers from severe institutional weakness and the state has a weak capacity to promote coordination of local actors. Respect for human rights in security practices by extractive companies is indispensable in a country where the legal framework is contradictory and openly violates the rights of their citizens.

In light of this situation, the implementation of the VPs has sparked the interest of relevant actors in Peru, who see this process as an opportunity to bring together strategic actors in each sector and thus strengthen dialogue and subsequently conflict prevention and resolution.

State representatives also expressed an interest in the VPs, especially given that the country is experiencing a liberalisation of markets and attraction of foreign investments that is setting the basis of a national and local economic growth. Given that this rapid economic growth is perceived as benefiting only some groups of the population and rural communities in particular in areas of large scale mining feel increasingly marginalised, state representatives expressed a view that a potential VPs process in the country can become an opportunity to attend to communities' needs that are not currently addressed. It is important to note at this point that although the VPs address only the problem related to security and human rights, its potential to become a dialogue platform for other human rights related issues was certainly noted by most interviewees. Moreover, some experts expressed a view that the state's adherence or compliance with the VPs could reinforce its capacity to conduct this important dialogue with civil society representatives and the private sector, giving way to a better understanding of human rights and local needs, thus leading to the creation and implementation of more effective policies.

As an example of the above mentioned opportunity, the Ombudsman had identified a series of socio-environmental conflicts that involve extractive companies. In many cases, these conflicts are generated by an inadequate use of resources, especially water and land, and by the inability of key actors to interact. In this scenario, the VPs constitute an opportunity for the state to balance economic development with an adequate protection of fundamental human rights of local communities.

In addition, one of the main problems regarding natural resource exploitation is related to the fact that the State grants companies their exploitation areas without consulting the communities and therefore without assessing the potential negative impact of the particular operation on communities, including human rights issues related to security. In this sense, the VPs can also become an opportunity for communities to raise these issues and to potentially, participate in the modification of the legal framework.

It is important to keep in mind that in countries with high levels of poverty such as Peru the impact of human rights violations is more significant given the profound state of vulnerability of poor communities.

Several interviewees raised an issue that companies are called upon to promote stronger and strategic win-win relationships with the other key actors instead of merely functional relationships formalized through support agreements and financing local projects on health, education, infrastructure, among others, without considering human rights in general.

Currently, companies work with NGOs to facilitate their engagement to local actors while NGOs see companies as sources of economic resources for their projects. The implementation of the VPs could contribute in strengthening such bonds and building trust among key actors.

Many of the companies' practices are supervised by central government authorities, without involving regional or local instances in large scale investment projects. In this sense, the VPs implementation could enable local governments to strengthen their capacities to get involved more actively at the local level, while strengthening the decentralization process leaded and started by the State representatives.

Other interviewees saw the implementation of VPs as a tripartite process between state, communities and business which could help address problems associated with mining, including indirect issues, such as those generated by illegal mining, money laundering, forced prostitution....

*c. Key actors in a future process*

It is clear for all interviewees that each actor has its own motivations and interests in the implementation of the VPs. The State has a clear interest in improving its relationship with the private sector as well as the civil society. In addition, it sees its participation in the VPs process as an opportunity to respond in a more organised manner to others' interests and needs as it would have first hand and updated information, gathered through dialogue opportunities that can be promoted as part of the VPs implementation process. On the other hand, it would also improve its capacities to balance the different stakeholders' interests and align them with national economic growth interests.

It is the state's primary interest to reduce social conflicts. The creation of the Ombudsman is a clear example of this since her/his role is to identify potential conflicts and generate recommendations for the executive branch. Another example is found in the Council of Ministers, which has a specialised conflict resolution area and it currently has a project to train state representatives and social leaders in conflict resolution. The project also includes the creation of a decentralised national system for conflict prevention. The Mining and Energy Ministry has a social management area whose objective is to promote dialogue between companies and

communities and follow up on negotiation processes. Last but not least, the Ministry of Justice has a National Human Rights Commission.

Suffice to say that all these institutions are clear on the fact that the Police are the only ones allowed to use force in conflicts. However, it is also clear to them that the state's response is often reactive and has a limited capacity to prevent conflicts. This evidences the state's weak knowledge on conflict resolution practices.

Even though the state has its own resources to address conflicts in crisis situations, it still requires the support of international cooperation in order to finance preventive programs. This means that the VPs implementation will most likely demand support from the international and domestic business communities. This will in turn set the basis for sustained investment in the country.

As for the private sector interests and motivations, the implementation of VPs is perceived as an opportunity to enhance their reputation. If a monitoring committee would be created, they could have the opportunity to share their experiences and best practices with other companies. This could have a positive impact in trust-building processes with other actors and would enable the private sector to respond effectively to local needs. Additionally, preventing abuses/violations of human rights related to security is seen as reducing negative impacts of company operations on communities, which can in turn prevent conflicts that could threaten company's assets and operations.

Finally, the implementation of VPs opens a door for civil society organisations to participate in human rights discussions and jointly provide solutions that would lead to an improvement of the human rights situation, as well as increased local development that would not conflict with other national development interests.

*d. A 'step-by-step' implementation process*

According to the information obtained through interviews, a first step would be to select a promoting institution that would lead the implementation process. This institution would be in charge of organising and contacting all actors in order to build a multi-stakeholder initiative responsible for implementing VPs. Following the Colombian model, the need for an international instance with experience in such processes is strongly recommended, which must have experience in developing and implementing projects in South America region in order to provide accurate feedback during the implementation process.

A second step, as suggested by most interviewees, would be to set up a "VPs Promoting Committee", which would include those institutions that demonstrate a real interest in adhering to VPs. The "VPs Committee" should be made up by representatives of each sector. The committee should also have a team or technical secretariat that would contact members for meetings as well as keeping track of actions carried out as part of the committee's action plans. It is worth noting that the technical secretariat should have experience in coordinating various dialogue

instances, be legitimate to all parties and have operational capacity. Experience in managing international cooperation projects is also valuable.

One of the committee goals should be following up the fulfilment of agreements and monitoring the implementation process. On the other hand, the committee should also help companies carry out risk and impact assessments with the participation of communities and other civil society organisations. As a way of preventing security related conflicts that could negatively impact the human rights situation, the committee should also support training efforts of public and private security personnel from companies as well as monitoring such processes.

Another key goal of the implementation process would be to promote the adoption of VPs at the national government level, just as it occurred with the ILO 169 Convention, aiming that good practices in security of extractive companies would have a link with public policy regarding conflict prevention and risk management.

A third step will be to share concepts and best practices on VPs, through mass events, seminars, forums, etc.; disseminating them to those directly involved as well as to wider audiences in civil society. This would also allow companies already implementing the VPs at a national level to share their experiences and lessons learned, achieving a better legitimacy in their local and regional contexts.

The interviewees unanimously recommended a fourth step regarding coordination of information among key players on information on VPs. This process can take place in existing scenarios that group relevant or potentially interested actors such as the business NGO “Peru 2021”, the National Mining, Oil and Energy Society, Muqui Network (network of catholic organisations), the Dialogue Group on Mining and Sustainable Development, among others.

Finally, a fifth step consists on developing training exercises on risk and impact assessments that take into consideration human rights and security issues, such as International Alert’s Conflict Sensitive Business Practice (CSBP). Some interviewees suggested that one institution that can help with training on human rights and security is the Human Rights Institute of the Catholic University (IDEHPUCP), which has a wide credibility and is considered a neutral institution by all actors. Additionally, as pointed out in the Colombian case, it would be valuable to involve International Alert with CSBP training.

*e. Process drivers: selection criteria*

All the interviewees unanimously agreed that if any institution was going to facilitate the process, it would have to have experience on dialogue and negotiation processes and have the acceptance of each party involved in the process. However, several civil society organisations suggested that the state should be the one promoting the initiative so that the outcomes would generate binding structural transformations in public institutions and companies’ operations regarding security and protection of human rights.

One difficulty pointed out by interviewees is the widespread perception that there is no public institution legitimate enough to promote the initiative, which is why a “collective actor” should be found, where all the actors would feel represented.

Concrete criteria for the facilitator suggested, included legitimacy with the three parties (State, business and civil society), impartiality, technical capacity, knowledge on human rights issues as well as conflict prevention experience and national presence.

*f. Summary of main findings*

- The private sector demonstrated the most extensive awareness of the Voluntary Principles and experience in implementation. This knowledge however, is concentrated almost exclusively in the security divisions/departments of companies. Some of the companies have developed and are implementing a “risk & violence identification” matrix, whether following Alert’s Conflict Sensitive Business Practice guidance or other methodologies developed by a specific company in question
- Civil society organisations and state representatives are at large not aware of the Voluntary Principles and usually associate them with corporate social responsibility. Moreover, these stakeholders see the VPs as a potential ‘social marketing’ strategy of companies in Peru.
- The VPs could become an enabler for strengthening the key actors’ capacity for ‘internal’ coordination of interests and needs within each sector and open a space for dialogue between companies, or respectively among various civil society actors and governmental agencies.
- Representatives of state institutions demonstrated an interest in the VPs due to the perception of the VPs as complementary to the national economic policy of free market and attracting FDI, both anchored in the national growth promotion strategy which has been implemented in the past few years.
- Entry of the state into the VPs framework could generate an effective instrument to strengthen the capacity of the dialogue with civil society representatives and companies, opening possibilities for an improved understanding of human rights and local needs, both of which are fundamental for developing effective public policies
- Each stakeholder in the VPs process will have its own interests in the process, which will guarantee a commitment that such a long-term endeavour requires
  - The state would in its adherence to the VPs benefit from improving its approach and relationship to/with the private sector, civil society and

general public. In addition, it would benefit from conflict prevention and reduction (in particular institutions such as the Ombudsman's office, Presidency of the Council of Ministers, Ministry of Energy and Mining, Ministry of Justice)

- A company implementing the VPs in Peru could improve its relationship with stakeholders, which in the long term contributes positively to the social licence to operate; boost its positive image and share best practices with other companies contributing to wider improvement in the industry as a whole
  - The implementation of VPs will enable a “non-politicised” participation of civil society organisations in local development dynamics, bridging the local and national development perspectives.
- As a result of this scoping research we had identified 5 steps for initiating an in-country implementation process in Peru:
    - Selection of an institution that could serve as the process facilitator
    - Establishment of a committee that could promote the VPs in an inclusive manner
    - A public dissemination campaign (events, seminars, radio and printed press dissemination, etc...) sharing the concepts and practices of the VPs
    - Alignment of information between actors engaged both in the implementation of the VPs and in the identification of key stakeholders
    - Strengthening the capacity of key stakeholders in methods of risk and impact analysis, issues of human rights and security as well as methodologies such as CSBP
    - The institution that could lead this process of facilitation should not only have experience in dialogue and negotiation processes but should also be a legitimate actor and widely accepted by the parties involved in the process. Learning from the Colombian experience, this organisation should be accepted first and foremost by civil society organisations, which are a key actor in the success of the process. In addition, the facilitating body should be impartial, possess technical capacity, knowledge on human rights issues as well as conflict prevention experience and national presence
  - The companies that have been working on the VPs so far (Anglo American, Antamina, Yanacocha), as well as NGO representatives (Perú 2021, Muqui Network, Mining Dialogue Group) and the UK and US governments have expressed their interest and offered their support for the VPs implementation process in Peru.

## V. Work plan suggestions

Based on the identification of a promoting institution and on the creation of an inclusive coordination instance, a set of activities is essential to move forward with the VPs implementation process. Among these are the following:

### a. *Coordination activities*

- Identification of key actors or institutions that would be part of the preliminary phase of VPs implementation
- Meetings with organisations and associations (e.g. National Mining, Energy and Oil Society, Peru 2021, Muqui Network, Dialogue Group on Mining and Sustainable Development) to engage them in the process
- Meetings with government officials to inform, invite and engage them in the process
- Fundraise for the process with relevant donor organisations
- Encourage the creation of the “Promotion Committee”

### b. *Awareness raising and capacity building*

- Writing, editing and printing of VPs dissemination material
- Continue a more in-depth study on the VPs implementation in Peru
- Carry out training on CSBP, human rights and security with relevant stakeholders
- Participate in events organised by stakeholders involving VPs dissemination
- Create a web page to ensure a wider VPs dissemination as well as other issues related to their implementation
- Organise an international conference to present the VPs implementation process in other countries and its adaptation to Peru

### c. *Complementary analysis*

- Undertake a ‘case study’ research with the view to disseminate lessons learned and best practices from companies implementing the VPs in their operations
- Conduct analysis and follow-up on those conflicts that can compromise human rights or security in company operations
- Other studies that can be of interest to the actors involved

### d. *Risks*

- Expectations

Based on the expectations raised by the interviewees, a potential in-country implementation process in Peru faces expectations it cannot meet; ranging from increased development and poverty reduction through strengthening the State to eliminating human rights problems in Peru. These stem from the

lack of understanding of the VPs as a process that can address a more narrow aspect of human rights issues – violations/abuses by public/private security forces guarding company operations in high risk areas. However, given the fact that the VPs participants themselves have a wide range of expectations from the VPs; it is only natural that in a country which grapples with so many problems pertinent to human rights, any process addressing one facet of this issue will be seen as having the potential to spill-over to other issues. The process encountered a similar challenge in Colombia, where it was noted right from the start that many of the most grave violations of human rights happen in the non-extractive sector and a parallel process was launched (the Colombia Guidelines) in order to address expectations created by the need in other sectors. The wide range of human rights issues is going to be a challenge in Peru and the key stakeholders, as well as the potential guardian of this process will have to consider propping up the VPs implementation process by others in order to address expectations and to make the process more robust. Such a coordinated, combined effort can also make it easier for the companies to implement the VPs since expectations (which are ‘irrelevant’ –i.e. outside the scope of the VPs) will shift from the implementation efforts to other process.

- Global vs. Local

The Colombian Mining and Energy Committee on Security and Human Rights, which is the guardian of the VPs in-country implementation process in Colombia has made it clear that the Colombian process is not a mirror of the global process. The local context simply does not allow transference of a global initiative. The Peruvian process will have to define the nature of its relationship with the global process and the global process will also have to define when is an ‘in-country implementation process’ still a VPs implementation process and when does it turn to something else. This issue will become of increasing relevance with the growing number of countries, where the VPs implementation is anchored in a process.

- Sustainability- financial sustainability is a key, but not sole issue

In polarised societies where civil society, government and private sector interact in a hostile manner (or sporadically, with lack of trust), bringing all to a table is a time consuming, politically, financially and socially expensive process. Only if the guardian is supported continuously, this is achievable. An agreeable funding formula has to be found, since: the civil society in conflict affected areas is depended on foreign donor funding with little interest or possibility of private sector funding (frequently due to polarisation); companies on the other hand are constantly restructuring and frequently reducing funding into “non-technical” issues (as seen during the recent financial crisis), whereas governments struggle with personnel rotation, as well as of course... funding. One way of securing funding from one’s institution is the constant repetition of benefits of the VPs implementation

for all stakeholders, which has been a struggle for many. Only when the message is constant and well articulated will the institutions engaged in the process commit to it as institutions rather than individuals, which will also contribute to sustainability, financial or otherwise.

- Results vs. process-oriented approach

Had the Colombian process not been a process but only a signed commitment or even changed legislation, less would have been achieved. Processes are open-ended and frequently criticised for not measuring achievements or impact. However, a process with clearly defined success benchmarks allows the flexibility dictated by the context, supports creativity, which is necessary when dealing with complex issues in complex environments and has more potential to bring on board actors who are hesitant to come forward for something unknown at this point.

## Annex 1

### Terms of reference for the study

#### Project: 'Scoping Study for the Establishment of an In-country Process in Peru'

*Draft, 29 October 2010*

#### Background

One important element of work of the Voluntary Principles on Security and Human Rights (VPs) is cooperation by VP participants at the country-level or "in-country implementation". There is currently no approved definition or defined activities for a VPs in-country process. But it is broadly agreed by Plenary participants that it is a **process aimed at building an effective in-country multi-stakeholder dialogue to strengthen effective implementation of the VPs in the country concerned.**

One successful example is the Colombian in-country process which has existed for several years without significant assistance, intervention or resources from the Plenary or Secretariat. Attempts to replicate this model in other countries have not met with the same success. With growing interest in the VPSHR in Peru and with Peru having been identified by participants as one of 3 new target countries for in-country activity, funds sourced from the Norwegian government will support scoping mission and stakeholder meeting in order to create a platform.

#### 1. Project Rationale and Goal

The purpose of this project is to explore the potential for a sustained in country process in Peru, to identify local stakeholder (Corporate, Associations, Civil Society reps and relevant government counterparts) and propose a structure for an ongoing dialogue on the VPs in Peru

- Outputs: Undertake a survey of relevant counterparts in Peru as to their understanding of a VP in-country process in Peru, its potential structure, hosting organisations, host government counterparts and activities; based on the survey develop a VP in-country process strategy for Peru suggesting a structure, activities and outcomes of a VP in-country process in Peru; suggestions for an host government 'champion' or group or host government organizations to provide the counterpart for such discussions; development of a TOR for a potential hosting organization of an VP in-country process in Peru.
- Outcomes: All relevant counterparts in Peru will have had the opportunity to feed into the process and to voice their opinion. The suggested VP in-country process strategy is supported by local counterparts, and provides a basis for moving forward engagement with host government.

#### 2. Project Management

IBLF will supervise the assignment and disburse funds –which will be carried out by a consultant / organization contracted by IBLF– with key steps and tasks to be approved by the Government of Norway.

### 3. The consultant's terms of reference

- Undertake survey/interviews in Peru: the consultant will prepare a first draft questionnaire and identify relevant counterparts for 1-to-1 interviews. The draft questionnaire for the survey which will be presented to IBLF and Government of Norway which will provide guidance on the organizations to be consulted. The consultant will undertake a series of interviews with the identified counterparts and keep detailed notes on all interviews. A summary of the survey will be presented to the Government of Norway and IBLF.
- Prepare a first draft in-country process strategy: The consultant will prepare a first draft of the in-country process strategy. The strategy will lay out the current challenges with regard to human rights and security in Peru, potential areas where a dialogue on the VPs could support overcoming those challenges, potential VP in-country activities in those areas, the suggestion of an overall structure under which on-going activities on the VP could be undertaken (governance) and how all stakeholders, including local NGOS, and the host government (identifying at which level and which most relevant Ministry/ies) could be involved in a VP in-country process. This first draft will be used as basis for further consultations (at workshop level) and will include:
  - Suggestions on host government champions: The consultant will identify a first list of potential host government organizations that could champion participation of the Peruvian government in VP in-country activities and scope the interest and resources of those organizations in playing such a role. They should also identify which are most relevant ministry/ies and level of governmental input.
  - First draft of TOR for hosting organizations: The consultant will prepare a first draft of TORs for a hosting organization and draw up a list of potential organizations that could host the secretariat of a VP in-country process. The consultant will also scope whether a secretariat structure is supported by the relevant counterparts in Peru and if necessary propose alternative models.
- Consultations: the consultant will undertake consultations with relevant counterparts on the practicability of the strategy, the list of potential host government champions and the TORs for the hosting organization.

- A **related consultation workshop** to be scheduled to involving key stakeholders to identify priority objectives and key points to platform a Government dialogue.
- A workshop report will be drafted with recommended next steps – in order to identify a lead Government to support VP activity within Peru and to outline steps for engaging government in-country and related funding for local activity.

## Annex 2

### Survey for each group

#### Companies Representatives

1. ¿Conoce los Principios Voluntarios?
2. ¿Cuáles son los principales riesgos de seguridad (que no sean de seguridad industrial) que ha tenido que enfrentar y cómo ha hecho su empresa para mitigarlos?
3. ¿En su código de conducta corporativa se hacen explícitos tópicos relacionados a la protección de los derechos humanos?
4. ¿Cuál fue su principal motivación de su empresa para adherirse a los PV?
5. ¿Qué unidades se vieron involucradas para la formulación de su estrategia de adhesión y aplicación de los Principios Voluntarios?
6. Si su empresa ya viene aplicando los Principios Voluntarios dentro de su gestión, ¿ha observado mejoras en algún nivel de producción u otros?
7. ¿Cómo identifican sus riesgos tanto en sus fases de exploración y explotación?  
¿Los riesgos que identificaron de que naturaleza fueron?
8. ¿Cuando se presenta un problema interno o externo que involucra a la empresa en temas de seguridad, qué área en específico se encarga de la resolución del problema?
9. ¿Recurre usted a instituciones mediadoras externas estatales y no estatales para promover el diálogo y encontrar una solución a la problemática?
10. ¿Cuando se presentan conflictos el personal de seguridad utiliza las armas tan sólo de manera defensiva?
11. ¿Qué acciones ha ejecutado su empresa en torno a temas de seguridad y derechos humanos tanto en su fase de exploración como explotación?
12. Si se presentaron conflictos, ¿Cuál fue la raíz y cómo se desarrollaron los conflictos?
13. ¿Se promovieron investigaciones en torno a estos conflictos? ¿Qué unidad realizó dichas investigaciones?
14. ¿Se monitorearon sus resultados? ¿Qué unidad realizó dicha actividad?
15. Si su empresa aportó a la resolución positiva de los conflictos locales, a través de qué formas aportó en estas situaciones.
16. Si se presentaran casos de abuso hacia los derechos humanos de sus grupos de interés internos y externos, ¿cómo respondería su empresa en dichos casos?
17. Si la seguridad externa de la empresa la provee un contratista, ¿Puede mencionar cuál es y cómo la seleccionó y bajo qué criterios?
18. ¿Su empresa monitorea las prácticas de sus empresas proveedoras de servicios de seguridad externa?
19. ¿De qué manera afectaría en su empresa si tuviera que enfrentar los siguientes riesgos: jurídico, político, de imagen u operativo?
20. ¿Su empresa qué tipo de políticas de gestión de la información ha promovido para suscitar la transparencia de su gestión sin ver afectado su seguridad interna?

21. ¿Tiene identificado a sus grupos de interés? (representantes estatales, comunidad, organizaciones de la sociedad, gremios sindicales).
22. ¿Qué formas o estrategias de relación ha establecido con éstos?
23. ¿Con qué representantes del estado tiene mayor comunicación? ¿Cuáles son por lo general los temas en común?
24. ¿Con qué representantes de la sociedad civil o comunidades tiene mayor relación? ¿Cuáles son por lo general los temas en común?
25. ¿Ustedes como empresa brindan capacitaciones a sus proveedores de seguridad en temas relacionados al respeto a los derechos humanos en sus prácticas de protección de bienes de la empresa?

### **State Representatives**

1. ¿Qué tipo de retos y/ oportunidades tuvo que enfrentar el sector extractivo en relación a prevención de conflictos y seguridad?
2. ¿Considera usted que existe relación entre los niveles de pobreza y los índices de desarrollo social con los conflictos locales en torno a empresas extractivas?
3. ¿Qué instituciones públicas se han creado para proteger los derechos ciudadanos en torno a seguridad y respeto de derechos humanos fundamentales?
4. ¿Las entidades estatales encargadas de proveer seguridad a nivel local y nacional cuentan con competencias claras si es que se produjese un conflicto en torno a una operación extractiva?
5. ¿Estás entidades cuentan con los fondos económicos requeridos para hacer cumplir la ley y hacer respetar los derechos fundamentales?
6. ¿Cómo sopesa el estado los derechos de los ciudadanos con los derechos de las empresas? ¿Qué marcos legales se han creado para evitar conflictos en torno a empresas extractivas? ¿Sobre qué marcos internacionales fueron formulados?
7. ¿Para promover estos cambios institucionales han recibido apoyo de agencias de cooperación u ONG?
8. Si han recibido apoyo, cuál fue la naturaleza del apoyo.
9. ¿Qué medios se utilizan para informar a los ciudadanos sobre la seguridad pública que garantiza el estado a las inversiones privadas del sector extractivo?
10. ¿Qué oficina, en su dependencia se involucra directamente con los conflictos relacionados a empresas extractivas?
11. ¿Su dependencia tiene una estrategia desarrollada para afrontar conflictos relacionados a sectores extractivos? ¿Si es que la tuviera, quienes estuvieron involucrados en su formulación?
12. ¿Qué acciones ha promovido su cartera para brindar estabilidad social y seguridad a las empresas extractivas para realizar sus operaciones?
13. ¿Qué estrategias o prácticas ha ejecutado su dependencia para fortalecer la institucionalidad y participación ciudadana local donde las empresas extractivas tienen operaciones?
14. ¿Su dependencia ha brindado capacitaciones en derechos humanos a Fuerzas Armadas y Policiales que son frecuentemente requeridas para solucionar conflictos relacionados a sectores extractivos?

15. ¿Cómo considera usted que los conflictos afecten en los procesos de concesiones y oportunidades de inversión extractiva en el Perú?
16. ¿Se han emprendiendo reformas relacionadas a seguridad interna y respeto a los derechos humanos? ¿Qué competencias tiene Fuerzas Armadas y Policiales en torno a conflictos que se generan en áreas de operación de empresas?
17. ¿Qué tipo de servicios le son requeridos con mayor frecuencia por parte de empresas privadas? ¿Cómo son cubiertas esas prácticas?
18. ¿Si las Fuerzas Armadas y Policiales son requeridas para prestar servicios de seguridad en caso de conflictos, previamente sus miembros son capacitados en temáticas relacionados al cumplimiento de derechos humanos?
19. ¿Cuáles son las principales preocupaciones que las empresas extractivas les han hecho llegar en torno a su relación en temas de seguridad con las Fuerzas Armadas y Policiales?
20. ¿Qué garantías ofrece el Estado para la inversión extractiva en materia de seguridad?

### **Civil Society Representatives**

1. ¿Qué tipo de retos y oportunidades tendrá que enfrentar el Perú en relación al desarrollo, prevención de conflictos y seguridad en estos próximos 5 años frente a la presencia de empresas del sector extractivo en el Perú?
2. ¿Cuánta incidencia tiene el sector privado extractivo en el Perú en relación al devenir del país?
3. ¿Considera usted que el entorno sociocultural y económico donde las empresas extractivas operan influye en el nivel de conflictividad local?
4. Desde su percepción, cuál es la relación entre la conducta responsable de las empresas extractivas con el concepto de desarrollo sostenible.
5. ¿Qué impactos generó la guerra interna que sufrió el Perú en las décadas del 80 y 90 en el panorama socioeconómico y conflictivo actual?
6. ¿Con que instancias públicas cuenta el Perú para resolver conflictos relacionados a empresas extractivas?
7. ¿Existe una instancia nacional de apelación cuando los derechos humanos de los ciudadanos son vulnerados en conflictos producidos en el marco de operación de empresas extractivas?
8. ¿Tiene conocimiento del marco legal que el estado peruano ha promovido en torno a temas relacionados a Seguridad y Derechos humanos para empresas extractivas? Si es así, sobre qué marcos internacionales fueron formulados.
9. Este marco legal de qué manera incide en la relación entre las empresas extractivas con la sociedad civil que vive cercana a las operaciones.
10. Si tuviera que valorar el nivel de participación ciudadana frente a su relación con las empresas extractivas que operan en el Perú, cómo lo valoraría.
11. ¿Cuánta importancia considera usted dan las empresas extractivas a los Derechos Humanos y la Seguridad?
12. ¿Cómo evaluaría el nivel de cumplimiento del marco legal en el país en relación a las operaciones de empresas extractivas?
13. ¿Cuándo se producen conflictos relacionados a empresas extractivas, considera usted que el despliegue de las Fuerzas Armadas, Policiales y la

Seguridad Privada, ha sido proporcional, competente y apropiada con la problemática?

14. ¿Qué zonas son potencialmente conflictivas en el Perú en relación a operaciones extractivas?
15. En líneas generales, cuál considera usted es la naturaleza del conflicto en el país.

## Annex 3

### Interviewees

	Name	Institution
<b>State Representatives</b>		
1	Eddy Ormeño	Ministry of Energy and Mines
2	César Ipenza	Ministry of Environment
3	Víctor Caballero	Ministry of Economy
4	Ronald Ibarra	Office for Management of Social Conflicts – Presidencia del Consejo de Ministros
<b>Company Representatives</b>		
4	Oscar Delgado	Xstrata - Las Bambas
5	Enrique Méndez	Sodexo
6	Augusto Baertl	Gestora de Negocios
7	Federico Cúneo	Amrop Hever Perú
8	Gonzalo Quijandría y Víctor Gómez	Antamina - BHP Billiton
9	Carlos Scerpella	Yanacocha – Newmont
10	Eduardo Rubio	Quellaveco - Anglo American
11	Alejandro Hermosa	Buenaventura
<b>Civil Society Representatives</b>		
12	Silvia Loly	International Amnesty
13	Salomón Lerner y Rocío Villanueva	Human Rights Institute - PUCP
14	Jose de Echave y Juan Carlos Sueiro	NGO CooperAccion
15	Manuel Pulgar Vidal	Peruvian Environmental Rights
16	Baltazar Caravedo	SASE
17	Gastón Garatea	Pontificia Universidad Católica del Perú, Local University
18	Walter Albán	Law Department – PUCP
19	José Luis López	Group, “Dialogo, Minería y Desarrollo”
20	Humberto Ortiz y Julia Huari	NGO, Comisión Episcopal de Acción Social
21	Ana Leyva	Red Muqui
22	Roxana Arbocó	NGO Perú 2021
23	Javier Aroca	NGO OXFAM
24	Carlos Monge	NGO DESCO
25	Francisco Soberon	NGO APRODEH
26	Gino Costa	Private Consultant in security

		topics
<b>International Cooperation</b>		
27	Jane Sidebottom	UK Embassy
28	Fiorella Mayaute	GTZ
29	Jessica Huaracayo	US Embassy
<b>BOGOTÁ</b>		
30	Ángela Rivas	Foundation "Ideas para la Paz"
31	Alejandro Martínez y Sandra Flores	Colombian Petroleum Association
32	Adriana Pedraza	Energy and Mining Committee for Human Rights
33	Rafael Unda	Presidential Adviser for Extractive Infrastructure Protection
34	Leonardo Gonzales	NGO "INDEPAZ"
35	Carlos Franco	Presidential Program for Human Rights
36	Alexandra Guáqueta	Cerrejón Extractive Company
37	Luis Fernando de Angulo	Rio Tinto Extractive Company

## Annex 4

### Round Table (25-2-2010)

#### PARTICIPANTS

N°	Nombre y apellidos	Institución	Email
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3	Eduardo Rubio	Anglo American – Quellaveco	<a href="mailto:erubio@aaperu.com.pe">erubio@aaperu.com.pe</a>
4	Jessica Huaracayo	Embajada de EEUU	<a href="mailto:HuaracayoJM@state.gov">HuaracayoJM@state.gov</a>
5	Jane Sidebottom	Embajada del Reino Unido	<a href="mailto:Jane.sidebottom@fco.gov.uk">Jane.sidebottom@fco.gov.uk</a>
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7	Lisandro Tovar	Ministerio de la Mujer y Desarrollo Social – MIMDES	<a href="mailto:ltovar@mimdes.gob.pe">ltovar@mimdes.gob.pe</a>
8	Miguel Lévano	Defensoría del Pueblo	<a href="mailto:mlevano@defensoria.gob.pe">mlevano@defensoria.gob.pe</a>
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20	Carlos Salazar	Socios Perú	<a href="mailto:csalazar@sociosperu.org.pe">csalazar@sociosperu.org.pe</a>