

Introduction

The Voluntary Principles Initiative has adopted model clauses for use in security agreements between Government Security Forces and companies in the extractive and energy sectors ("Companies"). They are designed to be used together or individually, but all reflect different aspects of the Voluntary Principles on Security and Human Rights as they relate to Government Security Forces. The VPI strongly recommends that its Government and Company members include these model clauses or similar variations thereof in security agreements that VPI member Government / Security Forces enter into with VPI member Companies, when relevant and applicable. The VPI encourages non-member Governments and extractive and energy sector Companies who seek to create a security framework that ensures respect for human rights related to Government Security Forces, to consider these or similar clauses for inclusion in their security agreements.

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MODEL CLAUSES FOR AGREEMENTS BETWEEN
GOVERNMENT SECURITY FORCES AND COMPANIES
WITH RESPECT TO SECURITY AND HUMAN RIGHTS

Preamble

The signatories to this agreement recognize the importance of actions consistent with the terms of the Voluntary Principles on Security and Human Rights, promoting and protecting human rights and fundamental freedoms, and the principle that security is a fundamental need shared by all members of society alike.

The following model clauses represent actions that Government Security Forces and Companies may jointly pursue to advance these goals, recognizing the constructive role that civil society can play in advancing them.

¹These clauses are not intended to be used between extractive or energy sector companies and private security forces, or between governments and private security forces.

《安全与人权自愿原则》倡议已经采用了示范条款,用于政府安全部队与采掘业及能源行业公司(以下简称"公司")¹之间的安保协议。标准条款可以共同使用,也可以单独使用,但都反映出了《安全与人权自愿原则》与政府安保部队相关的不同方面。该倡议强烈建议政府与公司成员将本示范条款或类似变体在可适用、有相关性的情况下纳入属于倡议成员的政府/安全部队和倡议成员公司之间签署的安保协议中。该倡议还鼓励力图创建确保政府安全部队尊重人权的安保框架,但尚未加入倡议的政府和采掘业及能源行业的公司考虑将下列条款或类似条款加入其安保协议中。

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政府安全部队与公司之间安全与人权协议的示范条款

本协议签署人认可依照《安全与人权自愿原则》条款开展行动的重要性,推广并保护人权与基本自由,并认可安全是全体社会成员共同的基本需求这一原则。

以下示范条款列出了政府安全部队和公司为 了推进上述目标而可能共同开展的行动,认识到了 民间社会在推进目标方面所能发挥的建设性作用。

¹ 本条款并非用于采掘业或能源行业公司与 私营安保部队之间,或是政府与私营安保部队之间。



A. Definition of Security and Human Rights Standards

Security and Human Rights Standards shall mean the United Nations Code of Conduct for Law Enforcement Officials, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the Voluntary Principles on Security and Human Rights ("Voluntary Principles").

B. General Commitment to Security and Human Rights Standards

Government Security Force agrees that it will maintain law and order, including by taking actions related to security in and around the project area, consistent with the Security and Human Rights Standards and in compliance with applicable national and international law – including, where applicable, international humanitarian law as well as human rights law – and in recognition of the principle that security is a fundamental need shared by all members of society alike. The Security and Human Rights Standards are attached as Annexes and form an integral part of this Agreement.

Government Security Force personnel will use force only when strictly necessary, will always use the least force necessary to address a security threat, and will use force in a manner proportionate to the threat and consistent with national law and the Security and Human Rights Standards or consistent with international humanitarian law when applicable. Government Security Force personnel will use lethal force only where there is an imminent threat to human life or consistent with international humanitarian law as applicable. Company will communicate its policies regarding ethical conduct and human rights to Government Security Force. Government Security Force will strive to act consistent with those policies in relation to providing security to the Company's property, facilities or personnel.

A. 安全与人权标准的定义

安全与人权标准指《联合国执法人员行为守则》、《联合国执法人员使用武力和火器的基本原则》、以及《安全与人权自愿原则》(以下简称《自愿原则》)。

B. 对安全与人权标准的一般性承诺

政府安全部队同意将维持法律与秩序,包括根据安全与人权标准,遵守适用的国内和国际法(包括适用的国际人道法与人权法),并认可安全是社会全体成员共同的基本需求这一原则,在项目地及其周边地区采取安全相关的行动。安全与人权标准在附录中列出,是本协议不可缺少的一部分。

政府安全部队人员仅在绝对必要时使用武力,在应对安全威胁时始终使用最低限度的必要武力,且使用的武力要与威胁相称,并符合国内法律及安全与人权标准,或在适用的情况下符合国际人道法。政府安全部队人员仅在对人类生命构成迫在眉睫的威胁或符合适用的国际人道法的情况下,方可使用致命武力。公司需向政府安全部队传达与道德行为及人权相关的公司政策。政府安全部队会力图根据保障公司财产、设施及人员安全的政策开展行动。

[最后一句还可表达为:公司需向政府安全部队传达与道德行为及人权相关的公司政策。政府安全部队会力图在项目地及其周边地区按照相关政策开展行动。]



[An alternative to last sentence: Company will communicate its policies regarding ethical conduct and human rights to Government Security Force. Government Security Force will strive to act consistent with those policies in and around the project area.]

C. Training of Government Security Force Personnel on Security and Human Rights

Before being deployed to the project area or specifically to protect Company, Government Security Force will provide training to its personnel on the Security and Human Rights Standards. This training will include how to implement the Security and Human Rights Standards, including the following Core Competencies: (i) an awareness of the Security and Human Rights Standards as they apply to Government Security Force personnel, including international human rights and humanitarian law and international law enforcement principles; (ii) an understanding of, in the event of any violation or abuse of human rights, the legalconsequences for the particular individuals involved, the Government Security Force, and Company; (iii) knowledge of common scenarios in which violations and abuses of the law and international protocols and conventions might take place; and (iv) awareness of and an ability to apply the procedures that Government Security Force personnel should follow in order to avoid such violations and abuses, including practical steps to take in the context of security incidents, protests, or strikes on, in the vicinity of, or related to the project area. Government Security Force agrees to share information with Company upon request that demonstrates that Government Security Force personnel received the training and met the Core Competencies.

C. 对政府安全部队人员 开展安全与人权培训

在部署至项目地或具体为公司提供保护之前, 政府安全部队会为其人员开展安全与人权标准培训。培训内容涉及如何实施安全与人权标准,包 括以下核心能力:

- (1) 认识到适用于政府安全部队人员的安全与人权标准,包括国际人权法、人道主义法以及国际执法原则;
- (2) 了解在出现侵犯或滥用人权的情况下涉事人员、政府安全部队及公司所要承担的法律后果;
- (3) 知晓可能违反和滥用法律、国际议定书和公约的常见情景;以及
- (4)认识到并能够应用政府安全部队为避免此类违反和滥用行为所应当遵循的程序,包括在项目地区附近或与项目地区相关的安全事件、抗议或罢工发生时可以采取的实用措施。政府安全部队同意应公司请求提供相关信息,证明政府安全部队人员已接受培训,并具备核心能力。



D. Screening with respect to Security and Human Rights

The Government Security Force agrees to ensure that Government Security Force personnel who have faced credible allegations that they committed violent crimes or were involved in human rights abuses, will not be assigned duties in and around the project area. Any Government Security Force personnel active in and around the project area, who is found later to be credibly implicated in human rights abuses, will be removed from the area and will be dealt with in accordance with applicable national and international law.

E. Chain of Command and Communications

Company has no authority and shall not supervise, direct, or control any mission, assignment, or function of Government Security Force. Government Security Force will operate, at all times, under its own chain of command, and nothing in this Agreement shall be construed to suggest that the Government Security Force, or any of its members, are the agents, partners, employees, or representatives of the Company in any capacity.

The Government Security Force agrees to appoint a liaison to meet on an agreed regular basis with individuals appointed by the Company to discuss security issues of mutual concern, including the potential for violence and impacts on communities from the activities of Government Security Force, and any security incidents and complaints against Government Security Force personnel that have been provided to the Company. Company and Government Security Force agree to consult on a periodic basis with local communities regarding impacts of Government security activities, and to identify community concerns regarding security-related matters.

D. 就安全与人权方面进行筛查

政府安全部队同意确保不会指派曾面临暴力犯罪的可靠指控,或曾参与侵犯人权行为的政府安全部队人员在项目地及其周边地区值勤。任何在项目地及其周边地区活跃行动的政府安全部队人员,如后续发现确与侵犯人权行为有所牵涉,将被移出该地区,并将根据适用的国内和国际法加以处置。

E. 指挥与沟通链

公司没有权力,也不得监督、指导或控制政府 安全部队的任何任务、工作或职能。政府安全部 队始终在其指挥链下运作,本协议中的任何内容均 不得理解为政府安全部队或其任何成员是以任何身 份担任公司的代理人、合作伙伴、雇员或代表。

政府安全部队同意指定一名联络人,与公司指定人员经协商一致后定期会见,探讨共同关心的安全问题,包括暴力发生的可能性、政府安全部队活动对社区的影响,以及已上报至公司的针对政府安全部队人员的任何安全事件及投诉。公司和政府安全部队同意定期就政府安全活动的影响与当地社区进行交流,并明确社区就安全相关事项的关切。



F. Use and Control of Weapons and Equipment

Company shall not be required to, and Government Security Force shall not request that, Company provide lethal weaponry, including hard ammunition, or make any payment in order to procure such weapons, weaponry, or ammunition. Government Security Force agrees that no support, including any payments, provided by Company shall be used for lethal weaponry or other lethal equipment. Government Security Force agrees that any equipment provided by Company will not be used for any other purpose than that contemplated by this agreement and will only be used when personnel are on duty, or as otherwise specified in this Agreement.

G. Investigation of Security Incidents

Government Security Force agrees to promptly advise Company of any security incident involving use of weapons or use of force, and of any alleged human rights violation or abuse in which Government Security Force personnel was involved while performing their duties in relation to the Company's property, facilities or personnel. Government Security Force will promptly investigate, report, and resolve all such incidents, potential violations or abuses in accordance with applicable national and international law. Government Security Force will regularly inform Company of progress in the investigation or proceedings following the investigation. During the course of the investigation or proceedings, Government Security Force agrees to suspend the personnel under investigation or being prosecuted from his/her duty in and around the project area.

Government Security Force will not object to Company recording and reporting credible allegations of human rights abuses by Government Security Force to appropriate authorities. Company agrees to promptly notify Government Security Force of complaints against

F. 武器与设备的使用及管控

政府安全部队不得要求公司提供致命武器,包括硬质弹药,也不得付款采购此类兵器、武器或弹药。政府安全部队同意公司提供的任何支持,包括所支付的任何款项,都不得用于获取致命武器或其他致命装备。政府安全部队同意公司所提供的任何装备都不会用于本协议内容之外的目的,且仅在人员值勤时使用,或本协议另有规定的情形下使用。

G. 安全事件调查

政府安全部队同意就任何涉及武器或武力使用的安全事件,和任何涉及政府安全部队人员在履行与公司财产、设施或人员相关的职责期间所牵涉的侵犯或滥用人权行为控告,及时提供建议。政府安全部队将根据适用的国内和国际法及时调查、报告并解决所有此类事件及潜在的侵犯或滥用人权行为。政府安全部队将定期告知公司调查进度或调查后的诉讼程序。在调查或诉讼期间,政府安全部队同意中止接受调查或被起诉人员在项目地及其周边地区的职务。

政府安全部队不会反对公司记录对政府安全部队侵犯人权行为的可靠指控,并上报至有关当局。公司同意及时通过公司的指定联系人或其他适当方式,向政府安全部队告知公司接收的针对政府安全部队人员的投诉。如果政府安全部队或



Government Security Force personnel that have been lodged with Company, either through the Company's appointed liaison or other appropriate means. If the Government Security Force or appropriate official investigation finds that Government Security Force personnel used disproportionate force, violated or contravened the Security and Human Rights Standards, human rights and/or international humanitarian law, or agreements on use of weapons or other equipment, personnel shall be subject to appropriate disciplinary action by the Government Security Force and/or be reported to the appropriate authorities, and Government Security Force shall take appropriate action to prevent recurrence.

适当的官方调查发现政府安全部队人员使用不成比例的武力,违背或违反安全与人权标准、人权法和(或)国际人道法、或关于武器或其他装备使用的协议,则相关人员将由政府安全部队进行适当的处罚,并(或)上报至有关当局,且政府安全部队需采取适当措施防止此类行为再次发生。

H. Transparency H. 公开透明

The Parties agree to make their security arrangements transparent and accessible to the public, subject to any overriding safety and security concerns.

双方同意,在保证安全与安保问题无虞的前提下,确保其安保工作安排的透明度并向公众公开。

I. Medical Care for the Injured

Consistent with the Voluntary Principles, Government Security Force and Company, as appropriate, will seek to assist in having medical care promptly provided to anyone receiving physical injuries resulting from an event of a violent confrontation involving Government Security Force in and around the project area.

1. 为伤员提供医疗服务

根据《自愿原则》,政府安全部队和公司在 适当情况下将力图协助因项目地及其周边地区涉 及政府安全部队的暴力对抗事件而受伤的人员得 到及时的医疗服务。