

2022 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 Initiative on Security and Human Rights (VPI). We aspire to set the standard for excellence for government participation in the VPI 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 VPI participants in all three pillars. In 2022, 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 VPI. 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 Voluntary Principles on Security and Human Rights (VPs) on the ground. Further, the VPI 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 VPI – 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 VPI 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. diplomatic posts 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 VPI, 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 2020-2022 after rejoining in March 2019. We will again serve as the government chair of the VPI beginning in May 2023.

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 VPI 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 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. Throughout 2022, the U.S. government has gathered stakeholder input on updating the NAP through written comments and informal consultations.

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 VPI, as important tools for engaging with businesses at home and abroad. The United States also supports several initiatives that complement the VPI. 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 labor rights violations and abuses, including the worst forms of child labor, forced labor, and labor trafficking, as well as violations of freedom of association, collective bargaining, occupational safety and health, and employment discrimination in mining in numerous countries. In 2022, the U.S. Department of Labor (DOL) continued to fund projects to address labor rights violations and abuses in mining sectors across Colombia, the DRC, Ghana, Nigeria, 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 the worst forms of child labor and other unacceptable conditions of work in the sector. This has led to the activation of local CIETIs - Interinstitutional Committees for the Eradication of Child Labor - in four municipalities. CSOs also sit on the local CIETIs supporting local government in the prevention and remediation of the worst forms of child labor in the region. 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 well-documented and justiciable labor complaints, as well as subsequently monitor progress in their adjudication.

In South America, DOL funds a new project to improve respect for labor rights in Brazil, Colombia, and Peru. In Colombia and Peru, the project includes activities in the agriculture, cut-flower, and mining sectors. In Brazil, the project will include activities in the platform and manufacturing sectors. In the DRC, DOL funds the Support the Promotion of Labor Standards project to promote greater compliance with labor law and standards for acceptable conditions of work (occupational safety and health, hours of work, and wages), which includes the mining sector.

DOL's COTECCO project focuses on reducing child labor in the cobalt supply chain and improve working conditions in artisanal and small-scale mines. DOL also supports the Global Trace Protocol project to increase the downstream tracing of goods made by the worst forms of 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 build the capacity of the government, businesses, and civil society to expand and better coordinate ongoing labor trafficking enforcement efforts. FLIP has assessed labor abuse risk across 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 began to fund a project in Nigeria and Liberia to address discrimination and gender-based violence and harassment in the world of work that includes the oil sector in Nigeria, and in Liberia, palm oil, rubber, and the mining sectors. In addition, DOL provides technical assistance to the Brazilian government on occupational safety and health in mining.

DOL updated its *Comply Chain: Business Tools for Labor Compliance in Global Supply Chains* tool in September 2022. DOL's Comply Chain mobile app and web-based tool targets companies and industry groups seeking to address the worst forms of 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 available in English, French, and Spanish versions. New updates for release in September 2022 contained considerable content updates across all areas of Comply Chain, including a dozen specific examples that incorporated worker voice as a fundamental component of each step in a due diligence set of best practices to address the worst forms of child labor and forced labor in global supply chains.

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. Recent updates include the addition of full year 2021 U.S. import trade data, insights into U.S. preferential trade agreements, and global trade data for enhanced data analysis.

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 VPI 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 2022 was able to provide the Secretariat with input on cases involving current and prospective members. The IAWG also reviewed a number of cases during 2022 in which security forces were involved in threats and violence against environmental defenders and suggested VPI tools for U.S. diplomatic posts to use.

Separately, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct are an important government-backed tool. The Guidelines are 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 the OECD Guidelines 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 2022, 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. 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 VPI and respond to questions. This has helped increase the flow of information between Washington and embassies as well as with the VPI 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 2022, U.S. embassies facilitated VPs outreach and implementation through various mechanisms, including, but not limited to: assessing which VPI participants were operating in country; identifying and building relationships with host government officials and local partners; convening multi-stakeholder meetings with VPI 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. 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 require vetting for 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 and 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 VPI has been strengthened over the last several years. To further build accountability, credibility, and effectiveness of the VPI during our Chairship we will continue to focus on support for in-country implementation and will look to strengthen governance. We will also continue to support and participate in the In-Country Working 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 VPI'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 regions across the globe. In 2022, 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 VPI by helping to advance implementation of the principles on the ground, strengthen participation, enhance governance, 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 VPI members, and to continue to strengthen the VPI in line with U.S. objectives for responsible business conduct. The U.S. government remains deeply committed to the VPI, and we look forward to continued success and collaboration with all participants.

