Mitigating Risks and Realizing Opportunities: Environmental and Social Standards for Foreign Direct Investment in High-Value Natural Resources

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Summary

In the wake of conflict, there is a risk that resource extraction will have destabilizing impacts by damaging the environment, preventing local people from accessing the resources that they depend on, or fostering tension about the distribution of jobs and other project benefits. Responsible resource extraction requires companies to minimize such risks, and thereby render their activities more likely to contribute to post-conflict stability and economic development. This chapter examines three voluntary standards that can help ensure that companies investing in extractive industry projects in such settings take seriously the risk of social and environmental damage, and position themselves to support post-conflict peacebuilding by providing economic (and sometimes social) development opportunities.

This chapter addresses a significant aspect of resource extraction in post-conflict settings: the way in which extractive companies operate resource concessions. In the wake of conflict, there is a risk that resource extraction will have destabilizing impacts—by, for example, damaging the environment, preventing local people from accessing the resources that they depend on, or fostering tension about the distribution of jobs and other project benefits. Responsible resource extraction requires companies to minimize such risks, and thereby render their activities more likely to contribute to post-conflict stability and economic development.

The main focus of the chapter is on three sets of voluntary standards that have been developed, since the early 2000s, to improve the environmental and social performance of major investment projects:

- The International Finance Corporation's Performance Standards on Social and Environmental Sustainability (IFC-PS), which extended and provided a private-sector focus to the World Bank safeguard policies that had been introduced in the late 1990s (IFC 2006).[1]
- The Equator Principles (EPs), which were developed by commercial banks in concert with the IFC and largely followed previously established IFC standards (Equator Principles 2006).[2]
- The Voluntary Principles on Security and Human Rights (VPSHR, or VPs), which were developed by the United States and the United Kingdom (U.K.), in collaboration with some large oil and mining companies and international nongovernmental organizations (NGOs) (VPSHR n.d.).

These three sets of standards are interlinked and cross-referenced: the IFC-PS refers to the VPs; and the EPs incorporate the IFC-PS. In that they are applied to investment projects in addition to host-country legal requirements, the standards are voluntary. But some companies make formal commitments to apply the standards, and adherence is often a condition of project financing from banks.

The chapter explores what these standards mean for extractive industry projects in general, and for projects in post-conflict settings in particular.[3] Although the standards

1. The IFC is the private-sector lending and investment arm of the World Bank Group. As of March 2010, the IFC-PS was under revision, following consultations conducted in 2009. For a description of the World Bank safeguard policies, see World Bank (n.d.b.).
2. Any bank involved in project financing can become an EP signatory. *See* Equator Principles (2006).
3. Because this chapter is focused on the environmental and social management of natural resource operations, it does not consider other important

were not developed specifically for projects in post-conflict countries, they can help ensure that companies investing in extractive industry projects in such settings take seriously the risk of social and environmental damage, and position themselves to support post-conflict peacebuilding by providing economic (and sometimes social) development opportunities.[4]

On the one hand, the standards are a useful tool for helping to make foreign direct investment in the natural resource sector a stronger contributor to post-conflict peacebuilding: they provide a framework that enables firms to be more aware of the complexities of post-conflict environments and to behave more responsibly than might otherwise be the case. On the other hand, because of their voluntary nature and the absence of requirements for systematic follow-up on implementation, the standards have not been as effective as they might otherwise have been. In order to have greater impact, the standards should be revised to require companies to publish regular and detailed progress reports. Further, environmental regulations in most developing countries, especially those emerging from conflict, need to be revised and updated to incorporate the social, labor, health, and security requirements included in the voluntary standards.

The chapter is divided into five major sections: (1) background information on foreign direct investment in post-conflict settings; (2) a description of project financing methods and the role of environmental and social standards in project financing; (3) a description of the origins and requirements of the key voluntary standards; (4) a discussion of the application of the standards in post-conflict settings; and (5) a concluding discussion of the standards as peacebuilding tools.

I. Background: Natural Resource Projects in Post-Conflict Environments

In post-conflict countries with high-value natural resources, the first foreign direct investments are often in the resource extraction sector. There are four principal reasons for this pattern:

- Oil, gas, minerals, and metals firms have to locate where the resources are, whereas investors who are more free to choose their location are likely to delay investment until conditions are stable.
- Natural resource investments are usually governed by direct agreement between investors and the government, which are enforceable through the laws of third-country legal systems, often those of the United States, the U.K., or the Netherlands.[5] Such arrangements enable investors to circumvent the weaknesses of legal institutions in post-conflict states.
- Large-scale natural resource projects can be operated as enclaves, insulated from the deficiencies of post-conflict infrastructure; they often have their own power generation, water treatment, housing compounds, and even airstrips.
- A skilled workforce can be brought in from outside, especially when oil fields and pipelines are being constructed; the local workforce can then be trained, over time, to undertake most of the operational work.

However, most developing countries lack the knowledge, the laws, and the institutions to ensure that resource extraction projects are carried out responsibly, in ways that protect people and the environment. Since the mid-1990s, resource companies, the banks that finance resource projects, donor nations and agencies, and NGOs have become increasingly aware that in the absence of effective social and environmental protection measures, the viability of resource extraction operations is at risk. The leading example of such risks is in the Niger Delta, where about one-quarter of potential oil production is lost to theft, violence, or sabotage.[6] There are many less dramatic cases in which

initiatives, such as the Extractive Industries Transparency Initiative and the Kimberley Process Certification Scheme, which address revenue management and product trading, respectively. Both are important aspects of natural resource exploitation and are addressed in a number of chapters in this volume: Eddie Rich & T. Negbalee Warner, "Addressing the Roots of Liberia's Conflict Through the Extractive Industries Transparency Initiative"; Harrison Mitchell, "A More Formal Engagement: A Constructive Critique of Certification as a Means of Preventing Conflict and Building Peace"; J. Andrew Grant, "The Kimberley Process at Ten: Reflections on a Decade of Efforts to End the Trade in Conflict Diamonds"; Clive Wright, "The Kimberley Process Certification Scheme: A Model Negotiation?"; and Duncan Brack, "Excluding Illegal Timber and Improving Forest Governance: The European Union's Forest Law Enforcement, Governance, and Trade Initiative."

4. The Natural Resource Charter Initiative, which is designed to help governments and societies effectively harness the opportunities created by natural resources, recognizes the importance of environmental and social standards in natural resource management; such standards are reflected in one of the 12 precepts developed by the Natural Resource Charter to inform and improve natural resource management (Natural Resource Charter n.d.).

5. For example, the production-sharing agreement between the State Oil Company of Azerbaijan (SOCAR) and a consortium of oil companies, which provides the legal basis for oil production from the Azeri Chirag Guneshli field, includes the following provision regarding disputes:

> in the event a dispute arising between SOCAR and any or all of the Contractor Parties . . . , the disputing Parties shall meet in an attempt to resolve the dispute to their mutual satisfaction by reference to the terms of this Contract applying the principles of contractual interpretation under Azerbaijan law; if mutual satisfaction is not so achieved the disputing Parties will apply the principles of contractual interpretation under English law. If satisfactory mutual agreement is not achieved within thirty (30) days after receipt by a Party of notice of such dispute, such dispute shall be settled in accordance with the arbitration provisions of Appendix VI and the applicable law provisions of Article 23.1.

(SOCAR et al. 1994, 61). Arbitration is through application of the Arbitration Rules of the United Nations Commission on International Trade Law (SOCAR et al. 1994).

6. According to the U.S. Energy Information Administration (EIA):

> the instability in the Niger Delta has caused significant amounts of shut-in production and several companies declaring *force majeure* on oil shipments. EIA estimates Nigeria's nameplate oil production capacity to be around 2.7 million barrels per day (bbl/d), but as a result of attacks on oil infrastructure 2008 monthly oil production ranged between 1.8 million bbl/d and 2.1 million bbl/d.

(EIA n.d.).

companies have faced opposition or found it slower, more costly, or more controversial to operate than expected.[7]

Investments in resource sectors have the potential to help stabilize post-conflict countries by generating government revenues, creating employment, and demonstrating to other businesses that countries are safe to invest in. Host governments receive payments when they sell the rights to explore for oil or minerals, and generally receive a regular income flow when production is under way.[8] Especially in oil-rich areas, such as Angola or Southern Sudan, government revenues from oil far outstrip all other income sources, including donor assistance and non-oil taxation.

However, as is discussed elsewhere in this volume, unless carefully and transparently managed, resource revenues can also fuel corruption and conflict. Similarly, unless the potential impacts are carefully assessed in advance, resource extraction can damage the environment and undermine social stability, especially in fragile post-conflict contexts. Responsible investing minimizes harmful effects, ensures that communities are compensated fairly and transparently for any land taken or damage caused, and recognizes and addresses the possibility of unintended consequences.[9]

The laws of most developing countries require environmental impact assessments of new projects (Craik 2008), but conventional assessments—that is, those that do not apply the new standards—typically afford little consideration of the social context, such as a legacy of disputed land rights, displaced persons, or intergroup tensions. In the words of a mining ministry official in a resource-rich post-conflict country, "these impact assessments look like cut-and-paste jobs by consultants. They tell us nothing—and anyway, we do not have the technical skills to interpret them, or the people and vehicles enabling us to go and inspect and see what is happening on the ground."[10] When resource companies claim to respect local law, this often means that they undertake environmental impact assessments primarily as administrative tasks designed to secure the necessary permits, not as tools for understanding the physical and social environment into which they are entering. Ideally—and as required under the standards discussed in this chapter—impact assessment is an iterative process used to gain a detailed understanding of the full range of project impacts, both positive and negative. The assessment should influence siting and design, so as to avoid negative impacts where possible, and it should provide the basis for an investor's commitment to systematic management and monitoring of impacts.

Companies that wish to establish extractive projects in post-conflict environments must anticipate, understand, and address a number of particularly destabilizing social and environmental issues that are often associated with such settings; chief among these are land rights and ownership, migration, employment, and security. Conflict is likely to have displaced people from the land, and it is often unclear who owns the land, who has rights to it, and who should be negotiated with (and compensated) when land is lost to an oil field, a mine, or a pipeline. Land issues are particularly important in many parts of rural Africa, where formal legal title is rare and people hold land under customary tenure. Under local laws, in many cases, those who hold customary rights would not be compensated or receive replacement land if the land that they were farming and living on were appropriated for a natural resource project.

Large projects usually encourage migration. Although migration can have destabilizing effects by putting pressure on resources and facilities, in some cases, it can contribute to stability. In Sierra Leone, for example, many people would like to see new investment in mining (or in other sectors, such as biofuel), drawing young men back to their villages of origin, where they can take up employment in resource extraction projects; the fear is that if the young men remain in the cities, rootless and unemployed, they will be ideal recruits for future charismatic but destructive leaders. Circumstances like these are ideal opportunities for resource extraction firms to reserve unskilled jobs for local residents, and to define "local" to include family members who are temporarily residents elsewhere. In post-conflict environments, it is particularly important for jobs—one of the key local benefits of investment—to be distributed fairly, transparently, and without exacerbating the tensions that contributed to the original conflict (by, for example, unintentionally favoring one ethnic group or community over another).

Oil and mining projects invariably require extensive security. During construction, the projects bring in large amounts of valuable equipment and materials; once the facilities are up and running, oil wells, mines, and pipelines are valuable assets that are potentially vulnerable to theft or sabotage. Projects can draw criminals (or even rebels) to the area, putting local residents at risk—and, particularly in conflict-ridden areas in Ethiopia, the Niger Delta, and parts of Latin America, workers may also be subject to kidnapping and other attacks.

Typically, the company that is in charge of the project has its own guard force, which is backed up on a permanent or incident-response basis by government forces, police, or the military. While such arrangements may improve security for the local population—for example, by bringing in a police presence for the first time—they can also have the opposite effect: ill trained, unpaid, or hostile security forces may prey on local residents, for example. In an extreme

7. For examples from mining, see Volker Boege & Daniel M. Franks, "Reopening and Developing Mines in Post-Conflict Settings: The Challenge of Company-Community Relations," in this volume.
8. Once investment costs have been covered through oil sales, oil projects typically generate some revenue flow to governments through profit-sharing arrangements between the company and the government. Mining projects generally involve some sort of royalty payment to the government. For further discussion of revenue-sharing between companies and governments, see Achim Wennmann, "Sharing Natural Resource Wealth During War-to-Peace Transitions," in this volume.
9. An example of an unintended consequence is the sudden and overwhelming influx of people seeking jobs and opportunities amid the "gold rush" mood that may develop around new or reopened production areas.
10. Personal Communication with author.

case that occurred in 2004, in Katanga, in the Democratic Republic of the Congo (DRC), a number of security issues came together: a rebel group took over a small town; the army requisitioned transport from the mining company in the area, then put down the rebellion with extreme force, killing a number of civilians. Twelve soldiers and three expatriate employees of the mining company were charged with war crimes and complicity in war crimes in connection with the massacre; all were acquitted (*CNW* 2007).

II. Project Financing

Private-sector investment in natural resources is capital-intensive. Whereas a company may use its own resources to undertake exploration to determine whether a site offers resources worth extracting, the cost of developing oil fields, pipelines, and mines runs from the hundreds of millions of dollars to billions, depending on the scale and location of the resources, and requires outside investment. The first phase in the development of the huge Tenke Fungurume copper mine in the DRC, for example, is estimated to cost over US$2 billion (Tenke Fungurume Mining n.d.).[11] On a smaller scale, the Kinsevere Stage II mining project, also in the DRC, is expected to require a capital investment of US$400 million (Anvil Mining n.d.).

With the exception of the very largest oil and mining firms, companies that have successfully explored for oil or minerals generally need to obtain financing—that is, to secure equity investment, loans, or both—in order to have sufficient capital to progress from exploration to resource development. The project financing structure typically involves both equity investors, known as sponsors, and bank loans.[12] The loans are often obtained through multilateral or bilateral development banks,[13] but commercial banks are also significant suppliers of project financing. Frequently, natural resource projects secure financing from a mix of development and commercial banks.[14] Export credit agencies provide credit and insurance for foreign investors, including insurance against political risks, which can be necessary in post-conflict countries.[15]

Since profits are the means by which loans are repaid and investors rewarded, the identification and evaluation of any risks that might jeopardize those profits are key parts of securing project financing. Before banks agree to finance a project, they undertake extensive due diligence to assess its technical and commercial viability. Because banks have come to recognize that environmental damage or social conflict can put a project at risk—and expose the lender to criticism—the due diligence process is increasingly likely to include an assessment of environmental and social risks. Bankers are aware, for example, that oil fields in Nigeria are "shut in" (that is, not producing) because of violence and sabotage, and that disputes over land acquisition or other issues can prevent projects from being developed on time and within budget. Thus, even though the companies that are developing resource extraction projects may not consider it necessary to thoroughly investigate the environmental and social impacts of their activities, they may find that their bankers require it. Banks are now key actors in the promotion of higher environmental and social standards for natural resource investments in post-conflict countries.

III. The Key Voluntary Standards

Taken together, the IFC-PS, the EPs, and the VPs provide a set of tools with the potential to help make foreign direct investment in natural resources a stronger contributor to post-conflict peacebuilding. Table 1 summarizes the origins, applicability, objectives, and key elements of each set of standards.

A. Origins of the Standards

The voluntary standards being applied today developed from three roots. The overall approach was established by the environmental safeguard policies that the World Bank developed during the 1990s, in response to criticism that some of the bank's investments—in large dams, for example—had caused environmental and social damage that could have been avoided (Siebenhüner 2008). The second root was the World Bank's Extractive Industries Review, which was conducted from 2000 through 2004 and resulted, among other things, in commitments to more demanding environmental and social standards for oil and mining projects supported by the bank.[16] The third root was the dialogue between the U.S. and U.K. govern-

11. More information about this project can be found at www.tenke.com.
12. According to the Basel Committee on Banking Supervision:
> Project finance may take the form of financing of the construction of a new capital installation, or refinancing of an existing installation, with or without improvements. . . . In such transactions, the lender is usually paid solely or almost exclusively out of the money generated by the contracts for the facility's output, such as the electricity sold by a power plant. The borrower is usually an SPE [special purpose entity] that is not permitted to perform any function other than developing, owning, and operating the installation. The consequence is that repayment depends primarily on the project's cash flow and on the collateral value of the project's assets.

(2006, pt. 3, §§221-222).
13. The Inter-American Development Bank and the IFC are examples of multilateral development banks. Bilateral banks based in the Netherlands and in Germany, respectively, are the Nederlandse Financierings-Maatschappij Voor Ontwikkelings Landen n.v., known as FMO, and the Deutsche Investitions-und Entwicklungsgesellschaft mbH, known as DEG.
14. Although development banks make public some information on the projects they invest in, clear and comprehensive information on overall project financing is rarely available; hence, it is difficult to obtain an accurate breakdown of the relative importance of commercial and development banks in project financing.
15. Export credit agencies are multilateral, bilateral, or private bodies that provide credit and insurance for groups investing in foreign countries. Examples of export credit agencies include the Overseas Private Investment Corporation (OPIC) in the United States and the Corporación Andina de Fomento (CAS) of the Andean countries. For a listing of export credit agencies and a discussion of their functions and operations, see Harvard Business School (2010).
16. For information on the Extractive Industries Review (EIR) and links to EIR reports, see World Bank Extractive Industries Review Advisory Group (n.d.).

Table 1. Voluntary Social and Environmental Standards

Origin	*Applicability*	*Objective*	*Key elements*
International Finance Corporation's Performance Standards on Social and Environmental Sustainability			
July 2006 Created by the IFC in consultation with companies	All IFC projects	To create a comprehensive system for identifying and managing social and environmental risks	Eight specific standards, plus requirements for consultation and public disclosure of information
Equator Principles			
June 2003 Initiated by a group of 10 commercial banks	Financing for major projects carried out in non-OECD countries[a]	To apply IFC environmental and social standards to projects financed by signatory banks	A common framework and standards for assessing and managing environmental and social risk in project financing
Voluntary Principles on Security and Human Rights			
December 2000 Created by the U.S. and U.K. governments; seven oil and mining companies; eight NGOs	Oil, gas, and mining	To provide guidance to companies on maintaining the safety and security of their operations while respecting human rights and fundamental freedoms	General requirements of addressing risk assessment; use of security contractors; working with government security forces

ments, the major Western oil and mining companies, and international NGOs, which resulted in the creation of the VPs. This dialogue originated in concerns that the security provided by governments and security contractors for extractive industry operations could have unintended consequences—specifically, that people living near the projects could experience a reduction in security and the violation of their human rights. Such consequences could occur, for example, if security forces behaved in a predatory way, or if equipment that had been provided to protect a site was commandeered by criminals or militias. Thus, the principles that emerged from this dialogue specifically address the provision of security for oil, gas, and mining projects.

Between 2000 and 2006, extensive collaboration between the IFC and other banks, as well as companies and NGOs, led the IFC to develop a set of social and environmental policies for private-sector projects that: (1) expanded and clarified the World Bank policies that it had previously applied; and (2) incorporated the key elements of the VPs. These standards, which became known as the EPs, have since been adopted by 67 commercial banks. Over the past few years, a growing number of organizations—including most of the Western bilateral development banks and export credit agencies—have subscribed to these standards, either by becoming signatories to the EPs or by incorporating the IFC-PS into their organizational policies. In 2008, the Industrial Bank Co. Ltd. became the first Chinese bank to adopt the EPs; that same year, China EXIM (China's export credit bank) announced that where host countries' environmental regulations are inadequate, "We should refer to our country's standards or international practices" (China EXIM Bank 2007, art. 12).[17]

Collectively, the three sets of standards compel investors to examine carefully the economic, environmental, social, and political context of their investments, and to evaluate and respond to the risks of damage to community health, safety, and security, among other matters. But because of their heavy emphasis on risk management, the standards are a stronger tool for evaluating and avoiding negative impacts than for securing positive ones. For example, the standards provide no explicit guidance on whether, or how, investors should support social development projects.

B. Requirements of the Standards

The requirements of the IFC-PS, the EPs, and the VPs are more onerous than typical national legislation and push companies into extensive engagement with governments and communities on a range of issues—such as human rights standards associated with security provision—that are not routine aspects of project development. For example, the IFC-PS requires compensation for anyone who loses access to land because of a resource project, regardless of whether legal title is held (IFC 2006).[18] Companies are also responsible for ensuring that community members' homes and livelihoods are at least as good as whatever they may have lost because of the project. Finally, unlike most national legislation, the standards address labor issues: they have strong systems in place to protect worker health and safety, and they require evidence that projects will abide by the core labor standards of the International Labour Organization.

Typically, applying the IFC-PS, the EPs, or the VPs to a large (multimillion-dollar) natural resource project in a post-conflict country will require at least one year of work, which is spent preparing impact assessments and developing management plans. Applying the standards also means that, in addition to the engineers and accountants

17. Reportedly, the winning bid by China's MCC Corporation to develop the Ayrak copper mine in Afghanistan included the commitment to apply the EPs, though no documentation showing this has been published. *See* Wines (2009).

18. IFC-PS 5 addresses land acquisition and resettlement.

who typically form the core of a management team, the investors will have to include environmental specialists and community relations staff. Because applying the standards requires judgment—and social rather than physical-science skills—external consultation on impact assessments and management plans can be important in ensuring that plans are realistic, appropriate, and acceptable.

Some banks and businesses that apply the IFC-PS, the EPs, or the VPs use their websites to publish impact assessments and explain the steps that are being taken to mitigate risks. Before committing to a particular project, the IFC and the Multilateral Investment Guarantee Agency,[19] for example—both of which are members of the World Bank Group—disclose information about the project.[20] The disclosures include social and environmental impact assessments, social and environmental management plans, and the strategies that the company and the World Bank plan to use to manage social and environmental risks.[21] When the IFC is considering financing a project, it releases a short description of the investment and identifies any performance standards that apply to it. In most cases, the IFC provides a link to the impact assessment, which shows the findings from the analysis conducted by the project's consultants. The IFC has released detailed information, for example, on the Chad-Cameroon and the Baku-Tbilisi-Ceyhan (BTC) pipelines.[22] Because they identify the kinds of issues that may arise and suggest how they might be managed, such online repositories provide a useful resource for other businesses working in comparable environments.

C. *The International Finance Corporation Social and Environmental Performance Standards*

The IFC-PS is based on a four-step business management model: assess; define actions; monitor; and reassess.[23] First, the standards define the scope of the assessments that should be undertaken before a project starts, in order to identify the following:

- The potential impacts of the project.
- The risks the project presents to the environment and local communities.
- The risks that the physical and social environment present to the success of the project.

Second, the standards define what the company that is investing in the project must do in order to limit negative impacts and mitigate risks. For example, investors are required to communicate with stakeholders, and to consult on proposed management strategies to ensure that they are relevant to local circumstances and needs. Third, the standards require the company to set up a program to monitor and measure the effectiveness of the management system, and to provide periodic progress reports to the communities affected by the project. The standards also identify several issues that, if mismanaged, can trigger conflict, such as land acquisition, community access to natural resources, pollution, and risks to community safety. But they do not require any proactive measures to improve the local benefits of projects—through employment or philanthropic social initiatives, for example.

The accompanying sidebar lists the IFC performance standards. PS 1 is the foundation and applies to every project. The initial (scoping) stage of the impact assessment required under PS 1 determines which of the remaining standards are relevant to the project. Every private-sector natural resource project will employ labor (PS 2) and involve potentially polluting activities (PS 3); most will trigger PS 4 by having some potential impacts on communities. But some types of projects—such as offshore oil production—might not involve land acquisition (PS 5), and many others are in locations where no indigenous peoples (as defined in the standard) are living (PS 7), and where cultural heritage (PS 8) is not an issue. In the context of peacebuilding, it is important to note that PS 4, which addresses community health, safety, and security, specifically requires investors to consider the potential interactions between their investment and local conflict.

International Finance Corporation's Social and Environmental Performance Standards

PS 1	Social and environmental impact assessment and management systems*
PS 2	Labor and working conditions
PS 3	Pollution prevention and abatement
PS 4	Community health, safety, and security
PS 5	Land acquisition and involuntary resettlement
PS 6	Biodiversity conservation and sustainable natural resource management
PS 7	Indigenous peoples
PS 8	Cultural heritage

*PS 1 includes requirements for consultation with affected communities and disclosure of information to stakeholders that also apply to all the other standards.

Source: IFC (2006).

19. For more information about the projects of the Multilateral Investment Guarantee Agency, see MIGA (n.d.).
20. For project disclosure documents, see IFC (n.d.a.).
21. Examples of planned projects to which the IFC-PS, the EPs, or the VPs are being applied—and for which impact assessments are in the public domain—include the Addax Bioenergy project, which is producing ethanol for export and electricity for the domestic market in Sierra Leone; the Kingamyambo Musonoi Tailings project, which is using waste from abandoned mines in the DRC to produce copper; and the Tenke Fungurume copper mine, also in the DRC. For environmental, social, and health impact assessments and management plans for the Addax Bioenergy project, see CES (n.d.). As of December 2009, environmental documentation for the Kingamyambo Musonoi Tailings project was available at www.ifc.org/disclosure; this information will not remain available beyond the official disclosure period, unless the IFC decides to invest in the project. For more information on the Tenke Fungurume copper mine, see Tenke Fungurume Mining (n.d.).
22. Online information is available for IFC natural resource (and other) projects since the 1990s, though in the case of older projects, the information is sometimes limited to statements noting where the hard copies of the documents can be found.
23. Through their incorporation of the IFC-PS, the EPs follow the same model.

D. *The Voluntary Principles on Security and Human Rights*

The VPs—which, like the IFC-PS, are based on a four-phase model—include more detailed requirements concerning security for extractive industries. Under the VPs, companies operating in conflict areas (which are not specifically defined in the principles, but are generally understood to mean areas of recent or current conflict) must consider: (1) what impacts predicted, current, or recent conflict might have on the project; and (2) what impact the project might have on conflict or post-conflict stabilization. Thus, the VPs state that

> identification of and understanding the root causes and nature of local conflicts, as well as the level of adherence to human rights and international humanitarian law standards by key actors, can be instructive for the development of strategies for managing relations between the Company, local communities, Company employees and their unions, and host governments. Risk assessments should also consider the potential for future conflicts (VPSHR n.d.).

The principles go even further, however, by setting out provisions for companies to apply when transferring equipment to private or public security forces. Companies developing oil or gas resources or operating pipelines usually need to hire security guards and provide them with equipment. At its most benign, such protection may involve horseback patrols, but it may also include armed guards. The requirements on the transfer of equipment were developed in the wake of allegations, in the 1990s, that equipment (specifically, night-vision goggles) provided by oil companies in Colombia to their security guards was being transferred to paramilitary organizations, which enabled them to launch attacks against local populations.[24] With respect to equipment transfers, the VPs state that

> where Companies provide equipment (including lethal and non-lethal equipment) to public or private security, they should consider the risk of such transfers, any relevant export licensing requirements, and the feasibility of measures to mitigate foreseeable negative consequences, including adequate controls to prevent misappropriation or diversion of equipment which may lead to human rights abuses. In making risk assessments, companies should consider any relevant past incidents involving previous equipment transfers (VPSHR n.d.).

Voluntary Principles for Security and Human Rights

Signatories to the Voluntary Principles for Security and Human Rights must do the following:

1. Undertake risk assessments for specific locations they are investing in; these assessments must evaluate
   - Security risks
   - The potential for violence
   - The human rights records of government and private security forces
   - Extent to which the rule of law prevails
   - The history and causes of any local conflict
   - Potential risks associated with transferring equipment to security forces or contractors.
2. In relations between companies and public security forces, efforts should be made to reach agreements addressing the following:
   - Security arrangements
   - Deployment and conduct consistent with United Nations norms
   - Consultation and advice.
3. Contracts with private security providers should include requirements addressing the following issues:
   - Ethical conduct and human rights
   - Appropriate conduct and the use of force (i.e., rules of engagement)
   - Technical and professional proficiency
   - Compliance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials
   - Monitoring of adherence to principles and of environmental and social impacts
   - Limitation of private security to preventive and defensive services
   - Ineligibility for employment of any individuals who have been credibly implicated in human rights abuses
   - Recording and investigation of any cases in which physical force has been used.

Source: Author's summary of VPSHR (n.d.).

The VPs are particularly innovative in requiring companies to consider: (1) whether their presence could potentially undermine the security of local communities (for example, by triggering the arrival of military detachments whose role is to protect investments, but who may behave in a predatory way toward the population); and (2) how such effects could be avoided. Under the VPs, companies are required to apply strict contractual rules to private-sector security contractors and to ensure that if the government provides security, the forces have the requisite procedures, training, and equipment to respond to threats, such as thefts, com-

24. The wider issues related to the interaction between security for oil facilities and ongoing civil conflict were set out by Human Rights Watch in a report that influenced the development of the VPSHR. Specifically, Human Rights Watch noted that:
> oil companies that deploy security forces to protect their installations and personnel bear responsibility for the actions those forces undertake. In Arauca and Casanare, the army has dedicated entire brigades . . . to protecting oil production. The companies cannot ignore the human rights violations committed by those units; indeed the companies' dependence on the army and police for their survival gives them a tremendous moral responsibility. In both departments, the army units—albeit to different degrees—have been allegedly involved in extrajudicial executions which have not been resolved.

(Human Rights Watch, Colombia 1998).

munity demonstrations, roadblocks, and labor disputes, in a competent, proportional, and appropriate way.

IV. Applying Environmental and Social Standards in Post-Conflict Settings

Application of environmental and social standards is important in post-conflict settings because there is some evidence that countries are particularly vulnerable to renewed conflict during the decade after peace.[25] Two oil projects in conflict areas, both supported by the IFC, were important developmental arenas for the approaches that became embodied in the IFC-PS. Both the Chad-Cameroon and the BTC projects involved the construction of very large pipelines that would be taking oil from landlocked production sites to export terminals in another country.[26] Developed at the end of the 1990s, these projects were by far the largest foreign direct investment projects in Azerbaijan, Cameroon, Chad, and Georgia up to that point. In cooperation with the financial institutions that were providing financing for the investors, a huge amount of information was collected, and many meetings were held in the project areas, in other parts of the host countries, and internationally.[27] The investors associated with both projects made detailed public commitments describing how they would limit social and environmental damage and provide social and environmental benefits. As part of their management plans, the investors also established elaborate systems for monitoring and dispute resolution.[28]

The assessment of potential impacts and the development of social and environmental management plans focused on issues that had not been previously recognized as requiring systematic assessment and management. Such issues included the following:

- Avoiding risks to the health and safety of local people (whether from large, temporary construction workforces—well-paid men with money to spend on bars and prostitutes—or from large numbers of heavy vehicles transporting materials into the sites).
- Ensuring worker safety throughout the chain of contractors and subcontractors.
- Ensuring that workers had proper contracts that were compliant with the core standards of the International Labour Organization.[29]

How successful have efforts been to apply new environmental and social standards? In the case of the Chad-Cameroon and BTC projects, one indisputable impact was that innovations in the scope of the impact assessments were incorporated into the new IFC-PS. And, since 2006, impact assessments and management plans for extractive industry projects to which the IFC-PS has been applied have improved in both scope and depth. One indicator of this shift is that when banks that apply the IFC-PS begin due diligence on projects that have been prepared according to the requirements of host-government legislation, one of the banks' first requirements is for supplementary impact assessments to ensure that social impacts—such as potential labor issues and effects on community health and safety—are evaluated.

The scope of the voluntary standards is sufficient to ensure that predictable risks associated with resource extraction in post-conflict environments (such as pollution, displacement, and predation by security forces) will be identified—and, if appropriate actions are taken, mitigated. Where follow-up includes external monitoring and the results are published—as is the case for the Chad-Cameroon and BTC pipelines, though not for many other projects—there is evidence that investors have made substantial efforts to implement their social and environmental commitments and to address any critical findings reported by auditors or monitors.[30]

In one of the only evaluations of project-level effects, the World Bank's Independent Evaluation Group assessed the Chad-Cameroon project and found that "[World Bank Group] involvement resulted in stronger environmental and social protections . . . than would have been the case otherwise," and that in Cameroon in particular, "the arrangements put in place for compliance with environmental specifications at the project level (especially the Environmental Management Plan) and addressing the social implications, and their monitoring through an independent entity, may be regarded as among the best in extractive industries projects in Africa" (IEG 2009, iv). The evaluation found less success in Chad, where the high environmental and social standards that had been applied to the original project were not fully replicated as the project expanded into other oil fields (IEG 2009); the evaluation was also critical of the World Bank's efforts to influence revenue management.

Adherence to the standards would be facilitated by the development of simple guidelines describing the information that investors and their consultants should gather for

25. *See* Collier (2001).
26. The Chad-Cameroon project had two innovative components: (1) conditions requiring the government of Chad to enact a revenue management law that committed the majority of oil revenues to development-related spending; and (2) detailed requirements designed to achieve environmentally and socially sustainable project development. The revenue management component was not successful: once revenues started to flow, the government modified the law and eventually paid back its loan from the World Bank, removing any obligations under that loan. The project-level environmental and social performance was judged to have been more successful. For more information on the Chad-Cameroon project, see John A. Gould & Matthew S. Winters, "Petroleum Blues: The Political Economy of Resources and Conflict in Chad," in this volume.
27. Chad-Cameroon lenders included the World Bank and the IFC.
28. For investor materials relating to the Chad-Cameroon pipeline, see World Bank (n.d.a.); for materials relating to BTC, see IFC (n.d.b.).
29. The eight core standards of the International Labour Organization address child labor, equality and discrimination, forced labor, freedom of association, and the right to collective bargaining (ILO n.d.).
30. Monitoring reports for the Chad-Cameroon and BTC projects, respectively, can be found at ExxonMobil (n.d.) and BP (n.d.). Both firms provide far more extensive and detailed monitoring information, and over a longer time period, than is generally available for natural resource projects in developing countries.

projects in post-conflict settings. The accompanying sidebar lists some questions that should be asked during the planning phase for resource projects in such settings. Gaining clarity on the issues addressed by these questions would help investors and other stakeholders avoid misunderstandings related to land tenure, ensure that project-related employment is distributed fairly and does not exacerbate existing tensions, and recognize the long-term effects of conflict and the time that is required to repair the associated social and physical damage.

Conflict-Related Questions for Inclusion in Impact Assessments

1 What happened in the project area during the recent conflict? For example,
   - Were community members displaced?
   - Was there combat?
   - Are there land mines in the area?
   - Were traditional or elected leaders replaced?

2 Were ethnic, religious, or generational divisions a factor in the conflict?

3 What steps have been taken or planned for recovery (e.g., resettlement of displaced persons, demobilization of combatants, formal reconciliation processes, war crimes trials)?

4 What infrastructure and services existed in the area before the conflict? Which of these are still operational?

V. Conclusion: Environmental and Social Standards as Peacebuilding Tools

The key strengths of the IFC-PS, the EPs, and the VPs as tools for peacebuilding is that they raise the quality of the projects to which they are applied, and can therefore set benchmarks for other businesses in the host country. The time that is required in order to plan projects to meet these standards, the amount of information that is disclosed, and the extent of the consultations that are held also contribute to greater understanding among host-country officials, communities, NGOs, and consultants about the potential impacts of projects and about international standards for impact mitigation. This knowledge may then feed into the revision and updating of environmental laws—as is currently underway in Angola, for example, under a joint project between the African Development Bank and the government of Angola (African Development Bank Group n.d.). Thus, by building capacity in host countries, the standards help lay the foundations for effective long-term regulatory regimes.

Written standards also provide a basis for correcting problems. In the case of the DRC mining project in which vehicles requisitioned from a company were used to transport troops, the company and its lenders subsequently undertook extensive analysis of the problem and developed a new security management system designed to prevent any similar events. The company has since shared its handbook and training techniques with other mining companies in Katanga and internationally (Multilateral Investment Guarantee Agency, Japan Environmental and Social Challenges Fund, and Anvil Mining 2008). As of yet, however, there has been little rigorous assessment of effectiveness in avoiding risks at the project level.

With respect to peacebuilding, the IFC-PS, the EPs, and the VPs have several weaknesses, however:

- Because they are voluntary, the standards are inherently limited. Businesses can choose whether to apply the standards, and are bound to do so only if they seek financing from lenders that are committed to their implementation.
- The standards are not easy to apply, and require effective consultation, expertise, and resources. The author's experience as a consultant (both implementing the standards and assessing the quality of the implementation on behalf of banks and insurers) suggests that although expertise is being developed, implementation is still of variable quality.
- The standards require only limited evaluation of previous conflict and its implications. Thus, it is unclear to what extent they are capable of directly addressing key post-conflict issues, such as the reintegration of former soldiers, through the large-scale development of high-value resources. Foreign direct investors and consultants are usually reluctant to consider conflict issues in other than a superficial way—owing in part to the optimism that is common among investors, and in part to a reluctance to delve into political complexities that are regarded as almost indecent for foreigners to probe.

Ultimately, the standards can be only a part of the necessary conditions for natural resource development that supports, rather than undermines, effective peacebuilding. Without effective revenue management and institutions that are capable of deploying resource wealth to support peacebuilding, the environmental and social standards applied at the project level cannot overcome the risks of the "resource curse."[31]

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