

# UN OHCHR SELF-STUDY

## PRINCIPLES FOR RESPONSIBLE CONTRACTS

Integrating the management of human rights risks  
into State-investor contract negotiations:

Guidance for negotiators



# WHAT WILL BE COVERED



**1**

**Relevance and objectives of training**

# OUTLINE OF TRAINING



**1** Relevance and objectives of training

**2** Some basic definitions from the text

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- 1** Relevance and objectives of training
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- 3** Introduction to the Mandate of the UN Special Representative for Business and Human Rights (2005-2011)

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- 1** Relevance and objectives of training
- 2** Some basic definitions from the text
- 3** Introduction to the Mandate of the UN Special Representative for Business and Human Rights (2005-2011)
- 4** The Special Representative's Development of the Principles
- 5** The substance of the Principles

1

## SECTION ONE

RELEVANCE AND OBJECTIVES OF TRAINING

1

THIS TRAINING IS RELEVANT TO:



LARGE, LONG-TERM INVESTMENT PROJECTS





# 1 THIS TRAINING IS RELEVANT TO:



LARGE, LONG-TERM INVESTMENT PROJECTS



1

# THIS TRAINING AND THE PRINCIPLES ARE USEFUL FOR:



**STATE NEGOTIATORS**



**COMMERCIAL NEGOTIATORS**



**LEGAL COUNSEL**

**1**

**THIS TRAINING AND THE PRINCIPLES ARE  
USEFUL FOR:**



**State Representatives  
-Ministries and Agencies**







1

**THIS TRAINING AND THE PRINCIPLES ARE  
USEFUL FOR:**



**Lenders & Investors**



**1**

**THIS TRAINING AND THE PRINCIPLES ARE USEFUL FOR:**



**UN Field Staff**

**Lenders & Investors**





**1**

# THIS TRAINING AND THE PRINCIPLES ARE USEFUL FOR:



**UN Field Staff**



**Staff of development and multilateral organizations**

**Lenders & Investors**



# 1

## FOUR OBJECTIVES FOR THIS TRAINING



**By the end of this training you will know about:**

1. The Mandate of the UN Secretary General's Special Representative on Business and Human Rights

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1. The Mandate of the UN Secretary General's Special Representative on Business and Human Rights
2. The Development of the Principles for Responsible Contracts

# 1

## FOUR OBJECTIVES FOR THIS TRAINING



**By the end of this training you will know about:**

1. The Mandate of the UN Secretary General's Special Representative on Business and Human Rights
2. The Development of the Principles for Responsible Contracts
3. How to integrate the management of human rights risks into the negotiation of State-investor contracts

# 1

## FOUR OBJECTIVES FOR THIS TRAINING




**By the end of this training you will know about:**

1. The Mandate of the UN Secretary General's Special Representative on Business and Human Rights
2. The Development of the Principles for Responsible Contracts
3. How to integrate the management of human rights risks into the negotiation of State-investor contracts
4. How the Principles for Responsible Contracts can be a helpful tool to help ensure human rights risks are managed throughout the life of investment projects

# Before we start...

## + Please have a copy of the Principles

United Nations A/HRC/17/31/Add.3

 **General Assembly** Distr.: General  
25 May 2011  
Original: English

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**Human Rights Council**  
Seventeenth session  
Agenda item 3  
**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

**Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie**

Addendum


**Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations: guidance for negotiators\* \*\***

*Summary*

Every business venture has the potential to have positive and negative impacts on people and human rights – those rights and freedoms that the international community has agreed that people need in order to live with dignity. In some cases, where the potential positive and negative human rights impacts of a venture are direct and significant, managing human rights risks will be an essential consideration to be included at the earliest stages of the life cycle of the venture. This is the case where the project presents either large-scale or significant social, economic or environmental risks or opportunities, or involves the depletion of renewable or non-renewable natural resources.

In such cases, irrespective of the sector involved, the negotiation process between a host State and a business investor offers a unique opportunity to identify, avoid and mitigate human rights risks. This will help optimize the full range of benefits to be drawn from the investment and help ensure the potential negative impacts on people are avoided or mitigated. Moreover, these principles will help ensure that States maintain adequate policy space in the investment contract, including for the protection of human rights, while avoiding claims relative to the contract in binding international arbitration.

\* The present report was submitted late in order that the most up-to-date information could be included.  
\*\* Owing to its length, the report, annexed to the summary, is circulated as received.

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## SECTION TWO

### SOME BASIC DEFINITIONS





## STATE:

The “State” where the investment is taking place. It can also be called a “Host State”. The “State” could be represented by a federal ministry, a local entity, or even a national company – like a state-owned oil company, mining company, or rail company.





## BUSINESS INVESTOR:

The foreign-controlled business entity that is a party to the negotiation itself.

Together the Host State and the Business Investor are the "Parties".





## STATE-INVESTOR CONTRACT:

An agreement, a contract, between a host state and the business investor/investors.





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An agreement, a contract, between a host state and the business investor/investors.

- Host government agreements



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- Host government agreements
- Investment agreements
- Production Sharing Agreements



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- Concession contracts



## STATE-INVESTOR CONTRACT:

An agreement, a contract, between a host state and the business investor/investors.

- Host government agreements
- Investment agreements
- Production Sharing Agreements
- Concession contracts
- License agreements



## LENDER:

A lender is used to refer to private, public, and multilateral organizations (for example the World Bank or African Development Bank, Asian Development Bank, or the European Investment Bank) that support investment projects with financing or guarantees.



3

# SECTION THREE

## INTRODUCTION TO THE UN MANDATE OF THE UN SECRETARY GENERAL'S SPECIAL REPRESENTATIVE FOR BUSINESS & HUMAN RIGHTS

John Ruggie  
Special Representative to  
the Secretary General,  
Business and Human Rights



3

## The mandate of the UN Secretary General's Special Representative for business and human rights



2005-2011



3

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2005-2011

### Human Rights Council mandate

- ☑ Identify and clarify standards of corporate responsibility
- ☑ Clarify role of States

3

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2005-2011

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- ✓ **Evidence-based:** voluminous research, 47 multistakeholder consultations, including business

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## The mandate of the UN Secretary General's Special Representative for business and human rights



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- ☑ Identify and clarify standards of corporate responsibility
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- ✓ 2008: “**Protect, Respect and Remedy**” Framework

3

## The mandate of the UN Secretary General's Special Representative for business and human rights



2005-2011

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- Identify and clarify standards of corporate responsibility
- Clarify role of States
- ✓ **Evidence-based:** voluminous research, 47 multistakeholder consultations, including business
- ✓ 2008: “**Protect, Respect and Remedy**” Framework
- ✓ 2011: The Principles are unanimously endorsed by the Human Rights Council

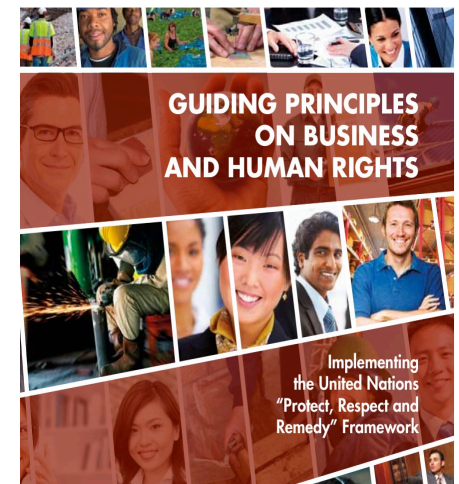
## 2011 UN Guiding Principles for Business and Human Rights



[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

### 2011

- ✓ Do not create legal obligations, but elaborate on implications of existing obligations and practices



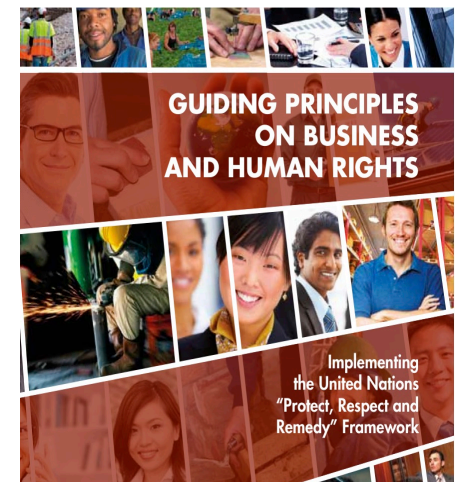
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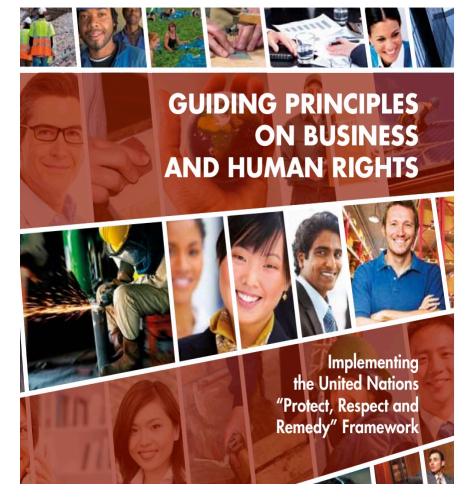
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### 2011

- ✓ Do not create legal obligations, but elaborate on implications of existing obligations and practices
- ✓ Apply to all states, all companies, regardless of size, sector or context
- ✓ Unanimously endorsed by the UN HRC – strong political foundation



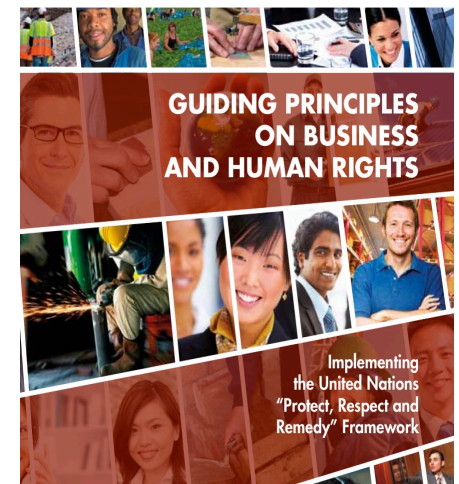
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### 2011

- ✓ Do not create legal obligations, but elaborate on implications of existing obligations and practices
- ✓ Apply to all states, all companies, regardless of size, sector or context
- ✓ Unanimously endorsed by the UN HRC  
– strong political foundation
- ✓ Global reference point: common standard for action and benchmark for accountability



# Protect, Respect and Remedy Framework

[http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



Policy framework: 3 pillars





Policy framework: 3 pillars

## PROTECT, RESPECT AND REMEDY

### State duty to protect

- Policies
- Regulation
- Adjudication





Policy framework: 3 pillars

## PROTECT, RESPECT AND REMEDY

### State duty to protect

- Policies
- Regulation
- Adjudication

### Corporate responsibility to respect

- Act with due diligence to avoid infringement
- Address impacts





Policy framework: 3 pillars

## PROTECT, RESPECT AND REMEDY

### State duty to protect

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### Corporate responsibility to respect

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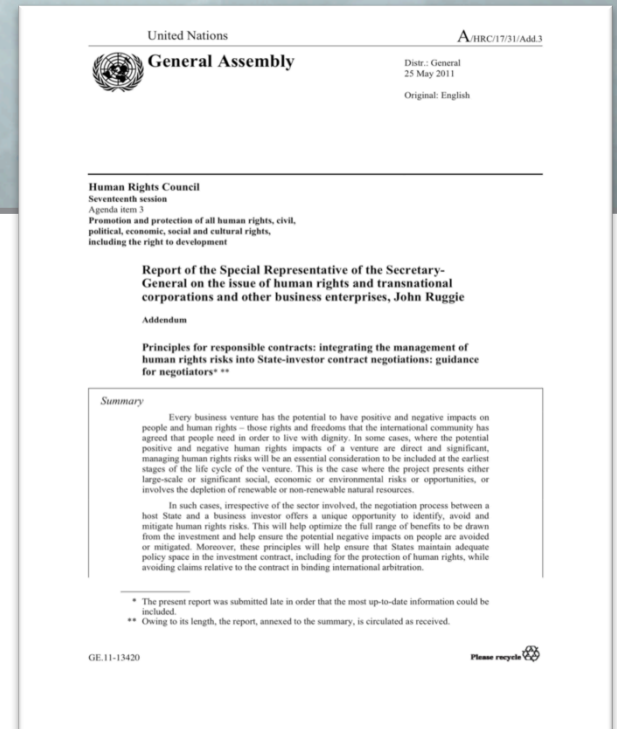
### Access to remedy

- Effective access for victims
- Judicial and non-judicial



## 4

## SECTION FOUR

THE DEVELOPMENT OF THE  
PRINCIPLES FOR RESPONSIBLE  
CONTRACTS

<http://www.ohchr.org/Documents/Issues/Business/A.HRC.17.31.Add.3.pdf>





Early on, the Special Representative recognized the relevance of investment agreements to the Mandate



# 4

## THE DEVELOPMENT OF THE PRINCIPLES



Growing interest among NGOs, institutions and companies

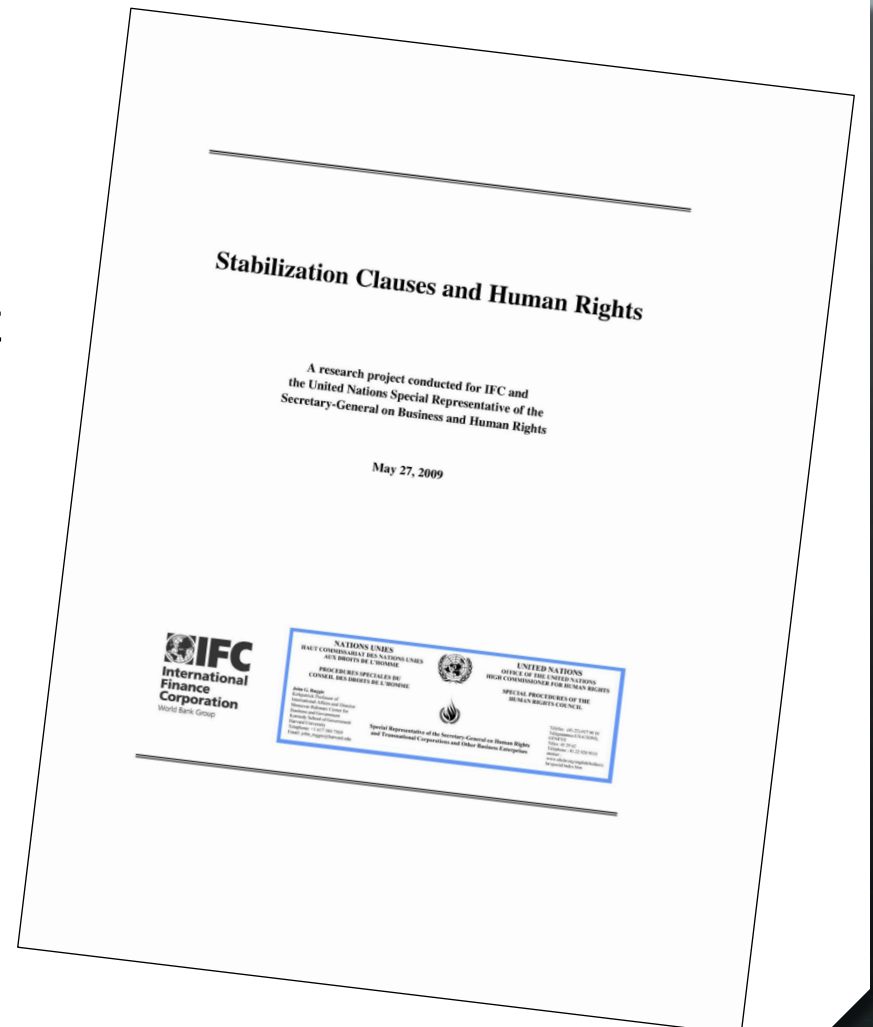


# 4

## THE DEVELOPMENT OF THE PRINCIPLES



Basis for joint research project with International Finance Corporation on 88 contracts and models



# 4

## THE DEVELOPMENT OF THE PRINCIPLES



Study Findings: Contracts fall into 2 categories



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### Non-OECD:

Majority of contracts restricted the ability of the State to apply new social or environmental legislation to the investment project or required compensation to investor.



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### Non-OECD:

Majority of contracts restricted the ability of the State to apply new social or environmental legislation to the investment project or required compensation to investor.

### OECD:

No exemptions from social or environmental laws and limited offers to mitigate impacts on investors.

# 4

# CONSULTATIONS



Companies



Practitioners



NGOs

The Principles

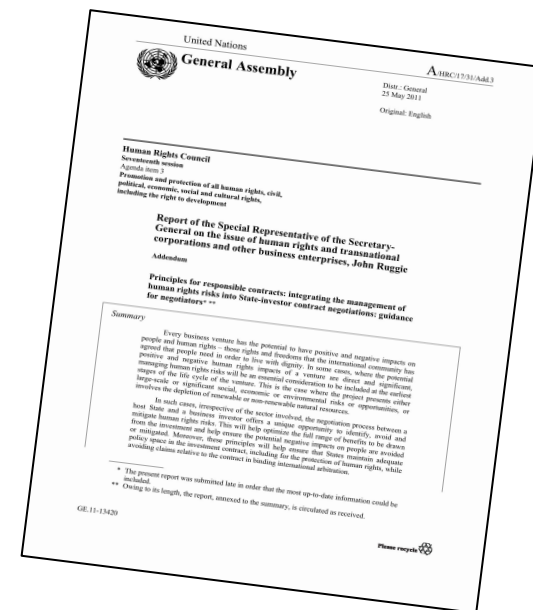
States



# PRINCIPLES FOR RESPONSIBLE CONTRACTS

## INTEGRATING THE MANAGEMENT OF HUMAN RIGHTS RISKS INTO STATE-INVESTOR CONTRACT NEGOTIATIONS:

### GUIDANCE FOR NEGOTIATORS

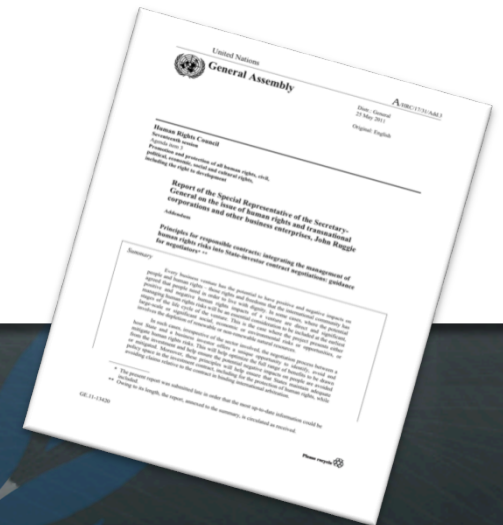




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# SECTION FIVE

## THE SUBSTANCE OF THE PRINCIPLES

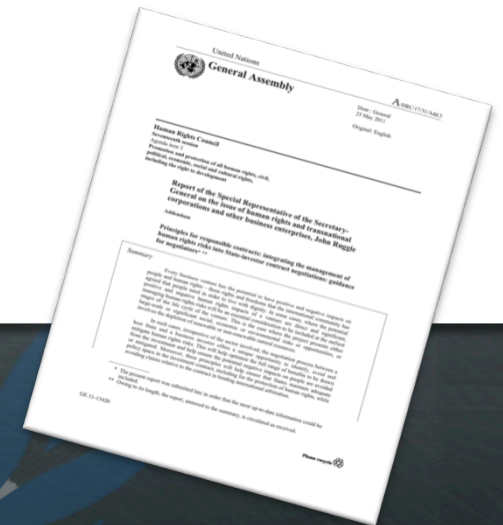


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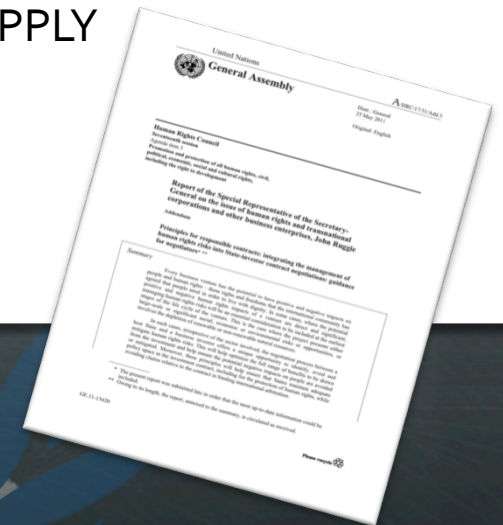


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- ✓ IN WHAT CONTEXT DO THE PRINCIPLES APPLY

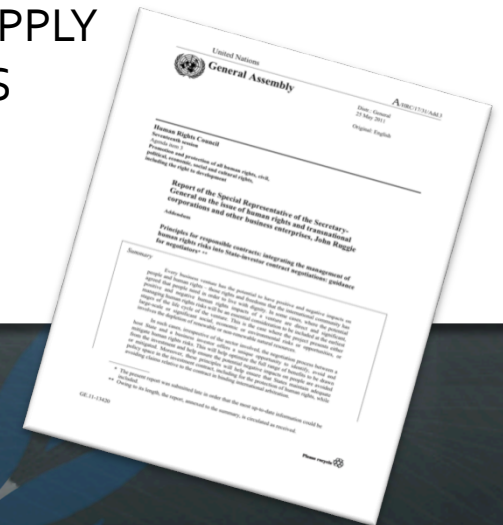


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- ✓ GENERAL KEY MESSAGES AND FEATURES

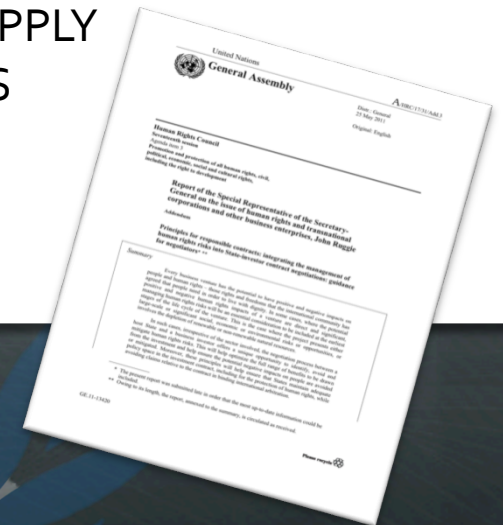


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- ✓ KEY MESSAGES FOR EACH PRINCIPLE

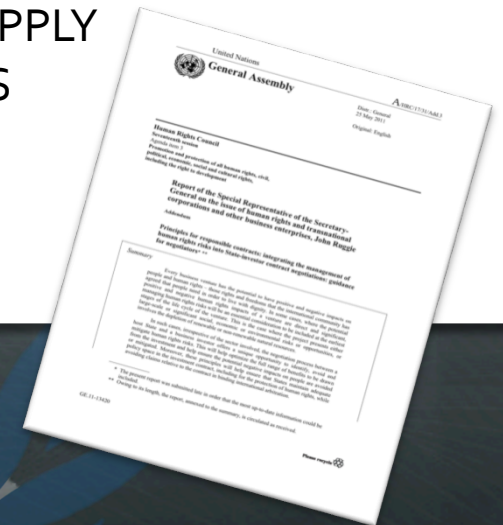


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- ✓ IN WHAT CONTEXT DO THE PRINCIPLES APPLY
- ✓ GENERAL KEY MESSAGES AND FEATURES
- ✓ KEY MESSAGES FOR EACH PRINCIPLE
- ✓ PRACTICE EXAMPLES





## Key points about the Principles for Responsible Contracts:



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1. Grounded in recognition that investment projects can have positive and negative impacts on human rights





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## Key points about the Principles for Responsible Contracts:

1. Grounded in recognition that investment projects can have positive and negative impacts on human rights
2. Based on 4 years of research and multi-stakeholder consultations, after which the Special Representative presented the Principles for Responsible Contracts to the Human Rights Council
3. An authoritative text relating UN Guiding Principles on Business and Human Rights to investment contract negotiation



In what context do the Principles apply?



5

# THE SUBSTANCE OF THE PRINCIPLES



In what context do the Principles apply?

INFRASTRUCTURE



AGRICULTURE



5

## THE SUBSTANCE OF THE PRINCIPLES



In what context do the Principles apply?

INFRASTRUCTURE



MINING



AGRICULTURE



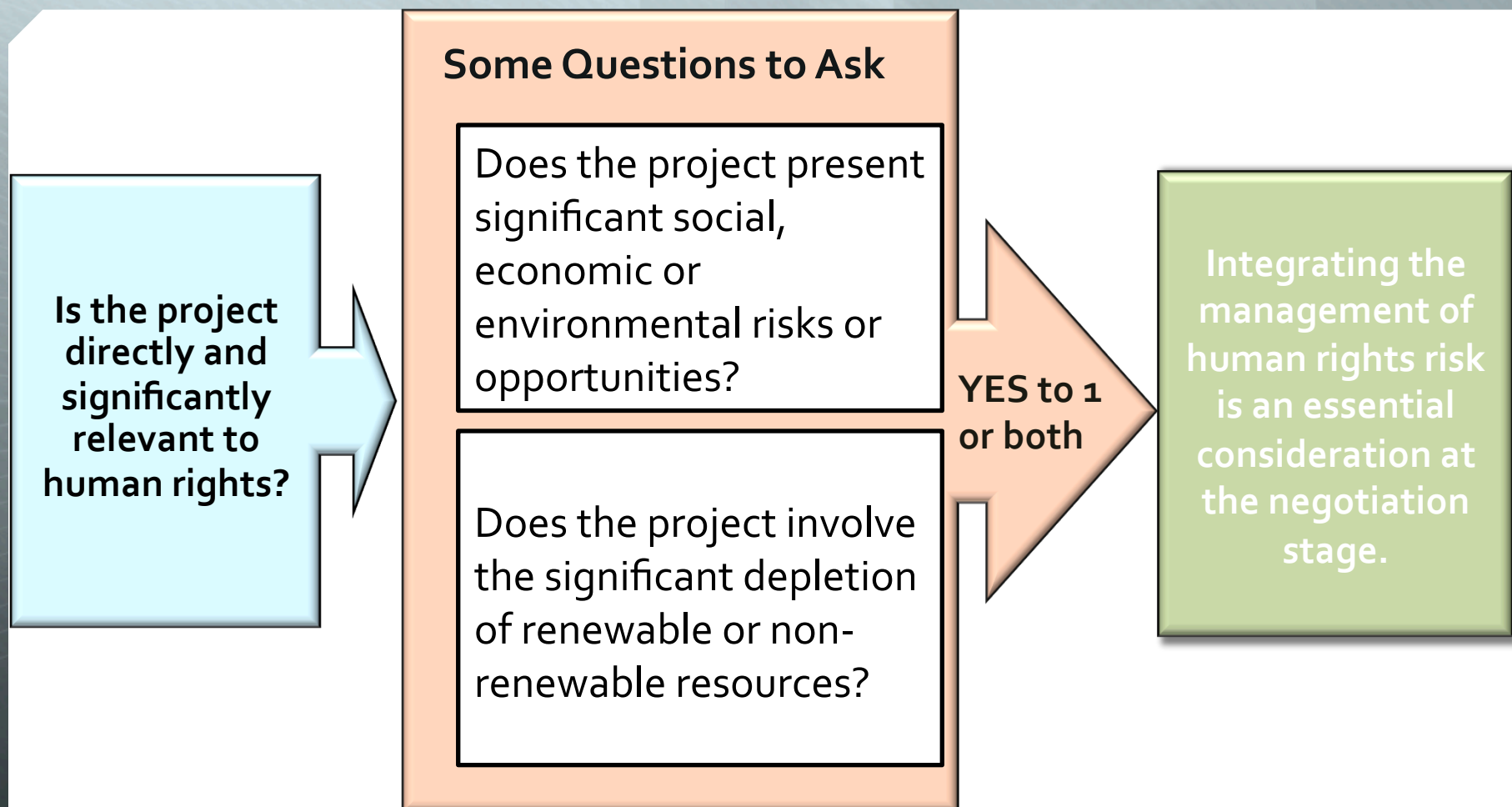
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## THE SUBSTANCE OF THE PRINCIPLES



In what context do the Principles apply?







## Why consider human rights at the negotiation stage?

- HIGH EXPECTATIONS FOR POSITIVE IMPACTS: Jobs, improvement in their lives, development
- HIGH RISKS OF NEGATIVE IMPACTS: relocation, damage to the eco-system connected to health, livelihood, cultural rights





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## Integrating the management of human rights risks into investment project negotiations

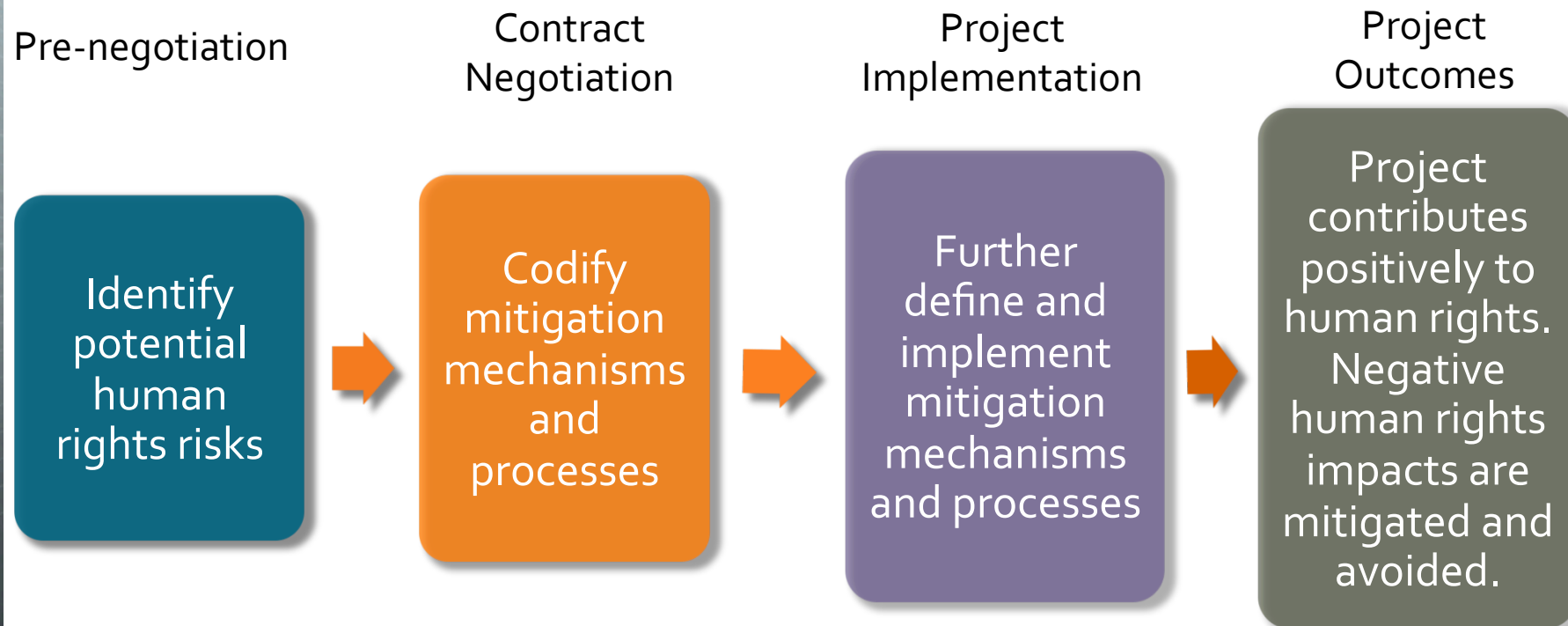
1. Facilitate early identification and early management
2. Help establish clear roles and responsibilities
3. Help the parties assess potential impacts and make cost and timing allocations
4. Facilitate cooperation to better manage impacts
5. Increase the overall positive benefits of the project, including to human rights



5

## THE SUBSTANCE OF THE PRINCIPLES

### Integrating the management of human rights risks into investment project negotiations



5

## THE SUBSTANCE OF THE PRINCIPLES



### Principles for Responsible contracts

Key messages:





## Principles for Responsible contracts

### Key messages:

- Early planning is key and must take financial, legal, administrative considerations into account;





## Principles for Responsible contracts

### Key messages:

- Early planning is key and must take financial, legal, administrative considerations into account;
- Planning must relate explicitly to preventing, mitigating and ensuring remediation of potential negative human rights impacts.





## Key Features:

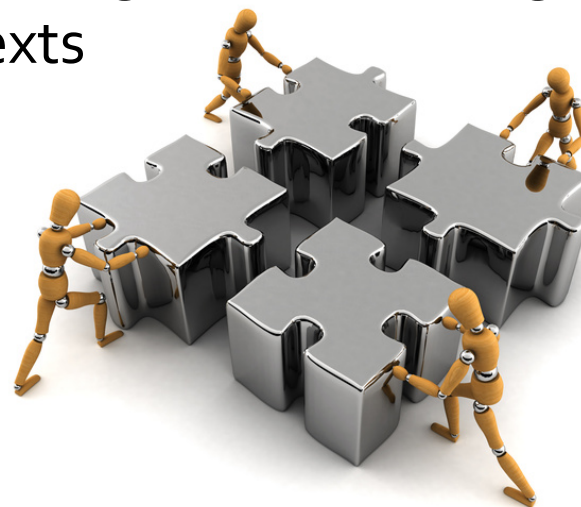
- ✓ Speaks to both States and Companies about differential duties and responsibilities





## Key Features:

- ✓ Speaks to both States and Companies about differential duties and responsibilities
- ✓ Relates also to preparation for negotiation and legislative framework in domestic contexts

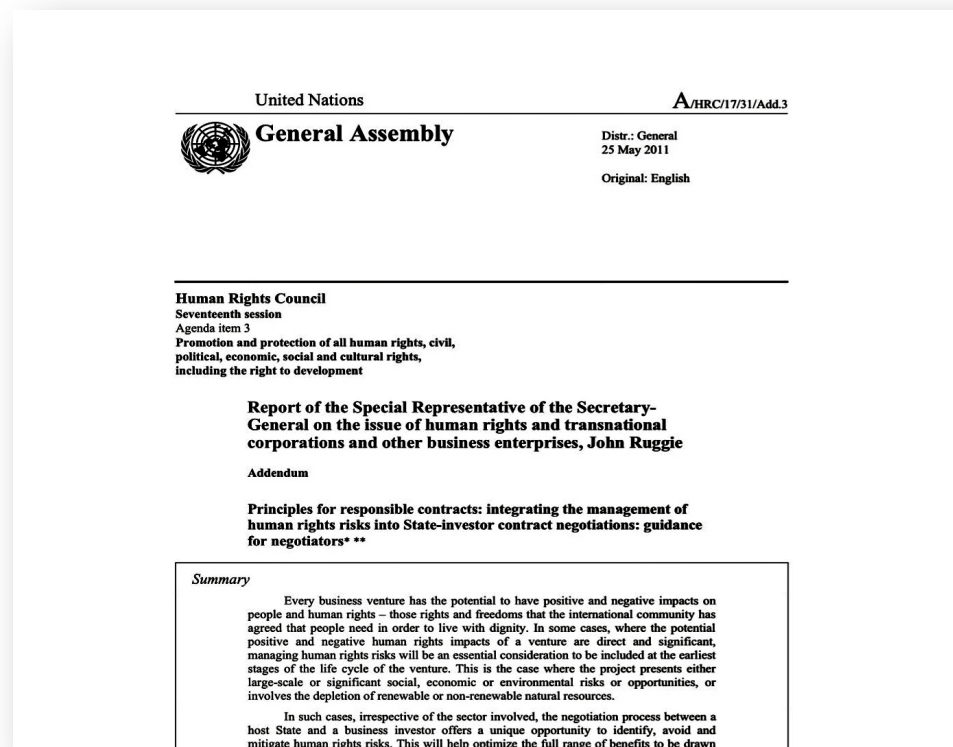






## Key Features:

✓ 10 PRINCIPLES





## Key Features:

- ✓ KEY IMPLICATIONS FOR THE NEGOTIATION





## Key Features:

- ✓ RECOMMENDED NEGOTIATOR'S CHECKLIST





## Key Features:

- ✓ BRIEF EXPLANATION OF THE ISSUE





## Key Features:

- ✓ NOT MEANT TO DICTATE TERMS



5

## THE SUBSTANCE OF THE PRINCIPLES



### Key Features:

- ✓ AIMS TO BUILD UNDERSTANDING OF ISSUES



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 1: **PROJECT NEGOTIATIONS PREPARATION AND PLANNING**

The parties should be adequately prepared and have the capacity to properly address the human rights implications of projects during negotiations.

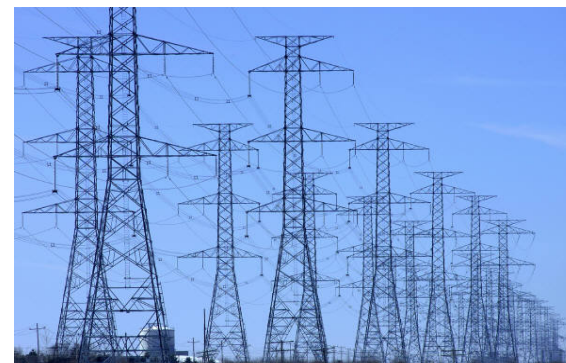




## Principle 1: PROJECT NEGOTIATIONS PREPARATION AND PLANNING

### Key Implications:

1. State should enter the negotiation with a clear idea of how the project objectives, opportunities and risks relate to its existing obligations to respect, protect and fulfil human rights





5

# THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 1: PROJECT NEGOTIATIONS PREPARATION AND PLANNING

### Key Implications:

- 2. Companies should enter negotiation knowing how project objectives, opportunities and risks relate to its responsibility to respect human rights



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 1: PROJECT NEGOTIATIONS PREPARATION AND PLANNING

## Key Implications:

3. The State and the business investor should enter the negotiation aiming to ensure that adverse human rights impacts are avoided, mitigated or remedied throughout the life-cycle of the project



\*Applies even where State representative is a State-owned enterprise, where it participates as an investor, beneficiary of revenues or both

\*Managing human rights risks should be on the negotiating agenda and integrated into each party's negotiating objectives

## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 1: **PROJECT NEGOTIATIONS PREPARATION AND PLANNING**

## Key Implications:

4. Both parties should have access to expertise that can help support negotiating teams on these issues, including legal, technical, financial expertise, so that they can think about the cost implications of planning for human rights risks



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

Responsibilities for the prevention and mitigation of human rights risks associated with the project and its activities should be clarified and agreed before the contact is finalized.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

Key Implications:

1. Initial assessment of potential human rights impacts





Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

Key Implications:

2. The parties need to have adequate expertise in order to identify and manage human rights risks throughout the project and before impacts occur, either by building their internal capacity or by securing external expertise



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

Key Implications:

3. Ensuring that adverse impacts can be prevented and mitigated requires that appropriate funds are available and allocated to enable the necessary measures to be taken





## Principle 2: MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS

### Key Implications:

3. Ensuring that adverse impacts can be prevented and mitigated requires that appropriate funds are available and allocated to enable the necessary measures to be taken

- \* Special financial mechanisms may be needed





## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

Key Implications:

4. Prevention and mitigation plans should be developed by including information and insight gained through community engagement efforts with those who may be adversely impacted.





Principle 2: **MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS**

A couple of checklist items:

1. The contract clearly delineates who is responsible and accountable for mitigating the risks of adverse human rights impacts, as well as for how mitigation efforts will be financed





## Principle 2: MANAGEMENT OF POTENTIAL ADVERSE HUMAN RIGHTS IMPACTS

A couple of checklist items:

2. The parties either agree on a set of human rights baselines--measurements of the state of human rights enjoyment before a project begins, or agree how such baselines will be established before project work begins



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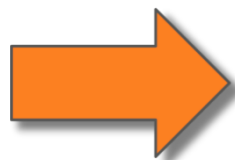
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 3: **PROJECT OPERATING STANDARDS**

The laws, regulations and standards governing the execution of the project should facilitate the prevention, mitigation and remediation of any negative human rights impacts throughout the lifecycle of the project.



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## THE SUBSTANCE OF THE PRINCIPLES

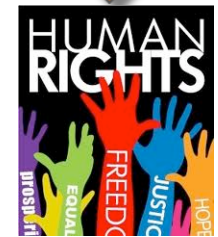
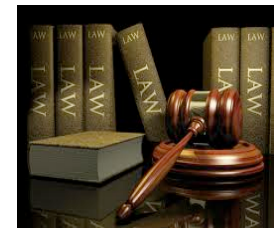
Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 3: PROJECT OPERATING STANDARDS

Brief explanation:

1. Investment is a challenge for investors and States where domestic frameworks lack either policies, laws or enforcement capacity.



## THE SUBSTANCE OF THE PRINCIPLES

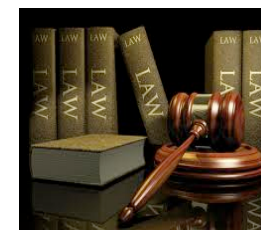
Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 3: PROJECT OPERATING STANDARDS

Brief explanation:

1. Investment is a challenge for investors and States where domestic frameworks lack either policies, laws or enforcement capacity.
2. Agreeing to external standards in addition to domestic law as a temporary stop-gap measure can create leverage for better practice.



## THE SUBSTANCE OF THE PRINCIPLES

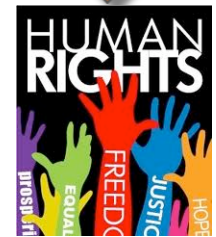
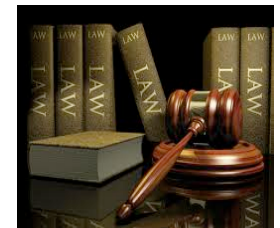
Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 3: PROJECT OPERATING STANDARDS

Brief explanation:

1. Investment is a challenge for investors and States where domestic frameworks lack either policies, laws or enforcement capacity.
2. Agreeing to external standards in addition to domestic law as a temporary stop-gap measure can create leverage for better practice.
3. External standards are not a replacement for the development of domestic law.

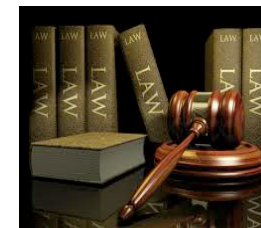




### Principle 3: PROJECT OPERATING STANDARDS

Brief explanation:

1. Investment is a challenge for investors and States where domestic frameworks lack either policies, laws or enforcement capacity.
2. Agreeing to external standards in addition to domestic law as a temporary stop-gap measure can create leverage for better practice.
3. External standards are not a replacement for the development of domestic law.
4. The contract should indicate how monitoring and compliance with external standards will be assured.







### Principle 3: PROJECT OPERATING STANDARDS

#### Key Implications:

1. The parties should be aware of any legislative, regulatory and enforcement gaps, and are prepared to work to identify whether or how they can be overcome.



### Principle 3: PROJECT OPERATING STANDARDS

#### Key Implications:

1. The parties should be aware of any legislative, regulatory and enforcement gaps, and are prepared to work to identify whether or how they can be overcome.
2. The parties should supplement local laws, regulations and standards with external standards not currently incorporated into domestic law where these can facilitate the prevention, mitigation and remediation of negative human rights impacts throughout the life cycle of the project.



### Principle 3: PROJECT OPERATING STANDARDS – PRACTICE EXAMPLE 1\*

#### Applicability of IFC Performance Standards and Equator Principles

Where Applicable Law and regulations on environmental and social impact assessment and management, and pollution prevention are less stringent than the IFC Performance Standards, the Company shall undertake its activities in a manner consistent with the IFC Performance Standards. To remove any doubt, the Company and the State recognise that the IFC Performance Standards outline processes to be followed enabling site-specific environmental compliance limits to be developed, where required.

\*All practice examples in this training come from, or are based on, contracts or models in the public domain, but they may have been altered for training purposes.



### Principle 3: PROJECT OPERATING STANDARDS – PRACTICE EXAMPLE 1

#### Positive points

1. Investor and the State have agreed that in any instance where environmental or social impact assessment and management requirements or where pollution prevention requirements are less stringent than the IFC Performance Standards, then the higher standard applies.

#### Comments:

1. May create confusion regarding who will adjudicate, in the case of doubt, whether the domestic or IFC standard is more stringent.
2. No indication of how compliance with the external standard is to be demonstrated.



### Principle 3: PROJECT OPERATING STANDARDS- PRACTICE EXAMPLE 2

#### Obligations

The Government shall fulfill its obligations under this agreement **while acting in accordance with its International human rights obligations** as they develop from time to time.

The Company acknowledges its responsibility to respect human rights as set out in:

- (a) The Universal Declaration of Human Rights;
- (b) The International Covenant on Civil and Political Rights;
- (c) The International Covenant on Economic, Social and Cultural Rights;
- (d) The International Convention on the Rights of the Child;
- (e) Convention on the Elimination of all Forms of Discrimination against Women;
- (f) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (g) The Indigenous and Tribal Peoples Convention (ILO No. 169);
- (h) The International Convention on the Elimination of all Forms of Racial Discrimination;
- and (i) All international human rights instrument to which the State is a party.

Clause continues...



### Principle 3: PROJECT OPERATING STANDARDS- PRACTICE EXAMPLE 2

#### Company Undertaking

In order to meet the obligations set out in this Article, the Company shall

- (a) Seek **to prevent, mitigate and remediate all negative human rights impacts resulting from its activities or through its relationships with third parties relative to this agreement;**
- (b) Undertake an initial, independent human rights impact study prior to initiating the Development Plan set out in this Agreement, to determine where its activities or relationships (including any anticipated security measures) may have a negative impact on human rights, and update this study on an annual basis;
- (c) In all dealings between the security personnel of the Company, or the Company's Contractors or Subcontractors, and police, military or other security forces of the State, **assure compliance with the norms of the Voluntary Principles on Security and Human Rights.**

Clause continues...



### Principle 3: PROJECT OPERATING STANDARDS- PRACTICE EXAMPLE 2

(d) Ensure that its operational policies reflect the **responsibility to respect human rights** and that the policies and procedures required to prevent, mitigate and remediate any potential or actual negative human rights impacts from its operations or relationships, taking into account the above-mentioned impact studies, are in place;

(e) **Remediate** any apparent negative human rights impacts from its operations or relationships as soon as is practicable, including through, as appropriate:

(i) Providing adequate compensation or **other appropriate remedy** to any victim of the negative impact;

(ii) Removing or altering the cause of the negative impact so as to avoid further negative impacts of the same type;

(iii) **Revising its operational policies** and manuals to seek to prevent a recurrence of the actions or failures to act leading to the violation; and

(iv) Such other actions as may be necessary to avoid similar negative impacts in the future ...

Clause continues

5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 3: PROJECT OPERATING STANDARDS- PRACTICE EXAMPLE 2

#### Reports

The initial human rights impact study and the annual updated report shall be made available to the central government office, to a central location in each mine affected province, at the principle Company office in the Mine Area, and at any additional agreed upon location. The study shall be made available in the local language of the area where it is deposited....





### Principle 3: PROJECT OPERATING STANDARDS – PRACTICE EXAMPLE 2

#### Positive points:

1. Here the State accepts the obligation to fulfill the contract, while acting in accord with its international human rights law obligations. The company, likewise, accepts contractually that it has a responsibility to respect and the clause delineates more specifics around what that means in the current project.
2. Does not replace domestic law but augments it in addition to requiring compliance with domestic laws.
3. This clause also indicates that the Company shall deposit reports to be made available in local languages with its impact assessments and management plans on human rights impacts to demonstrate its compliance with this article.

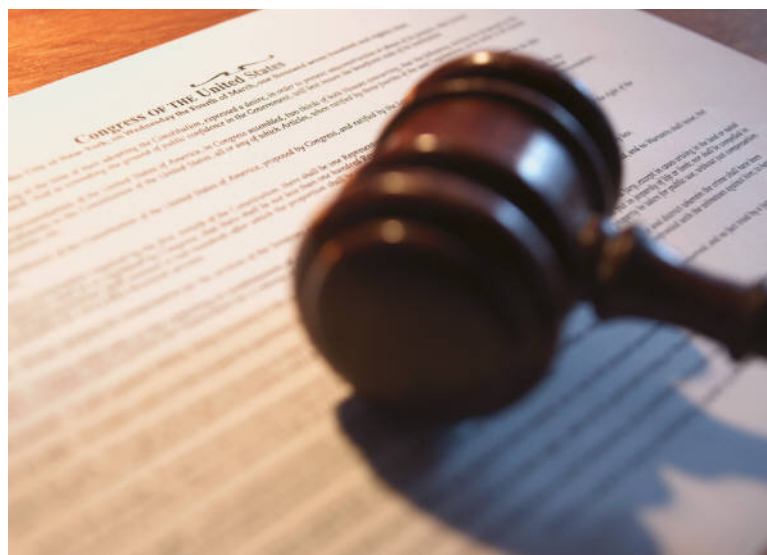
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## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES**

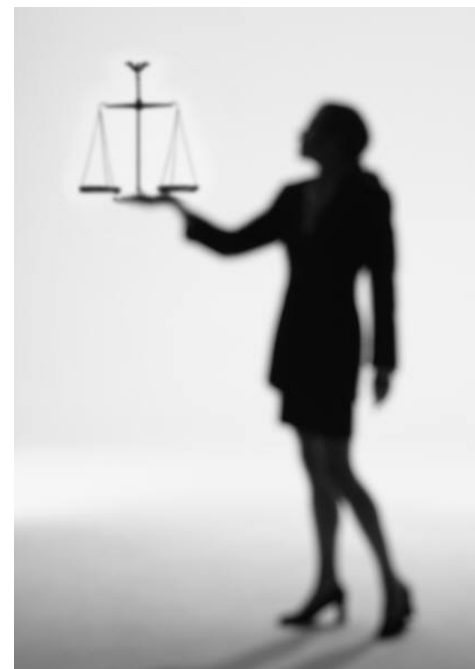
Contractual stabilization clauses, if used, should be carefully drafted so that any protections for investors against future changes in law do not interfere with the State's *bona fide* efforts to implement laws, regulations or policies, in a non-discriminatory manner, in order to meet its human rights obligations.



Principle 4: **STABILIZATION CLAUSES**

The basics of stabilization and human rights:

1. Sometimes used to protect investors from changes in law

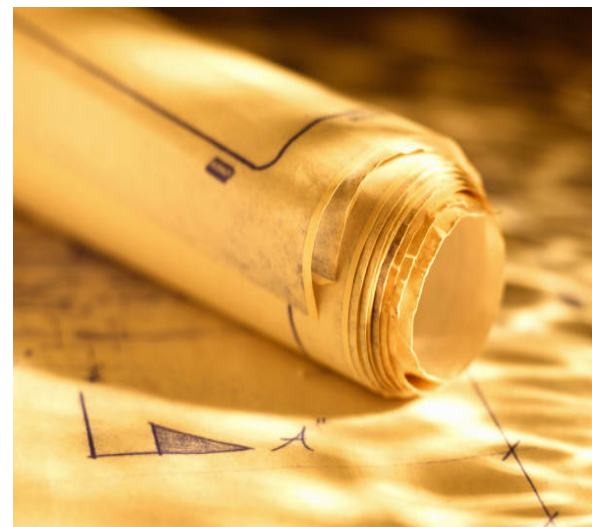




## Principle 4: STABILIZATION CLAUSES

The basics of stabilization and human rights:

2. Business investors view project financing predictability and consistency as a primary concern, as most large investments are long-term and of an irreversible nature.

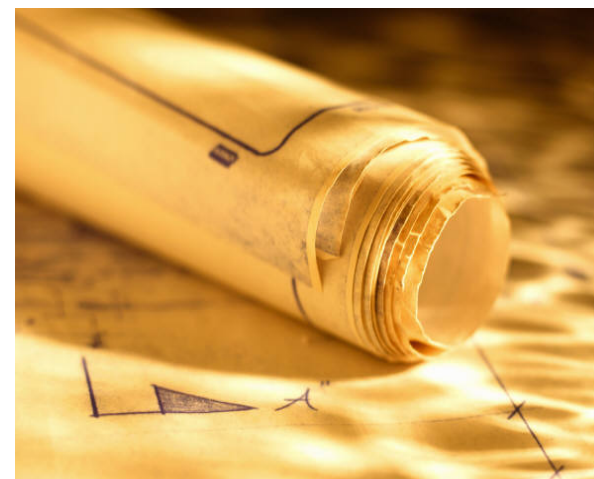




## Principle 4: STABILIZATION CLAUSES

The basics of stabilization and human rights:

3. Lenders to investment projects view stabilization clauses as a way to ensure certain benefits to the project, such as a guarantee that the State will not enact laws that make loan repayments more difficult.



## 5

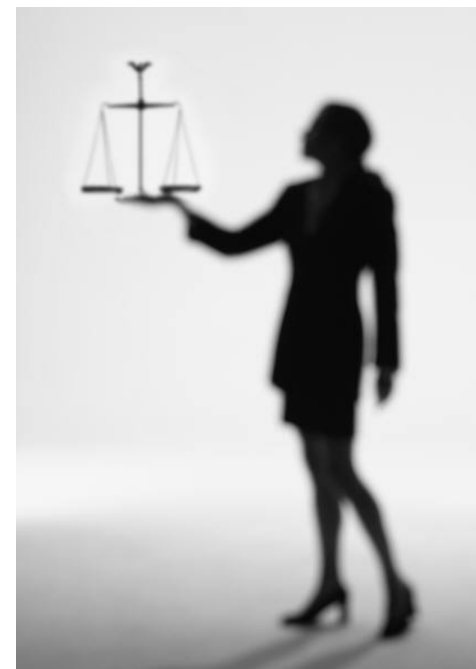
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES**

The basics of stabilization and human rights:

4. Sometimes used to offer exemptions from law



## 5

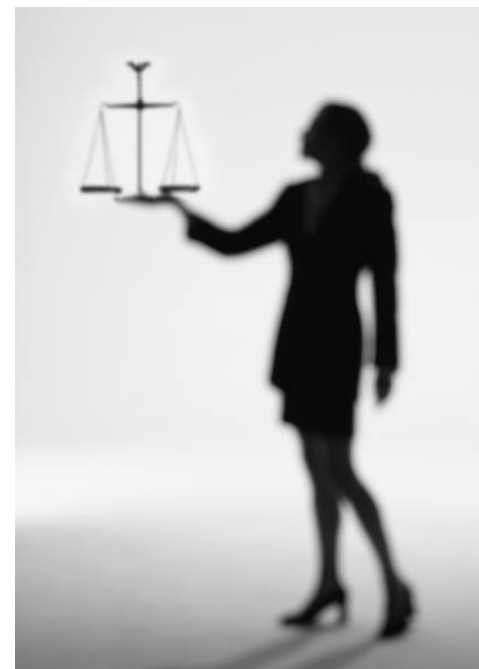
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES**

The basics of stabilization and human rights:

5. Sometimes give investors rights to full compensation for complying with new laws.



## 5

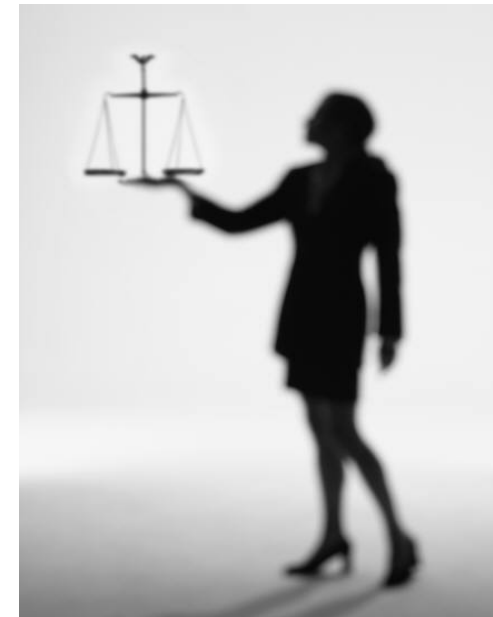
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES**

The basics of stabilization and human rights:

6. States must fulfill their human rights obligations to protect human rights through their policies, legislation, regulation or adjudication.







## Study Findings: Contracts fall into 2 categories

### Non-OECD:

Majority of contracts restricted the ability of the State to apply new social or environmental legislation to the investment project or required compensation to investor.

### OECD:

No exemptions from social or environmental laws and limited offers to mitigate impacts on investors.



## Principle 4: STABILIZATION CLAUSES

### Key Implications:

1. It is legitimate for business investors to seek protections against arbitrary or discriminatory changes in law. However, stabilization clauses that “freeze” laws or that create exemptions from future laws are unlikely to be in line with these Principles.





## Principle 4: STABILIZATION CLAUSES

### Key Implications:

2. Stabilization clauses, if used, should not penalize the State for laws that (a) are implemented on a non-discriminatory basis; and (b) reflect international standards, benchmarks or recognized good practices in areas such as health, safety, labor, the environment, technical specifications or other areas that concern human rights impacts of the project.





## Principle 4: STABILIZATION CLAUSES

### Key Implications:

3. Mechanisms to manage the material and economic impacts on the investor of non-discriminatory changes in law should be carefully designed to mitigate the specific risks to which the investor is exposed



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 4: **STABILIZATION CLAUSES**

The resulting contract from the negotiation should reflect these points.



## 5

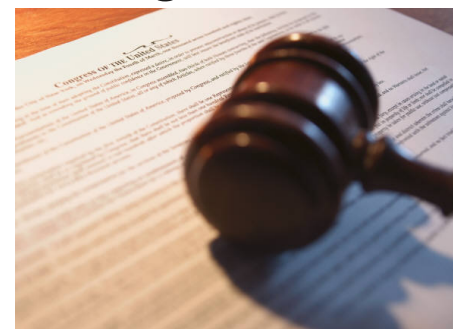
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES – PRACTICE EXAMPLE 1**

(NOT IN LINE WITH PRINCIPLES)

**The Government undertakes that new legislation, regulations or determinations of the Government (including new taxes that may be adopted) shall not be applicable to the [investment] Project.** The provisions of this clause will be extended to [company's] Investors, Financiers, Employees, Contractors and Sub-Contractors in relation to their activities pertaining to the Project.





## Principle 4: STABILIZATION CLAUSES – PRACTICE EXAMPLE 1

Problematic points:

1. Can be interpreted to apply to all policy, even those meant to protect human rights.
2. Provides exemptions, making new laws inapplicable to investment.
3. Not time limited, or otherwise tailored, to specific risks of investor.

## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES – PRACTICE EXAMPLE 2**

Better practice example

“...[Investor will] not assert or advance, in any claim...against an interpretation of any Project Agreement [that] confirm[s] that the HSE [health, safety and environmental] and human rights standards for **the Project are dynamic, will evolve when and as standards under domestic law in the relevant State, EU Standards, and applicable international treaty standards evolve, and thus require conduct of the Project’s human rights and HSE activities in accordance with such evolving domestic law from time to time** provided it is no more stringent than the highest of EU Standards, those World Bank Group standards referred to in the Project Agreements, and standards under applicable international labor and human rights treaties...”



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 4: **STABILIZATION CLAUSES – PRACTICE EXAMPLE 2**

## Positive Points:

1. Explicitly states that standards on health, safety, environmental protection and human rights are dynamic and will apply as they change over time.
2. Investor promises to not make claims that more stringent requirements in the areas of health, safety, environment and human rights do not apply to its project.
3. Investor uses international standards to protect itself against arbitrary treatment.

## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 5: "ADDITIONAL GOODS OR SERVICE PROVISION"

Where the contract envisages that investors will provide additional services beyond the scope of the project, this should be carried out in a manner compatible with the State's human rights obligations and the investor's human rights responsibilities.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 5: "ADDITIONAL GOODS OR SERVICE PROVISION"

## Key Implications:

1. The provision of additional goods or services risks a blurring of roles, responsibilities and accountability for their quality and sustainability between the parties.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 5: "ADDITIONAL GOODS OR SERVICE PROVISION"

## Key Implications:

2. States maintain their human rights obligations when they contract with investors for the delivery of additional goods or services. Investors' responsibility to respect human rights applies to this additional provision of goods or services.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 5: "ADDITIONAL GOODS OR SERVICE PROVISION"

## Key Implications:

3. Expectations regarding such goods and services and their sustainability throughout the project's life-cycle need to be aligned among all relevant parties. Efforts to align expectations may be necessary.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



## Principle 5: "ADDITIONAL GOODS OR SERVICE PROVISION"

## Key Implications:

4. Assessments of human rights risks and the design of prevention and mitigation measures for the project should include any risks flowing from the business investor's provision of additional goods and services.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



Principle 5: **"ADDITIONAL GOODS OR SERVICE PROVISION"**

The resulting contract from the negotiation should reflect these points.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 6: **PHYSICAL SECURITY OF THE PROJECT**

Physical security for the project's facilities, installations or personnel should be provided in a manner consistent with human rights principles and standards.







## Principle 6: **PHYSICAL SECURITY OF THE PROJECT**

### Key Implications:

1. The provision of physical security for investment projects, irrespective of private or State provision of security services, requires clarity of roles, responsibilities and accountability, and should in all cases be carried out in compliance with internationally recognized principles on human rights and humanitarian law.





## Principle 6: **PHYSICAL SECURITY OF THE PROJECT**

### Key Implications:

2. Where security is needed, parties should create clearly written protocols to manage security provisions, aimed at avoiding and mitigating any related human rights risks and remediating any abuses that occur, including through a credible grievance mechanism in addition to existing judicial remedies





## Principle 6: **PHYSICAL SECURITY OF THE PROJECT – PRACTICE EXAMPLE 1**

**Security.** Government, acting through the Ministry of Justice and by the lawful authority granted the Ministry of Justice to act for and on behalf of Government, hereby authorizes Investor directly or under contract with other Persons of its choosing, to establish, manage and maintain its own asset and employee security protection services (a “Plant Protection Department”) **in accordance with a written plan approved by the Minister of Justice (the “Security Plan”)** for the purpose of maintaining law, order and security in the Production Area and in other areas where Investor has or maintains property and assets and to do so always being subject to Law (including all Laws relating to apprehension and detention and human rights). **The Parties also agree to subscribe to and adhere to the principles contained in the Voluntary Principles on Security and Human Rights (as of May 2008 located at: <http://www.voluntaryprinciples.org>).**



Principle 6: **PHYSICAL SECURITY OF THE PROJECT –  
PRACTICE EXAMPLE 1**

Positive points:

1. Requires a “security plan” so that State can ensure planning for private security is in line with all law, including those related to human rights and apprehension and detention. State recognises its duty to protect even if not providing security directly.
2. Requires the parties subscribe to and adhere to a well-respected international standard on security and human rights.



Principle 6: **PHYSICAL SECURITY OF THE PROJECT –  
PRACTICE EXAMPLE 2**

The **Government** shall fulfill its obligations under this agreement while **acting in accordance with its international human rights obligations** as they develop from time to time. ...

**Company Undertaking:** In order to meet the obligations set out in this Article, the Company shall ...

(c) In all dealings between the security personnel of the Company, or the Company's Contractors or Subcontractors, and police, military or other security forces of the State, **assure compliance with the norms of the Voluntary Principles on Security and Human Rights.**



Principle 6: **PHYSICAL SECURITY OF THE PROJECT –  
PRACTICE EXAMPLE 2**

Positive points:

1. Requires the parties subscribe to and adhere to a well-respected international standard on security and human rights.
2. Although more vaguely, and not connected specifically with security, this clause does refer to the State duty to fulfill its human rights obligations



Principle 6: **PHYSICAL SECURITY OF THE PROJECT –  
PRACTICE EXAMPLE 1**

While the Voluntary Principles is an extractive industry initiative, the guidance and requirements of the Principles can easily be applied to projects in other industry sectors.

Here are a couple of useful links for the Voluntary Principles and their implementation:

1. <http://www.voluntaryprinciples.org>
2. [http://www.voluntaryprinciples.org/files/Implementation\\_Guidance\\_Tools.pdf](http://www.voluntaryprinciples.org/files/Implementation_Guidance_Tools.pdf)

## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 7: **COMMUNITY ENGAGEMENT**

The project should have an effective community engagement plan through its life-cycle, starting at the earliest stages of the project.







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## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 7: **COMMUNITY ENGAGEMENT**

## Key Implications:

1. Both the State and business investor should view community engagement as fundamental aspects of creating common expectations for the project, and mitigating risks for themselves, for the project and for individuals and communities impacted by the project



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 7: **COMMUNITY ENGAGEMENT**

#### Key Implications:

2. The community engagement plan should be inclusive with clear lines of responsibility and accountability. It should be initiated as soon as practicable



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 7: **COMMUNITY ENGAGEMENT**

#### Key Implications:

3. Consultation with impacted communities and individuals should take place before the finalization of the contract



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 7: **COMMUNITY ENGAGEMENT**

#### Key Implications:

4. Disclosure of information about the project and its impacts is an integral part of meaningful community engagement





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## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 7: **COMMUNITY ENGAGEMENT**

#### Key Implications:

5. The history of any previous engagement efforts carried out by either of the parties with the local community regarding the investment project needs to be known by both parties in order to take this into account in planning



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 7: **COMMUNITY ENGAGEMENT**

## Key Implications:

6. Community engagement plans should be aligned at a minimum to the requirements of domestic and international standards. For example, where indigenous peoples are involved, free, prior informed consent may be required







## Principle 7: COMMUNITY ENGAGEMENT – PRACTICE EXAMPLE –

(It can be helpful to integrate commitments to community engagement into the contract itself)

[COMPANY] shall ... lay out the formal bases and framework for its relationship with the local and national community of [COMPANY]'s operating philosophy and policies with respect to the social, economic, health and environmental aspects;

- (ii) **establish the ways and manner in which [COMPANY] will work with and take the concerns of the local and national communities into account** (e.g., [COMPANY]'s operating procedures, industrial, community, and external relations practices, communication and consultation mechanisms, stakeholders participation models, long-term sustainable and development strategy);
- (iii) **formalize a function to promote and coordinate [COMPANY]'s activities with community stakeholders, and serve as an internal monitor, ombudsman and facilitator of cross-company performance with respect to sustainability objectives;**...



## Principle 7: COMMUNITY ENGAGEMENT – PRACTICE EXAMPLE –

Positive Points:

1. **Clear lines of responsibility** lead to company for creating and carrying out the engagement process
2. Clause indicates (see point iii above) that the Parties **view engagement as mitigating risks** to themselves, the project and individuals and communities potentially impacted by the project

Comments on Clause:

1. In the practice clause shown above, **no standards for engagement are referenced, nor is it clear how it will be assured to be an inclusive process.**
2. No timing for beginning engagement is required.

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## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 8: **PROJECT MONITORING AND COMPLIANCE**

The State should be able to monitor the project's compliance with relevant standards to protect human rights, while providing necessary assurances for business investors against arbitrary interference in the project





## Principle 8: PROJECT MONITORING AND COMPLIANCE

### Key Implications:

1. The standards relevant to preventing, mitigating and remedying any adverse human rights impacts of the project need to be agreed in order for monitoring and compliance efforts to be effective (see Principle 3)



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 8: **PROJECT MONITORING AND COMPLIANCE**

Key Implications:

2. State should monitor compliance with project standards as part of its Duty to Protect.



## Principle 8: PROJECT MONITORING AND COMPLIANCE

### Key Implications:

3. Where State capacity for monitoring compliance of the project with such standards is lacking, alternative agreed methods of monitoring and compliance should be substituted (see practice example 2)





## Principle 8: **PROJECT MONITORING AND COMPLIANCE**

### Key Implications:

4. The contract should reflect the State's right to monitor compliance with all relevant standards, while integrating guarantees for business investors against arbitrary interference in the project.



## Principle 8: PROJECT MONITORING AND COMPLIANCE – PRACTICE EXAMPLE 1

-Contract reflects State's duty to protect human rights and its right to monitor compliance, while guaranteeing investors against arbitrary interference

The Ministry and other agencies of the Government having jurisdictions (such as the EPA and any governmental entity at the time responsible for employee safety and welfare) shall have the right to monitor Operations (including inspecting relevant documents) from time to time and may, following receipt by the Company of at least three Business Days' prior written notice, visit and inspect any of the facilities and Operations of the Company in [country], **provided that no prior written notice is required where the inspection relates to a concern regarding employee health and safety or a negative environmental impact.** As a condition to permitting such inspection, the Company may require (i) receipt of a copy of written instructions to conduct such inspection from an official senior to the official purporting to conduct the inspection, manually and legibly signed on the letterhead of the relevant ministry or Government agency, and (ii) viewing and copying the identification of the persons claiming the right to conduct such inspection.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



Principle 8: **PROJECT MONITORING AND COMPLIANCE – PRACTICE EXAMPLE 2**



- Use of community and stakeholders to help monitor to make up State capacity gap
- Planning for closure management and monitoring budget at initial stages

The Environmental Management Plan must include a closure management plan and a closure management budget designed to ensure that upon closure (i) the Mining Plant and Infrastructure shall not present any significant health or safety issues (including provision for the control of acid drainage and other long-term environmental hazards) and (ii) each Proposed Production Area and the surroundings of any Mining Plant or Infrastructure not located in such Proposed Production Area shall be reforested or suitably remediated. The closure management plan must include a list and assessment of risk and any uncertainties associated with the preferred closure option, consider the social aspects of closure and rehabilitation, **and provide a process for participation by the community and other stakeholders in closure management and monitoring. The closure management budget shall provide a realistic initial estimate of the expected closure cost, broken down by principal activities.**

5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 9: GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES

Individuals and communities that are impacted by project activities, but not party to the contract, should have access to an effective non-judicial grievance mechanism





Principle 9: **GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES**

Key Implications:

1. The contract should ensure that individuals and communities who are impacted negatively by the project have access to an effective operational-level grievance mechanism enabling grievances to be lodge and addressed at an early stage.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 9: GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES

#### Key Implications:

2. Operational-level grievance mechanisms should not prejudice or restrict access to State-based or other non-State based complaint mechanisms, including judicial mechanisms, or mechanisms provided by project lenders, regional tribunals or other.

5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 9: GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES

Additional notes:

1. The parties should view such mechanisms as integral to their risk management for the project.

5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 9: GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES

Additional notes:

1. The parties should view such mechanisms as integral to their risk management for the project.
2. The mechanism should be budgeted for and planned for to the extent practicable at the time of negotiation.



Principle 9: **GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARM TO THIRD PARTIES**

Additional notes:

1. The parties should view such mechanisms as integral to their risk management for the project.
2. The mechanism should be budgeted for and planned for to the extent practicable at the time of negotiation.
3. UN Guiding Principle 31 sets out the criteria for effective mechanisms: legitimacy, accessibility, predictability, equitability, transparency, rights compatible, a source of continuous learning, and when at operational level, based on engagement and dialogue.



## Principle 9: GRIEVANCE MECHANISMS FOR NON-CONTRACTUAL HARMS TO THIRD PARTIES – PRACTICE EXAMPLE 1

-Contractual requirement for investor-funded grievance mechanism

(a) The Company shall, at its own expense, promptly respond to communities' concerns related to the Mining Project as outlined in paragraph 23 of IFC Performance Standard 1.

(b) Where not established under a community development agreement, **the Company will establish a grievance mechanism to receive and facilitate resolution of the affected communities' concerns and grievances about the Company's environmental and social performance.** The grievance mechanism should be proportionate to the risks and adverse impacts of the Project. The grievance mechanism should be established in Consultation with the communities who are anticipated to use it, through an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, at no cost to the affected communities and without retribution. **The mechanism should not impede access to judicial or administrative remedies.** The Company shall inform the affected communities about the mechanism in the course of its community engagement process.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 10: **TRANSPARENCY/DISCLOSURE OF CONTRACT TERMS**

The contract's terms should be disclosed, and the scope and duration of exceptions to such disclosure should be based on compelling justifications





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## 5

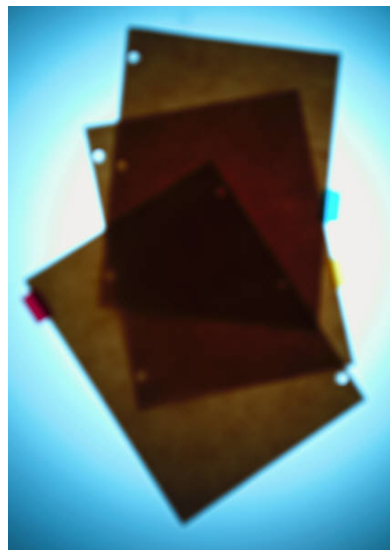
## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 10: **TRANSPARENCY/DISCLOSURE OF CONTRACT TERMS**

## Key Points:

1. Once finalized, contract terms, with exceptions for compelling justifications, should be disclosed in an accessible manner.



5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



### Principle 10: **TRANSPARENCY/DISCLOSURE OF CONTRACT TERMS**

#### Key Points:

2. The State should facilitate disclosure of contract terms by standardizing disclosure rules for all business investors and all contracts.



## 5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10

Principle 10: **TRANSPARENCY/DISCLOSURE OF CONTRACT TERMS**

## Key Points:

3. The contract should be published in an accessible manner, considering barriers to access such as linguistic, technological, financial, administrative, legal or other practical constraints.

5

## THE SUBSTANCE OF THE PRINCIPLES

Principle: 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10



Principle 10: **TRANSPARENCY/DISCLOSURE OF CONTRACT TERMS**  
– PRACTICE EXAMPLE : [www.leiti.org.lr](http://www.leiti.org.lr)

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1. UN Office of the High Commissioner for Human Rights website on Business and Human Rights: [www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/BusinessIndex.aspx)
2. Website for the UN Working Group on Business and Human Rights: [www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx](http://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporationsandotherbusiness.aspx)
3. Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned at: [www.ohchr.org/Documents/Issues/Business/A-HRC-17-31-Add1.pdf](http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31-Add1.pdf)

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**Principles for responsible contracts**

Integrating the management of human rights risks into State-investor contract negotiations:  
Guidance for negotiators

