

The Voluntary Principles Initiative

The Process of Implementation of the Voluntary Principles in Colombia

The Colombian Government has been approached many times and by many individuals wanting to understand how the process of implementing the Voluntary Principles in Colombia has occurred. This brief looks to provide some information on how the Colombian Government and several important national and multinational companies of the extractive and non-extractive sectors worked together to implement the Voluntary Principles and create the Mining and Energy Committee (CME).

This document is intended to provide insight on the process and, hopefully, useful information for other Governments that are interested in joining the Voluntary Principles Initiative and implementing the Voluntary Principles.

The Colombian Government wishes to acknowledge that the process described below is specific to the context of Colombia. It is not intended to be a definitive guide for other Governments, but rather a source for lessons that can be applied in other contexts.

The National Committee for the Implementation of the Voluntary Principles

A key factor that prompted Colombia to apply for membership in the Voluntary Principles Initiative was the initiation of an in-country multi-stakeholder process by four companies and one industry association: Occidental Petroleum Colombia, BP, Chevron Texaco, and the Asociación Colombiana de Petróleo (largest oil industry association in Colombia with over 50 company members). These stakeholders were all interested in promoting respect for human rights in the context of extractive sector operations in Colombia. Collectively, they approached the Embassies of the United States, the Netherlands, and the United Kingdom and helped facilitate a dialogue with the Office of the Vice-President, the Ministry of Foreign Affairs, and the Ministry of Defence of Colombia regarding the importance of the Voluntary Principles Initiative for Colombia.

Key factors that promoted the success of this dialogue included:

- 1) The presence of extractive sector companies operating in a complex security and human rights environment that posed legal, reputational, and operational risks;
- 2) The willingness of the Colombian Government to acknowledge serious concerns regarding human rights and violations of international

- humanitarian law (“IHL”) in the country;
- 3) The perception on behalf of key stakeholders that the Voluntary Principles provided a useful framework by which to manage extractive sector activities in a complex security and human rights environment; and
 - 4) 4) The presence of a “champion” for the Voluntary Principles within the Colombian Government, Vice-President Francisco Santos.

At the conclusion of the dialogue, the Government of Colombia committed to analyse how implementation of the Voluntary Principles could be promoted in Colombia. This commitment was the basis of the creation of the “National Committee for the Implementation of the Voluntary Principles” on September 22, 2003.

As the National Committee undertook an analysis of Voluntary Principles implementation in Colombia, they made several important discoveries:

- 1) International extractive sector companies, including several Participants in the Voluntary Principles Initiative, were already implementing the Voluntary Principles in Colombia;
- 2) Several national extractive sector companies that were not Participants in the Voluntary Principles Initiative, were also implementing the Voluntary Principles in Colombia; and
- 3) National extractive and non-extractive companies that were not familiar with the Voluntary Principles were interested in implementing the Principles in Colombia and in joining the National Committee.

Application for Membership to the Voluntary Principles Initiative

Since the creation of the Committee for the Implementation of the Voluntary Principles, the Colombian Government was interested in applying for membership to the Voluntary Principles Initiative. However, at that time there were concerns with regards to Colombia’s level of protection and promotion of human rights from the NGO Pillar within the Initiative.

The Colombian Government decided, therefore, not to apply at that time, but in 2006 and 2007 the Initiative started noticing how much work had been done in Colombia and the fact that the CME members had positive and concrete results. The Colombian Government and the CME started attending plenaries and by 2009 the perception of the NGO Pillar regarding Colombia’s commitment to human rights had changed.

In 2009 by decision of Vice-President Francisco Santos and with the support of the Ministry of Foreign Affairs the Government of Colombia applied as an Engaged Government to the Initiative.

Once it became an Engaged Government, the Ministry of Defence, the Ministry of Foreign Affairs and the Office of the President and Vice-President of Colombia worked to draft a National Implementation Plan with the help of the Mining and Energy Committee (CME) members, including the Civil Society Organizations the CME was working with.

The goal of the National Implementation Plan was to work in three fronts:

- 1) Promotion and implementation of the Voluntary Principles on a national level, which included reinforcing training on Human Rights, International Humanitarian Law and the Voluntary Principles for members of the armed forces and Defence Sector, and the national Government agencies members of the CME;
- 2) Implementation of the Voluntary Principles, with the goal to strengthen the Mining and Energy Committee; and
- 3) Promotion of the Voluntary Principles through the Ministry of Foreign Affairs in regional forums such as the Organization of American States or Mercosur, and bilateral meetings with other Governments, and through a second international workshop on the Voluntary Principles.

The Mining and Energy Committee – CME

In 2008 the National Committee was renamed the Mining and Energy Committee (CME). At that time CME membership expanded to include the National Human Rights and IHL Program; the High Command of the Military Forces and Colombian Army; the National Police; and the Office for the Supervision of Private Security.

The CME is a Colombia-based multi-stakeholder forum that studies, debates, and makes recommendations on best practices concerning security-related human rights issues¹, and provides a forum for dialogue between companies, the Colombian Government, embassies and Civil Society Organizations (CSOs) regarding human rights abuses in the extractive and non-extractive industry. Participants in the CME include eight Colombian Government agencies, national and international oil companies, and four Voluntary Principle Governments with embassies in Colombia. The CME obtains funding through annual fee payments made by company members and grants provided by the U.S. Government, the Netherlands, the United Kingdom and Norway.

The CME is organized in a manner very similar to the Voluntary Principles Initiative. It is composed of a Plenary, and a Steering Committee represented by two Colombian Government agency officials, four company officials from each

¹ The CME's recommendations are public and are meant to be used by companies in any sector. For more information on CME's recommendations, please go to: www.CMEColombia.co/en/

sector represented in the CME (oil and gas, mining, and energy²), and one representative from the Asociación Colombiana de Petróleo.

The CME has several working groups charged with producing recommendations based on the needs of the CME members. For example, the CME has a Working Group for the Verification Mechanism, which is working to produce a mechanism that will allow the CME to determine if and how its members are implementing its recommendations. The CME also has a Working Group on Companies and Public Security Forces, which is working with the defence sector to institutionalize risk assessment. In 2012, this Working Group developed a recommendation on how CME members could contribute to the Ministry of Defence's Human Rights and International Humanitarian Law Public Policy which includes training public security forces on human rights and IHL, operational discipline, defence, attention to vulnerable groups and cooperation, and makes a commitment with the Voluntary Principles. Similarly, the Contractors Working Group has developed practical tools for companies in managing private security, through the translation of the Voluntary Principles into concrete on-the-ground actions that are specific to the Colombia context. The Contractors Working Group is also working to promote understanding of the connections between Voluntary Principles implementation and standards like the International Code of Conduct for Private Security Contractors (ICoC).

At the time of the CME's transformation in 2008, its members started to engage more directly with CSOs. Fundación Ideas para la Paz (which served as CME technical secretariat for 2 years) and International Alert have been observers to CME since 2005³. Since that time, more CSOs have been invited to participate in the CME's creation of recommendations. The CME is currently studying how to grow and strengthen its relationship with CSOs.

In 2005 three companies, Oxy Colombia, Ecopetrol and Cerrejon Coal, began working with International Alert to analyze how they could improve their implementation of the Voluntary Principles. Due to this engagement, International Alert created a set of indicators to measure Voluntary Principles implementation on-the-ground in Colombia for the CME, as official indicators to measure implementation. The indicators were refined in 2010 and the second set was successfully piloted by Oxy, AngloGold Ashanti, Ecopetrol, Isagen, and AngloAmerican Perú. The pilot showed, among other things, that all companies have tools, methodologies and systems to analyze, record and monitor their risks and impacts, and that companies were identifying risks jointly with stakeholders.

² There are currently three national companies representing the energy sector: ISAGEN, ISA, and Empresas Públicas de Medellín. These companies produce and transport electrical energy in Colombia.

³ Universidad Externado de Colombia joined CME in April, 2014.

The pilot also helped the companies develop action plans to improve their performance and to identify best practices⁴.

Key factors that have made the CME successful:

- 1) Commitment from the Colombian Government and companies to protect and respect human rights;
- 2) No bureaucracy or high budgets, only political will and a focus on joint work;
- 3) Companies and the Colombian Government work together to achieve mutual goals:
 - a. raising awareness of the VPs⁵;
 - b. implementing the CME's recommendations; and
 - c. identifying best practices on security-related human rights issues;
- 4) Colombia is committed to human rights and international humanitarian law, and has ratified the most important international treaties in these fields like the Geneva Conventions and their Protocols, the American Convention on Human Rights, ICCPR, amongst others.
- 5) A reasonable level of trust between members; and
- 6) A commitment to continuous improvement (as opposed to perfection).

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⁴ The indicators are available on the CME webpage and information on the process can be found in the presentation Colombia made to the 2013 Annual Plenary Meeting. A copy of the presentation is available at: <http://www.CMEColombia.co/en/products/performance-indicators.html>

⁵ And, since 2013, the United Nations Guiding Principles on Business and Human Rights.