

## **2021 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 companies in the industries of extracting, harvesting, or developing natural resources or energy 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 three pillars. In 2021, we made progress on all fronts – strengthening implementation through cooperation with partners on the ground, seeking opportunities to expand dialogue and shared learning among participants, helping to shape new, strengthened processes for Engaged members of the initiative, and developing and supporting measures to further increase effectiveness of the reporting tools and governance mechanisms of the VPs Initiative. Throughout the year, U.S. government participants continued to increase coordination with members of all three pillars as well as with U.S. embassies to engage governments and help implement the VPs on the ground. Further, the VPs Initiative continued to support the In-Country Implementation Groups to facilitate effective implementation of the VPs at the local level.

#### *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, Bureau of Energy Resources, and Bureau of Oceans and International Environmental and Scientific Affairs (OES). Work on the VPs Initiative and related efforts within DRL are led by the Internet Freedom and Business and Human Rights Section within the Office of Multilateral and Global Affairs and includes representatives from the State Department’s Office of the Legal Adviser. The VPI 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 the U.S. International Development Finance Corporation.

The U.S. government has been a longstanding and active participant in the VPs Initiative, as evidenced by the time and resources we devote to it. We served as government chair from March 2015 through March 2016; served on the Steering Committee in the years leading up to and the year after our chairmanship concluded; and served on the Steering Committee in 2020-2021 after rejoining in March 2019. We intend to serve in 2022 as well.

### **B. Domestic Policies, Laws, and Regulations**

The U.S. government is party to relevant human rights conventions, such as the International Covenant on Civil and Political Rights. The United States also endorses the protect, respect, and remedy framework outlined in the UN Guiding Principles on Business and Human Rights

(UNGPs), 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 for implementing aspects of the UNGPs around human rights-respecting security practice in industries of extracting, harvesting, or developing natural resources or energy. The VPs Initiative produced a document that demonstrates the linkage between the VPs Initiative and the UNGPs.

Regarding the UNGPs' implementation, the U.S. government [announced](#) in June 2021 our intention to revitalize the 2016 U.S. National Action Plan (NAP) on Responsible Business Conduct to better promote responsible and transparent business conduct overseas. The revitalized NAP will address ways in which the U.S. government can promote and encourage responsible business conduct with respect to human rights, labor rights, anticorruption, transparency, and more.

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 an 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.

The U.S. government views multi-stakeholder initiatives, like the VPs Initiative, as important tools for engaging with businesses at home and abroad. The United States also supports several initiatives that complement the VPs Initiative. The United States is an active board member on 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" from entering the global diamond supply chain. 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 companies listed on U.S. exchanges to report annually to the Securities and Exchange Commission (SEC) whether any "conflict minerals" (tin, tantalum, tungsten, and gold) necessary to the functionality or production of a product are from the Democratic Republic of the Congo (DRC) or the nine

adjacent countries. Key to the U.S. government's efforts to foster a responsible minerals supply chain is its Public-Private Alliance for Responsible Minerals Trade from the DRC and the Great Lakes Region (the PPA), a formal partnership with industry, civil society, and the U.S. government. The PPA was established in 2011 and now includes over 40 members.

In addition, the U.S. government supports efforts to address child labor, forced labor, labor trafficking, and other labor rights violations in mining in numerous countries. In 2021, the U.S. Department of Labor (DOL) continued to fund projects to address child labor, forced labor, and unacceptable working conditions in mining sectors across Colombia, the DRC, Ghana, and Peru. In Colombia, DOL's [Pilares](#) project focuses on artisanal and small-scale gold mining, where it has formed and equipped networks of civil society organizations (CSOs) to identify, document and raise awareness about child labor and other unacceptable conditions of work in the sector. This has led to over 39 joint efforts between CSOs and local government to better address child labor. In Colombia, the Workers Rights Center project helps workers and workers' organizations in the mining sector to better understand their labor rights and strengthen their capacities to submit to the Ministry of Labor (MOL) well-documented and justiciable labor complaints, as well as subsequently monitor progress in their adjudication. In the DRC, DOL's [COTECCO](#) project focuses on reducing child labor in the cobalt supply chain. DOL also supports the Global Trace Protocol project to increase the downstream tracing of goods made by child labor and forced labor, which will include pilot tracing in the cobalt supply chain in the DRC. In Ghana, DOL funds the FLIP project to reduce forced labor and labor trafficking in multiple supply chains, including gold mining. In Peru, DOL's Bridge Project partners with the Peruvian government to conduct a forced labor survey in the Cuzco region.

DOL updated its *Comply Chain: Business Tools for Labor Compliance in Global Supply Chains* mobile app in September 2021. DOL's Comply Chain app and web-based tool targets companies and industry groups seeking to address child labor and forced labor in their global production. Comply Chain provides a practical, step-by-step guide on critical elements of social compliance and is designed for companies that do not have a social compliance system in place or those needing to strengthen their existing systems and includes many examples of specific good practices. Comply Chain is now available for the first time in Malay – to complement the existing English, French, and Spanish versions. Malay is a common language across Southeast Asia, spoken by nearly 300 million people in Brunei, Indonesia, Malaysia, and Singapore, as well as parts of Thailand. DOL added this Malay translation to help drive government and private sector action to address child labor and forced labor and to allow for wider adoption of Comply Chain.

Finally, DOL's Better Trade Tool empowers users to advance efforts in supply chain transparency as well as strategic sourcing priorities. This innovative tool integrates existing reporting developed by DOL with U.S. import trade data, including Harmonized Tariff Schedule codes. As a new data driven initiative launched in 2021, the current version of the Better Trade Tool is available as a beta release.

In addition, since January 2019, DOL has collaborated with the University of Delaware and American University in the piloting of the Jewelry Development Impact index, an initiative that promotes the study of due diligence in the jewelry and mining sectors.

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 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. The Voluntary Principles Secretariat briefed the IAWG in December 2019 on how companies can use the VPs to help maintain operational safety and security while respecting human rights and on January 30, 2020 on the “nuts and bolts” on how to use the VPs to help companies maintain operational safety and security while respecting human rights. Thanks to these briefings, the IAWG in 2021 was able to provide the Secretariat with input on cases involving prospective members. The IAWG also reviewed a number of cases during 2021 in which security forces were involved in threats and violence against environmental defenders.

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, and the environment. The [U.S. National Contact Point](#) (U.S. NCP) for Responsible Business Conduct is charged with promoting best practices found in the Guidelines; facilitating the resolution of disputes when issues arise related to corporate implementation of the Guidelines; and facilitating application of the Guidelines by bringing business and civil society together to identify potential and emerging RBC-related risks and discussing appropriate responses under the Guidelines.

### **C. Promotion and Implementation**

In 2021, the U.S. government pursued opportunities to promote the VPs publicly in a variety of international fora, meetings, and public and written statements. Further, we promoted awareness of the VPs within the U.S. government. Acting Principal 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. We featured the VPs in the Department of State’s Human Rights and Labor Officers Training. DRL also 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 with the VPs Initiative at both the international and country levels 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. Throughout 2021, 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.

### *Verification and Accountability*

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. In 2021, the U.S. government contributed ideas for a strengthened due diligence and verification framework for prospective and engaged members. The U.S. Department of State also provided input from U.S. diplomatic posts relevant to VPSHR verification and implementation. We look forward to serving as a peer reviewer for participants' verification presentations in 2022. Separately, the United States produces both an internal and a public annual report each year, consistent with the Government Pillar Verification Framework.

### *Risk Assessment*

The U.S. government generates and vets relevant information that can be used to conduct appropriate due diligence and risk assessment. For example, 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 U.S. 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 also supports and advocates for implementation of the OECD Due Diligence Guidelines for Responsible Supply Chains of Minerals Sourced from Conflict-Affected and High-Risk Areas, which outlines a five-step process in which companies review their minerals supply chains and manage and mitigate risks they find. 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.

### *Public Security*

Regarding training, both the U.S. Department of State and the U.S. 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 international humanitarian law, prior to deployment. In addition, consistent with U.S. law, the Departments of

State and Defense vet foreign security force units proposed for applicable assistance, to include training and equipment, and when the vetting process identifies credible information that a unit has committed a gross violation of human rights, U.S. assistance, including 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 (“the Code”). Whereas the Montreux Document is specific to the conduct of States and relates to both private security companies and private military companies operating in areas of armed conflict, the Code represents the commitment of private security companies to live up to international human rights standards and best practices and abide by international humanitarian law when operating in complex environments. The U.S. government was deeply involved in developing the Code and its governance and oversight body—the International Code of Conduct Association for Private Security Companies (ICoCA). The U.S. government joined ICoCA as a founding member in September 2013. ICoCA is a multi-stakeholder initiative that promotes, governs, and oversees implementation of the Code and promotes the responsible provision of security services and respect for human rights and national and international law in accordance with the Code.

The U.S. government has always had a representative serving on ICoCA’s Board of Directors. U.S. government representatives also serve on the ICoCA Working Group of the Montreux Document Forum to help bolster the activities of the Forum.

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 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 contracts, WPS II and WPS III. Diplomatic Security also requires WPS contractors to confirm conformance with ANSI PSC.1 throughout the duration of their contract.

## **D. Lessons and Issues**

The VPs Initiative has been considerably strengthened over the last several years. To further 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. During

2021, the USG contributed feedback on strengthening the VPI Engaged Member process. We hope that this enhanced process will support prospective members of the VPI to address legacy issues and develop successful strategies for full VPs implementation. We were pleased to see several engaged and full members of the corporate pillar 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 support and 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.

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, via 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.

The VPI is at a critical juncture as new mandatory due diligence legislation is enacted in the EU and elsewhere. In 2021, the U.S. government engaged bilaterally and multilaterally with other VPI members to underscore that remaining in the VPI complements and strengthens mandatory due diligence measures. We will keep supporting this platform and reiterating this message.

We will continue 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 can 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, and we will continue to enhance the stability of the VPs and look forward to continued success and collaboration with all participants.