

**Comments on Performance Standard 4 - Community Health and Safety, Security Personnel**  
 Right & Accountability in Development  
 November 2005

Current Draft Text	What's Missing	Recommended Revisions to Text	Voluntary Principles on Security & Human Rights: Text References
<p>When the client uses employees or contractors to provide security to safeguard its personnel and property, it will assess risks to those within and outside the project site posed by its security arrangements.</p>	<p>The risk assessment component is narrowly focused on only those risks posed by the company's private security within and outside the project site. Consistent with several provisions in the Voluntary Principles, clients' risk assessments should also examine:</p> <ul style="list-style-type: none"> <li>○ the potential for violence in areas of the client's operations, including the root causes and nature of local conflicts;</li> <li>○ the human rights records of public security forces, paramilitaries, local and national law enforcement;</li> <li>○ the ability of the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses; and</li> <li>○ the risks of providing lethal and non-lethal equipment to private security forces.</li> </ul>	<p><i>In accordance with the US-UK Voluntary Principles on Security and Human Rights</i>, when the client uses employees or contractors to provide security to safeguard its personnel and property, it will assess risks to those within and outside the project site posed by its security arrangements. <b><i>The client's risk assessment should also examine the potential for violence in areas of company operations, including the root causes and nature of local conflicts; the human rights records of public security forces, paramilitaries, local and national law enforcement; the ability of the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses; and the risks of providing lethal and non-lethal equipment to private security forces.</i></b></p>	<p><u>Risk Assessment, Para. 2:</u> "Depending on the environment, violence can be widespread or limited to particular regions, and it can develop with little or no warning. Civil society, home and host government representatives and other sources should be consulted to identify risks presented by the potential for violence. Risk assessments should examine patterns of violence in areas of Company operations for educational, predictive, and preventative purposes".</p> <p><u>Risk Assessment, Para. 3:</u> "Risk assessments should consider the available human rights records of public security forces, paramilitaries, local and national law enforcement, as well as the reputation of private security".</p> <p><u>Risk Assessment, Para. 4:</u> "Risk assessments should consider the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses and for those responsible for violations of international humanitarian law in a manner that respects the rights of the accused".</p> <p><u>Risk Assessment, Para. 5:</u> "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".</p> <p><u>Risk Assessment, Para. 6:</u> "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".</p>

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<p>In making such arrangements, the client will be guided by the principles of proportionality and good international practices in terms of hiring, rules of conduct, training, equipping and monitoring of such personnel.</p>	<p>No comment.</p>		
<p>The client will make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses and will ensure that those engaged to provide security are adequately trained in the use of force (and where applicable, firearms) and appropriate conduct toward workers and the local community, and require them to act within the law.</p>	<p>The text “require them to act within the law” is insufficient in countries with weak governance where the rule of law does not prevail or in countries with repressive regimes or law. Indeed, we note that the draft text makes no reference on the need for security personnel to observe international standards, in sharp contrast to the Voluntary Principles.</p>	<p>The client will make reasonable inquiries to satisfy itself that those providing security are not implicated in past abuses and will ensure that those engaged to provide security are adequately trained in the use of force (and where applicable, firearms) and appropriate conduct toward workers and the local community, and require them to act within the law <b><i>and observe international human rights and humanitarian norms and professional standards.</i></b></p>	<p><u>Interactions: Companies + Private Security, Para.1:</u> “Private security should observe the policies of the contracting Company regarding ethical conduct and human rights; the law and professional standards of the country in which they operate; emerging best practices developed by industry, civil society, and governments; and promote the observance of international humanitarian law”.</p> <p><u>Interactions: Companies + Private Security, Para.3:</u> “Private security should act in a lawful manner. They should exercise restraint and caution in a manner consistent with applicable international guidelines regarding the local use of force, including the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials, as well as with emerging best practices developed by Companies, civil society, and governments”.</p> <p><u>Interactions: Companies + Private Security, Para.7:</u> “Private security should (a) not employ individuals credibly implicated in human rights abuses to provide security services; (b) use force only when strictly necessary and to an extent proportional to the threat; and (c) not violate the rights of individuals while exercising the right to exercise freedom of association and peaceful assembly, to engage in collective bargaining, or other related rights of Company employees as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work”.</p>

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<p>The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the threat. The client will also investigate any credible allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate.</p>	<p>Clients should to put in place policies and systems to ensure all incidents involving the use of force and allegations of human rights abuses are recorded, consistent with several provisions in the Voluntary Principles.</p>	<p>The client will not sanction any use of force except when used for preventive and defensive purposes in proportion to the threat. <b><i>Any incident involving the threat or use of force and all allegations of human rights abuses should be recorded.</i></b> The client will also investigate any credible allegations of unlawful or abusive acts of security personnel, take action (or urge appropriate parties to take action) to prevent recurrence, and report unlawful and abusive acts to public authorities when appropriate.</p>	<p><u>Interactions: Companies + Public Security, Para. 7:</u> “In cases where physical force is used by public security, such incidents should be reported to the appropriate authorities and to the Company. Where force is used, medical aid should be provided to injured persons, including to offenders”.</p> <p><u>Interactions: Companies + Public Security, Para. 11:</u> “Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host government authorities. Where appropriate, Companies should urge investigation and that action be taken to prevent any recurrence”.</p> <p><u>Interactions: Companies + Private Security, Para.4:</u> “Private security should have policies regarding appropriate conduct and the local use of force (e.g., rules of engagement). Practice under these policies should be capable of being monitored by Companies or, where appropriate, by independent third parties. Such monitoring should encompass detailed investigations into allegations of abusive or unlawful acts; the availability of disciplinary measures sufficient to prevent and deter; and procedures for reporting allegations to relevant local law enforcement authorities when appropriate”.</p> <p><u>Interactions: Companies + Private Security, Para.5:</u> “All allegations of human rights abuses by private security should be recorded. Credible allegations should be properly investigated. In those cases where allegations against private security providers are forwarded to the relevant law enforcement authorities, Companies should actively monitor the status of investigations and press for their proper resolution”.</p> <p><u>Interactions: Companies + Private Security, Para. 8:</u> “In cases where physical force is used, private security should properly investigate and report the incident to the Company. Private security should refer the matter to local authorities and/or take disciplinary action where appropriate. Where force is used, medical aid should be provided to injured persons, including to offenders”.</p>

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<p>A grievance procedure or mechanisms should allow the affected community to express concerns about the security arrangements and acts of security personnel.</p>	<p>Clients should put in place policies and systems to prevent intimidation and coercion.</p>	<p>A grievance procedure or mechanisms should allow the affected community to express concerns about the security arrangements and acts of security personnel <i>and be free of intimidation or coercion.</i></p>	<p><u>Interactions: Companies + Public Security, Para. 14:</u> “Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence. The security and safety of sources should be protected. Additional or more accurate information that may alter previous allegations should be made available as appropriate to concerned parties”.</p>
<p>If government security personnel are deployed to provide security services for the client, the client will assess risks arising from such use, communicate its intent that the security personnel act in accordance with these requirements, and encourage the relevant public authorities to disclose the security arrangements for the client’s facilities to the public, subject to overriding security concerns.</p>	<p>Clients should make clear to host governments the circumstances in which its transport or other facilities may be used, consistent with the companies policies regarding ethical conduct and human rights. Any breach to the protocol should be reported.</p>	<p>If government security personnel are deployed to provide security services for the client, the client will assess risks arising from such use, communicate its intent that the security personnel act in accordance with these requirements, and encourage the relevant public authorities to disclose the security arrangements for the client’s facilities to the public, subject to overriding security concerns. <i>Clients should specify in a protocol with the host government the circumstances in which its transport or other facilities may be used by military or security forces. Any breach of that protocol or requisition order must be reported.</i></p>	<p><u>Interactions: Companies + Public Security, Para. 2:</u> “Companies should communicate their policies regarding ethical conduct and human rights to public security providers, and express their desire that security be provided in a manner consistent with those policies by personnel with adequate and effective training”.</p> <p><u>Interactions: Companies + Public Security, Para. 5:</u> “...Companies that provide equipment to public security should take all appropriate and lawful measures to mitigate any foreseeable negative consequences, including human rights abuses and violations of international humanitarian law”.</p> <p><u>Interactions: Companies + Public Security, Para 13:</u> “Companies should, to the extent reasonable, monitor the use of equipment provided by the Company and to investigate properly situations in which such equipment is used in an inappropriate manner”.</p> <p><u>Interactions: Companies + Private Security, Para.6:</u> “...Companies should designate services, technology and equipment capable of offensive and defensive purposes as being for defensive use only”.</p> <p><u>Interactions: Companies + Private Security, Para. 11:</u> “Where appropriate, Companies should include the principles outlined above as contractual provisions in agreements with private security providers and ensure that private security personnel are adequately trained to respect the rights of employees and the local community. To the extent practicable, agreements between Companies and private security should require investigation of unlawful or abusive behavior and appropriate disciplinary action. Agreements should also permit termination of the relationship by Companies where there is credible evidence of unlawful or abusive behavior by private security personnel”.</p>