

2018 Annual Report of the Government of the United States of America for the Voluntary Principles on Security and Human Rights Initiative

A. Commitment to the Voluntary Principles

The U.S. government is a founding member of the Voluntary Principles on Security and Human Rights (VPs) Initiative. We aspire to set the standard for excellence for government participation in the VPs Initiative, and remain committed to its mission – to guide oil, gas, and mining companies on providing security for their operations in a manner that respects human rights; to strengthen implementation, accountability, and transparency within the Initiative; and to strengthen participation of VPs Initiative participants in all pillars. In 2018, we have made progress on all of these fronts – strengthening implementation through cooperation with partners on the ground, seeking opportunities to expand dialogue and shared learning among participants, and by developing and supporting measures to further increase effectiveness of the reporting tools and governance mechanisms of the VPs Initiative.

In 2018, participants worked together to advance the strategy outlined in the “[Voluntary Principles Strategy 2016-2019](#).” Throughout the year, government participants increased coordination with participants in other pillars, as well as with their own embassies to engage governments and help implement the VPs on the ground. Further, the VPs Initiative continued to support the In-Country Implementation Groups (in Burma, Nigeria, and Ghana) to facilitate effective implementation of the VPs at the local level. To strengthen accountability and transparency, participants continued to work together to implement the verification frameworks. The U.S. government devoted substantial time and resources to these efforts.

Engagement in the VPs Initiative

The State Department’s Bureau of Democracy, Human Rights and Labor (DRL) leads U.S. government engagement in the VPs Initiative – in cooperation with the State Department’s Bureau of Economic and Business Affairs and Bureau of Energy Resources. Work on the VPs Initiative and related efforts within DRL are led by the Internet Freedom and Business and Human Rights Section within the Multilateral and Global Affairs office and includes representatives from the State Department’s Office of the Legal Adviser. The VPs team also engages with regional bureau colleagues, officers at U.S. embassies around the world, and officers at other U.S. agencies such as the Department of Commerce, Department of Labor, Department of Defense, and Overseas Private Investment Corporation.

As stated at the outset, the U.S. government participates robustly in the VPs Initiative, as evidenced by the time and resources we devote to it. Our commitment is demonstrated by our serving as government chair from March 2015 through March 2016 and by our time on the Steering Committee in the lead up to and after our chairmanship. In 2018 we continued to be active within the Initiative, including by participating regularly in government pillar and bilateral calls, as well as working groups. We also continue to participate in in-country meetings via our embassies.

Participation in VPs Initiative working groups and meetings in 2018

- The U.S. government regularly participated in monthly VPs Initiative government pillar calls.
- The U.S. government regularly participated in all VPs Initiative working groups.
- The U.S. government engaged in outreach efforts, in coordination with VPs Initiative government pillar participants, to encourage implementation of the VPs in-country and to encourage interested parties to join the VPs Initiative.
- The U.S. government participated in several in-country meetings.

Transparency and Dialogue

Implementation of the VPs is a core priority for all participants, as the VPs exist to foster concrete improvements on the ground. To support implementation by host governments, we continue to do outreach to foster implementation of the VPs, as well as encourage new governments to join the VPs Initiative.

The U.S. government continues to support In-Country Implementation Groups in Burma, Nigeria, and Ghana to facilitate effective implementation of the VPs at the local level. In Ghana, the U.S. government serves as a cochair to the Ghana group. We funded a program to build civil society capacity to support VPs implementation in Ghana as the government develops its VPs National Action Plan. Separately, we also support a regional East Africa program, which empowers civil society in Kenya and Tanzania to meaningfully participate in business and human rights initiatives, including the VPs Initiative.

B. Policies, Procedures, and Related Activities

The United States supports a number of initiatives that complement the VPs Initiative. The United States is an active board member on the The International Code of Conduct for Private Security Providers' Association (ICOCA) (see also "Private Security" section).

We also support and actively participate in the Kimberley Process (KP). The KP is a multi-stakeholder initiative launched in 2003 by governments, the diamond industry, and NGOs to prevent the flow of "conflict diamonds" – which are defined under the Kimberley Process Certification Scheme (KPCS) as "rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognized in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in the future" – from entering the global diamond supply chain. It was founded in response to violent conflicts in Angola, the Democratic Republic of Congo (DRC), Liberia, and Sierra Leone and an ensuing U.N. General Assembly resolution calling for the creation of an international certification scheme to break the link between the illicit trade in rough diamonds and armed conflict. As of February 2019, the KP included 82 countries and regulated more than USD \$81.4 billion global trade in rough diamonds

annually. In the KP, the U.S. government is a member of all the working groups, chairs the Working Group on Statistics and leads the Central African Republic Monitoring Team (CAR MT), and provided assistance to CAR and Cote d'Ivoire to strengthen their KPCS implementation through the Property Rights and Artisanal Diamond Development (PRADD II) program. In late 2018, USAID launched the Artisanal Mining and Property Rights Program (AMPR) focused on diamonds in the Central African Republic, but also designed to provide on-demand short-term technical assistance to any USAID Mission on development challenges associated with artisanal and small-scale mining (ASM).

Determined to break the link between armed groups and mineral mining in Africa's Great Lakes Region, the U.S. Congress enacted Section 1502 of the Wall Street Reform and Consumer Protection Act of 2010 (known as "Dodd-Frank"). The law requires the approximately 6000 companies listed on U.S. exchanges to report annually to the Securities and Exchange Commission (SEC) whether any "conflict minerals" (currently encompassing tin, tantalum, tungsten, and gold) necessary to the functionality or production of a product are from the DRC or the nine adjacent countries. Companies must report on their use of conflict minerals in their products, as well as the due diligence measures they took to identify the source and chain of custody of those minerals, and whether they benefitted armed groups. The due diligence process should be conducted pursuant to an internationally accepted framework (note: the SEC considers the OECD's Due Diligence Guidance for Responsible Supply Chains from Conflict-Affected and High-Risk Areas to be the only such internationally accepted framework) and should include a third party audit. Pursuant to the law, the U.S. government provides compliance guidance to commercial entities seeking to exercise due diligence to ensure that conflict minerals (tin, tantalum, tungsten, and gold) used in their products, or by their suppliers, do not directly or indirectly finance armed conflict or result in labor and human rights violations.

Key to the U.S. government's efforts to foster a responsible minerals supply chain is its Public-Private Alliance for Responsible Minerals Trade (PPA), a formal partnership with industry, civil society, and the U.S. government. The International Conference of the Great Lakes Region (ICGLR), the African regional body tasked with developing regional minerals certification systems, is also a member. The PPA was renewed in August 2017 for an additional five years (Phase II) and now includes over 40 members. The PPA has raised over \$1.4 million from the private sector and over \$20 million in parallel funding since its inception, and awarded 6 grants in the region worth over \$830,000 to pilot projects in the DRC in support of a responsible minerals supply chain.

In addition, the U.S. government supports efforts to address child labor and working conditions in ASM in numerous countries. In 2018, the U.S. Department of Labor (DOL) began to fund a [\\$2.5 million project](#) in the DRC to address child labor in the cobalt supply chain, with a focus on ASM. It will work with stakeholders to develop and implement strategies to reduce child labor and improve working conditions in ASM as well as in the broader cobalt supply chain.

In Colombia, the [Somos Tesoro](#) project is a \$10.5 million project that helps artisanal and small-scale miners formalize their operations and comply with occupational safety and health (OSH) standards; strengthens governmental capacity to identify and address violations of child labor and OSH laws in ASM; and provides educational and livelihood services to vulnerable children and households in coal and gold mining communities in the Departments of Antioquia and

Boyacá. The [Pilares project](#) is a \$ 2 million project that builds the capacity of civil society organizations to detect and combat child labor and unacceptable working conditions in artisanal and small-scale gold mining (ASGM) and implement community-driven initiatives to address these issues in the Departments of Antioquia and Bolívar.

In Ghana, the [Caring gold mining project](#) is a \$5 million global project to combat child labor and improve working conditions in ASGM that includes Ghana as a pilot country. The project strengthens laws and policies to reduce child labor and improve working conditions in ASGM, develops tools to increase transparency and monitoring in gold mining supply chains, and promotes the formation of networks and the sharing of good practices on ASGM in Ghana and with other countries.

Additionally, DOL has developed a mobile app, *Comply Chain: Business Tools for Labor Compliance in Global Supply Chains*. The app helps companies and industry groups, including in the extractive sector, develop robust social compliance systems to root out child labor and forced labor from global supply chains. In 2018, DOL made the app available in French and Spanish.

Another related issue is violence against environmental defenders. The U.S. Department of State formed an informal interagency working group (IAWG) in March 2017 to monitor violence against environmental defenders around the world. The IAWG reviews UN, NGO, and U.S. government reporting about violence against environmental defenders, and engages a broad range of stakeholders to best inform policy that focuses on reducing violence against environmental defenders. The IAWG held 17 meetings in 2018. The IAWG has identified trends in publically available reporting that indicate long-standing grievances, often pertaining to land use, can be at the root of social protest or action in which state-backed security forces have responded, sometimes with force. Many of these conflicts could be avoided if there were adequate stakeholder access to environmental information, public participation, and access to justice and if environmental quality monitoring were strengthened. The IAWG seeks to evaluate and identify practices to better provide, with partners, strengthened and relevant stakeholder access to environmental information, robust environmental impact review of extractive sector, energy, and infrastructure tenders and projects, transparency, and access to justice in cases of violence

Separately, the OECD Guidelines for Multinational Enterprises (Guidelines) are an important government-backed tool that provides recommendations to companies on a range of responsible business conduct practices, including issues related to human rights, labor rights, transparency, the environment, and more. The [U.S. National Contact Point](#) (NCP) for Responsible Business Conduct is charged with promoting the best practices found in the Guidelines, as well as serving as a dispute resolution mechanism when issues arise related to corporate implementation of the Guidelines. The U.S. NCP office reached important milestones over the past several years, including having several cases go to mediation leading to positive outcomes. The U.S. NCP also increased staff, ramped up outreach efforts, revamped its website, and completed its Peer Review, to assess how the NCP process is working in practice and how its helping to promote responsible business conduct.

Rule of Law

The U.S. government is party to relevant human rights conventions, such as the International Covenant on Civil and Political Rights. The GPs provide global guidance regarding business and human rights, providing that States have a duty to protect human rights; corporations have a responsibility to respect human rights; and that those affected by business-related human rights abuse should have access to remedy. The VPs Initiative is the preeminent mechanism implementing aspects of the GPs in the area of human rights-respecting security practice in the extractives industries. The VPs Initiative produced a document that demonstrates the [linkage between the VPs Initiative and the GPs](#).

With regard to GPs implementation, the U.S. government released a [U.S. National Action Plan \(NAP\) on Responsible Business Conduct](#) to promote responsible and transparent business conduct overseas. The NAP addresses ways in which the U.S. government can promote and encourage responsible business conduct with respect to human rights, labor rights, anti-corruption, transparency, and more. It helps set clear, consistent, and predictable expectations for U.S. firms in their global operations; facilitates internal U.S. government communication and coordination; strengthens the trust and communication among stakeholders; identifies U.S. government commitments to assist in creating a rights-respecting enabling environment for businesses operating abroad; and further promotes responsible investment and responsible business conduct. In November 2018, the United States released a [document](#) which provides a snapshot of a few examples of the work undertaken by the United States to advance business and human rights in 2018.

The U.S. government views multi-stakeholder initiatives (MSIs), like the VPs Initiative, as an important tool for engaging with business home and abroad. One important commitment in the NAP is to improve interagency coordination and collaboration to strengthen our engagement on MSIs. Better intra-governmental coordination will ensure a consistent approach to these initiatives so that they may achieve the goals not only of the government, but also other stakeholders who are members of, or contribute to, the various initiatives.

The United States strongly supports accountability for human rights abuses, as evidenced by its domestic legal and regulatory regime, as well as its deep and ongoing engagement with governments, businesses, and NGOs. Civil liability is one important element of legal accountability, and domestic tort law provides a powerful tool for accountability. U.S. law provides clear remedies for torts committed domestically and mechanisms such as legal aid and class certification enhance accessibility of such remedies. As an additional example in the area of private security contractors (PSCs), contract law provides a useful vehicle for the enforcement of contractual terms against PSCs. Contracts between the USG and PSCs are enforceable in U.S. courts.

Certain relevant federal laws may reach non-government activity. As one example, protections against discrimination in federal laws reach significant areas of non-government activity, including civil rights laws that prohibit racial or ethnic (national origin) discrimination in the sale or rental of private property, employment at private businesses with 15 or more employees,

admission to private schools that receive federal funding, and access to public facilities like hotels and restaurants. In addition, many state and local anti-discrimination laws cover discriminatory practices by private employers, landlords, creditors, and educational institutions.

Verification and Accountability

VPs Initiative participants take seriously their commitment to human rights. Upon joining the VPs Initiative, corporate pillar participants pledge to uphold a set of commitments in their business practices and in 2015, VPs Initiative participants approved verification frameworks for companies, NGOs, and governments. The development of these frameworks was an important step to enhance transparency and accountability within the VPs Initiative.

One component of the verification framework is presentations to a VPs Initiative working group and/or the Plenary on VPs implementation every three years. The U.S. government acted as a peer reviewer for another participant's presentation in March 2018, and looks forward to serving as a peer reviewer at the 2018 VPs Initiative plenary in London. Separately, the United States produces both an internal and a public annual report each year, consistent with the Government Pillar Verification Framework.

C. Promotion/Implementation

The U.S. government has made public statements indicating our commitments to the VPs, including the following examples.

- In line with our commitment to make the VPs Initiative as transparent as possible, the U.S. government, beginning in 2011, continues to publish a yearly [public report](#) on VPs implementation. The report can also be found on the VPs website.
- The U.S. government's [National Action Plan on Responsible Business Conduct](#) highlights the VPs.
- DRL mentioned the VPs as a key priority for DRL's Business and Human Rights team in its Business and Human Rights [Fact Sheet](#).
- The U.S. government has published the [VPs fact sheet](#) on State.gov, the U.S. government-wide website on U.S. government engagement on international human rights.

During 2018, the U.S. government also pursued opportunities to promote the VPs publicly in a variety of international fora, meetings, and public and written statements. Separately, over the past year, we have promoted awareness of the VPs within the U.S. government in various ways.

- Deputy Assistant Secretary of State Scott Busby met with government officials from relevant U.S. Department of State regional and functional bureaus and ambassadors to brief them on, and encourage their engagement with, the VPs Initiative. He also regularly promoted the VPs at convenings, including in Panel Remarks for the CSIS Event

“Business’s Role in Protecting Civic Space and Rights of Defenders” on October 29, 2018 and a co-convening between DRL and the Business and Human Rights Resource Center entitled “The Role of Business in Protecting Fundamental Freedoms, Civic Space, and Human Rights” on February 12, 2018.

- The VPs were featured at the Department of State’s Human Rights and Labor Officers Training, as well as the training course for Economic Officers posted at U.S. embassies around the world.
- DRL officers have requested U.S. embassies in VPs Initiative official and unofficial priority countries to track VPs-related engagement, which includes: determining the host government lead agency and point of contact for the VPs Initiative, including additional government agencies that should be involved (if any); and coordinating with other VPs Initiative participants in country.
- DRL officers regularly engage with U.S. embassies on VPs implementation efforts.
- DRL officers led numerous conversations with desk officers, as well as economic, political, and human rights officers in Washington and at embassies, to educate them about the VPs and the VPs Initiative and respond to questions. This has helped increase the flow of information between Washington and embassies, as well as the VPs Initiative at both the international-level and the country-level regarding human rights and security challenges in the extractives industry. It has also created outreach and implementation opportunities and helped raise the profile of the VPs on the ground.

The U.S. government also worked with stakeholders to facilitate effective implementation of the VPs, both at the Initiative and local levels. Over 2018, U.S. embassies facilitated VPs outreach and implementation through various mechanisms, including, but not limited to: assessing which VPs participants were operating in country; identifying and building relationships with host government officials and local partners; convening multi-stakeholder meetings with VPs participants, local communities, and host government officials; and facilitating communication between DRL and embassy officers to report developments and identify opportunities.

Risk Assessment

The U.S. government generates and vets relevant information that can be used to conduct appropriate due diligence and risk assessment. While the concept of due diligence is increasingly well understood and accepted among businesses, the tools and resources available to effectively conduct detailed and appropriate risk and impact assessments can be sparse, particularly in many of the complex environments where this type of data is most needed.

To help address those gaps, the U.S. government deploys significant resources to produce and disseminate a variety of reports that help describe the state of human rights, labor rights, and commercial and investment conditions across the world, and produces international company profiles to provide U.S. companies with information to help them vet potential business partners. In certain instances, the government also funds third-party reports that contain information useful

to those seeking to promote and implement responsible business conduct, such as adhering to the VPs. As part of the ongoing effort to facilitate responsible business conduct, the U.S. government will continue to enhance these resources, making them increasingly user-friendly and easier to find for the purposes of corporate human rights due diligence and social impact assessment.

The U.S. government supports and advocates for implementation of the OECD Due Diligence Guidelines five-step process in which companies review their supply chains and manage and mitigate risks they find. U.S. officials mention it frequently at international fora, university, and industry events. The SEC references these guidelines as a framework that satisfies due diligence requirements for the 3 Ts (tungsten, tantalum, and tin) and gold sourced from the Great Lakes region in Central Africa under the rule implementing Section 1502 of the Dodd Frank Act. The United States is also a founding and active member of the Public-Private Alliance for Responsible Minerals Trade.

Public Security

With regard to training, both the U.S. Department of State and the Department of Defense require security service providers contracting with the U.S. government to provide training addressing both U.S. and international law, including human rights and humanitarian law, prior to deployment. In addition, consistent with U.S. law, the Department of State vets units and individuals in foreign security forces who may receive assistance, to include equipment, or training from the Department of State or the Department of Defense, and when the vetting process uncovers credible information that an individual or unit has committed a gross violation of human rights, U.S. assistance or training is withheld.

Private Security

We support and participate in the Montreux Document Forum on pertinent legal obligations and good practices for states related to operations of private military and security companies during armed conflict and the International Code of Conduct for Private Security Service Providers (“ICoC” or “Code of Conduct”). Whereas the Montreux Document is specific to the conduct of States and relates to both private security companies operating in areas of armed conflict and other military support contractors, the Code of Conduct represents the commitment of private security companies to live up to international human rights standards and best practices and abide by international humanitarian law. The U.S. government was deeply involved in developing the Code of Conduct and its governance and oversight body—the ICoC Association (ICoCA). The U.S. government joined ICoCA as a founding member in September 2013. ICoCA is a multi-stakeholder organization comprised of three pillars: governments, private security companies and civil society organizations. Today, the Association has seven government members, 95 member companies headquartered in more than 40 countries, and 30 member civil society organizations hailing from 14 countries.. ICoCA certifies private security companies to the Code and oversees implementation by its members of the Code, including through conducting field based reviews.

The U.S. government has always had a representative serving on ICoCA's Board of Directors; the Board has three representatives from each of its stakeholder pillars. U.S. government representatives also serve on the "group of friends of the Chair" of the Montreux Document Forum to help bolster the activities of the Forum (currently chaired by Switzerland and the ICRC). The Forum has assisted in increasing support for the Montreux Document itself – now endorsed by fifty-five states. U.S. government representatives also chair the Montreux Document Forum's working group on the ICoCA to bring synergy between the work of the two bodies.

In addition, the U.S. government sponsored the establishment of a set of management standards for private security companies based on the Montreux Document and the Code of Conduct through the American National Standards Institute (ANSI) and the International Organization for Standardization (ISO). The U.S. government believes that such standards will yield benefits for the government in terms of consistency, clarity in requirements, and affordability.

The Department of Defense requires demonstrated compliance with the ANSI PSC.1 or ISO 18788 for its private security contractors; the Department of State's Bureau of Diplomatic Security incorporates membership in good standing in the ICoCA as a requirement for the Worldwide Protective Services (WPS) contract, and its successor contract, WPS II. Diplomatic Security also requires WPS II contractors to confirm conformance with ANSI PSC.1 throughout the duration of their contract. During this past year, the Department of Defense has made support for the Montreux Document integral to its contracting practices, giving preference to Home States or States of Nationality that support the Montreux Document. The new overarching contract for private security services for the US Central Command limited contract award to companies that draw its staff exclusively from Montreux Document participating States.

D. Lessons and Issues

The VPs Initiative has been considerably strengthened over the last several years. In order to build accountability, credibility, and effectiveness of the VPs Initiative, we will continue to focus on support for in-country implementation and verification of implementation. Verification is important to help ensure to the satisfaction of both VPs Initiative participants and the public that governments, NGOs, and companies are meeting their commitments under the VPs. It is a key component of VPs implementation and critical to making the VPs Initiative sustainable over the long-term. We were pleased to see several corporate pillar participants present on verification under the corporate pillar verification framework, and encourage all corporate pillar participants to publicly demonstrate commitment to verification and participate in it moving forward. We will also continue to participate in the In-Country Implementation Groups, which seek to facilitate activities that promote in-country implementation of the VPs as well as address local security and human rights challenges.

In 2018, the U.S. government also worked with other members of the VPs Initiative Government Pillar to streamline the Government Pillar Reporting Guidelines, in order to make them less redundant and more internally consistent and comparable. We look forward to continuing to assist Compass Consulting in their duties as the Secretariat.

The U.S. government continues to be encouraged by the advancement of dialogue and trust-building across pillars. Despite some challenges, participants have made enormous strides in communicating candidly with one another. Through our outreach, on phone calls, and in our meetings in Washington and abroad, the U.S. government continues to emphasize that the VPs Initiative's greatest strength lies in its ability to serve as a platform for candid discussion and collaboration around shared objectives, including successes and challenges experienced during implementation. We will keep supporting this platform and reiterating this message.

In our role as Government chair in 2016 and on the Steering Committee in 2017, we sought to strengthen the VPs Initiative by helping to advance implementation of the principles on the ground, strengthen participation, and improve accountability and transparency. Given the importance of multi-stakeholder initiatives to the U.S. government's engagement with companies abroad, we have the opportunity to shine a light on the good work being undertaken by VPs companies, and to continue to strengthen the VPs Initiative in line with U.S. objectives for responsible business conduct.

The U.S. government remains deeply committed to the VPs Initiative. We are energized by the work we did in 2018 on the Steering Committee to enhance the stability of the VPs, and look forward to continued success and collaboration with all participants.