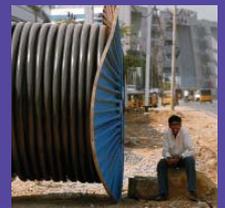
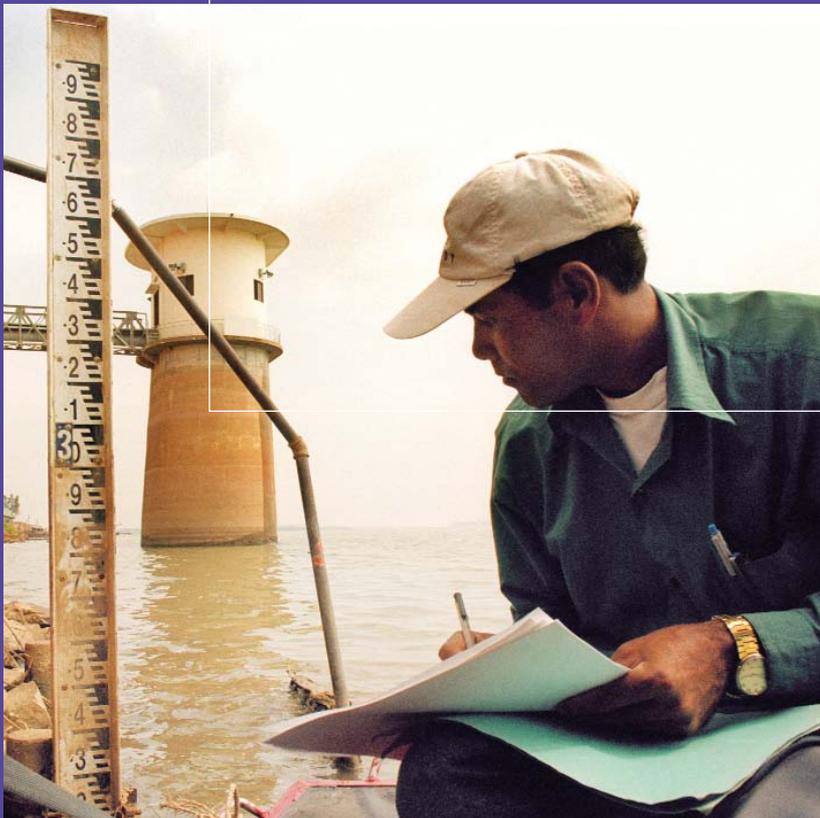


# Conflict-Sensitive Business Practice: Engineering Contractors and their Clients

September 2006



## **About International Alert**

International Alert is an independent peacebuilding organisation working in over 20 countries and territories around the world. Our dual approach involves working directly with people affected by violent conflict as well as at government, EU and UN levels to shape both policy and practice in building sustainable peace. Our regional work is based in the African Great Lakes, West Africa, the Caucasus, the Andean region of South America, Sri Lanka, Nepal and the Philippines. At both regional and international levels, our thematic work focuses on the role of business, humanitarian aid and development, gender, security and post-conflict reconstruction in the context of building peace.

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## **Engineers Against Poverty**

Engineers Against Poverty (EAP) is an NGO that was set up by leading UK engineering institutions with the support of DFID to identify ways that engineers and the engineering profession can further contribute to sustainable development and poverty reduction. One of the key elements of EAP's programme is providing practical guidance to the engineering industry on how it can enhance its social performance and contribution to poverty reduction when operating in developing countries.

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# Conflict-Sensitive Business Practice: Engineering Contractors and their Clients

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# 1. Introduction

Contractors operating in unstable states face a range of conflict risks. Oil, gas and mining projects, which frequently have significant contractor involvement, can inadvertently trigger or sustain violence, or become the focus of resentment themselves. Large-scale infrastructure developments including major roads, bridges, dams and other energy generating projects can similarly lead to upheaval and tension and be the subject of social grievance. Engineering contractors often operate in ‘post-conflict’ environments as part of wider reconstruction efforts, with contractors working for donor agencies, host governments, international non-governmental and relief organisations. While traditionally contractors have had limited agency or leadership on managing risks related to the operating environment, they are increasingly finding themselves at the fore of decision-making. Improved management systems are needed to deal with the challenges of operating in such contexts, specifically with regard to the incidence of violent conflict.

This guidance note is addressed both to engineering contractors and their clients. It examines some key issues related to conflict, contractors and conflict sensitivity, and introduces conflict-sensitive business practice (CSBP) – steps through which these issues can be understood and managed.

## 1.1 Conflict-sensitive business practice: benefits for business

Violent conflict imposes a range of significant direct and indirect costs on contractors. Direct costs most obviously relate to the increased cost of protecting staff and property. Indirect costs are those that impact the operating environment, only to rebound as costs on the project. Some examples of the costs imposed by conflict on projects are listed in Box 1.

Major contractors will play a crucial role in determining the conflict ‘footprint’ of many projects. In societies prone to violent conflict, decisions made by engineering contractors can serve to aggravate tensions and increase the likelihood of the project acting as a flashpoint for conflict. Conversely, taking a ‘conflict-sensitive’ approach to doing business can assist contractors both to avoid negative impacts and identify opportunities to promote stability in the operating environment. This is in the interest of contractors and their clients alike.

A conflict-sensitive approach to doing business – one that seeks to avoid these costs by developing informed conflict-management strategies – is therefore a strategic choice for managers.<sup>1</sup> At both a local level, through improved relationships with stakeholders, and at regional and national levels, contractors can benefit from avoiding, or handling conflict more effectively, through a deeper understanding of conflict risks and impacts. Forward-thinking contractors can market conflict-sensitivity when bidding for contracts in potentially conflict-prone regions.

### Box 1: Costs of conflict to projects

Direct costs	
Security	Higher payments to state/private security firms; staff time spent on security management
Risk management	Insurance, loss of coverage, specialist training for staff, reduced mobility and higher transport costs
Material	Destruction of property or infrastructure
Delays	Lost time through site blockades or disruption of materials and services movements

Capital	Increased cost of raising capital
Personnel	Kidnapping, killing and injury; stress; recruitment difficulties; higher wages to offset risk; cost of management time spent protecting staff
Reputation	Consumer campaigns, risk-rating, share price, competitive loss
Litigation	Expensive and damaging law suits
<b>Indirect costs</b>	
Human	Loss of life, health, intellectual and physical capacity
Social	Weakening of social capital
Economic	Damage to financial and physical infrastructure, loss of markets
Environmental	Pollution, degradation, resource depletion
Political	Weakening of institutions, rule of law, governance

## 1.2 Conflict-sensitive business practice: benefits for communities

Conflict-sensitive business practice benefits host societies by ensuring that investments avoid exacerbating violent conflict. Violent conflict clearly represents a threat to life, security, growth and prosperity for affected communities. It can undermine decades of development and destroy the social fabric of a locality, country or region. CSBP can help projects avoid causing, triggering or accelerating these destructive dynamics to the mutual benefit of themselves and communities. It can also help them contribute to peace and stability in unstable states.

Since the end of the Cold War, civil conflict has been a persistent feature of the international political landscape. From 1990 to 1992, the number of armed conflicts rose from 56 to 68. From 1990 to 1999 there were 118 armed conflicts, 100 of which were largely, primarily or exclusively internal conflicts.<sup>2</sup> Some conflicts have ostensibly ‘ended’ with peace agreements, but the incidence of intrastate violent conflict overall has continued to increase.<sup>3</sup> Indeed, half of all countries coming out of violent conflict revert to war within five years: peace agreements do not necessarily alter the factors that led to conflict in the first place.<sup>4</sup> Since 2001 the situation has become more complicated because of the security threat posed by terrorism and the international response to acts of terror, such as the US-led military campaigns in Afghanistan and Iraq and the internationalised hardening of approaches to security. Violent conflict is more common in societies with weak institutions and chronic poverty. Of the 32 countries in the low human development section of the United Nations Development Programme Human Development Index table, 22 have experienced conflict at some point since 1990 and five of these experienced human development reversals over the decade.<sup>5</sup> Furthermore, conflict gives rise to chain reactions: a slowing economy, weak rule of law, corruption and an uncertain security setting represent powerful disincentives for investment.<sup>6</sup> Conflict can take place at the macro-level, for instance violence between two warring parties contesting the political *status quo*; or at more localised levels.

Early, consistent, meaningful and empowering stakeholder engagement processes lie at the core of CSBP. Improved relationships between clients, contractors and communities help different stakeholder groups understand what the impacts of investments are likely to be. Transparency about project plans, schedules and prospects, and the creation of effective channels through which stakeholders can raise and address problems, builds trusting relationships, reduces uncertainty over the future and creates a sense of shared ownership over a project’s operations. This is of real benefit to stakeholders who have a legitimate interest in investments that impact their livelihood or landscape.

## 1.3 What is conflict?

Conflict occurs when two or more parties believe their interests are incompatible, express hostile attitudes or take actions that damage the other's ability to pursue its interests. 'Violence' is often used interchangeably with 'conflict', but violence is only one means amongst many that parties might choose to address a given conflict. Non-violent conflict is a normal part of development and human interaction. When violence erupts, however, a profound breakdown in social relationships occurs that will have destructive effects. CSBP aims to prevent violent conflict or contribute to its transformation towards peace.

Conflict is sometimes viewed by companies as a separate 'issue' that can be addressed in isolation from other 'issues' such as human rights, the environment or sustainable development. However conflict is a cross-cutting theme or context – a violent manifestation of tensions that may have arisen for a variety of reasons (e.g. human rights abuses, environmental scarcity or degradation, unjust governance, economic insecurity). Conflict sensitivity, therefore, involves consideration of the spectrum of issues that may have, or may in the future, cause and trigger violence. Box 2 lists different types of causes of conflict.

### Box 2: Causes of conflict

**Structural/root causes:** Pervasive factors that are built into the policies, structures or fabric of society and may create the preconditions for violent conflict (e.g. illegitimate government, lack of equal economic and social opportunity, lack of political participation).

**Proximate causes:** Factors that are symptomatic of the root causes of conflicts or may lead to further escalation (e.g. light-weapons proliferation, human rights abuse, objectives of political actors, role of diasporas).

**Triggers:** Single acts, events or the anticipation thereof that precipitate violent conflict or its escalation (e.g. elections, behavior of political actors, sudden collapses of currency, increased food scarcity).

## 2. Interactions between projects and conflict

Relatively few major greenfield projects are developed in areas of actual violent conflict, precisely because of the risks entailed. More commonly, violence at the local level will follow the start of operations. Major investments inevitably alter traditional systems and, even in relatively peaceful environments, can easily lead to a heightening of tensions and possibly violence. In areas of pre-existing social tension, the likelihood of such an outcome increases. The absence of violence in a project area is no guarantee of what might happen in the future.

Understanding the tensions that existed prior to the arrival of the company at local and national levels, and anticipating how the project might impact on them (and indeed on the wider socio-economic context) is fundamental to CSBP.

The experiences of ABB, Alstom and Lahmeyer in Sudan, described below, highlight these dynamics, illustrating the complex interactions between a large project, the engineering contractors involved and conflict issues at different scales.

### Box 3: the Merowe Dam in Sudan

The Merowe Dam Project in North Sudan is the largest hydropower project currently being developed in Africa. The dam is being built on the Nile and will cost US\$1.8 billion. When completed (by 2009), it will generate hydropower with an installed capacity of 1,250MW, which will double Sudan's power generation capacity. The dam will create a 174km long reservoir and cover a surface area of 476km<sup>2</sup> with a reach of 200km. It will displace 50,000 people.

The project owner is the Ministry of Irrigation and Water Resources Merowe Dam Project Implementation Unit (MDPIU) of Sudan. The main contractor is Harbin Power Engineering Co. Ltd. (HPE) of China. The project is designed by Lahmeyer International of Germany, a leading international engineering company engaged in dam construction, which has projects in 140 countries, and which conducted the environmental impact assessment for the project and is responsible for overall implementation. The power generation equipment is provided by the French company Alstom, which operates in 70 countries. Switzerland-based multinational engineering firm ABB, which operates in 100 countries, won the contract in May 2004 to deliver control, protection and communication systems for seven new substations for transmitting power from the Merowe dam.

This investment takes place in the wider context of conflict in Sudan, which has been ongoing since 1983. The conflict is a complex one, with a variety of factors influencing events. In south Sudan, until recently, the Sudanese People's Liberation Army was seeking greater autonomy and independence from the North. South Sudan has oil deposits, and companies that operate there have faced sustained international pressure to divest. As a result, Talisman Energy, a Canadian oil company, sold its interests in a large concession, which is now controlled by state-owned oil companies from China, Malaysia and India. Talisman now faces a lawsuit under the Alien Tort Claims Act in the US. In January 2005 the Sudanese Government and the Sudanese People's Liberation Movement signed the Naivasha Accord, which offers the prospect of peace in a region affected by brutal conflict for several decades. South Sudan can opt to secede in 2011, following a referendum which is to be held that year. Meanwhile, there is a major conflict in western Sudan, in the Darfur region, where armed militia known as Janjaweed have been accused of committing grave crimes against local villagers. A truce announced in Abuja in 2006 has failed, and violence on the ground continues.

In 2005 a coalition of civil society, church, student, and human rights groups launched a campaign in the US – 'Divest Sudan' – to call for divestment from Sudan, claiming that foreign investment in Sudan at the present time, given events in Darfur, is unethical.<sup>7</sup> As a result of the campaign, legislation is adopted or is pending in several US states to take various types of action against companies that do business in Sudan, and many US universities are facing pressure from student groups to similarly disengage from any investments in Sudan.

Against this backdrop the Merowe (or Hamdab) dam is controversial, and local communities and the Leadership Office of Hamdab-Affected People (LOHAP) are running a campaign against it, supported by the US-based NGO International Rivers Network and the UK-based Corner House. The campaign argues that the project planning has been untransparent, and affected communities inadequately consulted.<sup>8</sup> There is a long history of incidents (some of which have been violent) between authorities and villagers in the area, in which the authorities have been accused of committing human rights abuses. There have been further disputes between local communities regarding access to water for animals, and negotiations over relocation and compensation have not proceeded well. According to local activists, the authorities want to move the communities to a desert area, whereas the community wants to continue living near the dam. The authorities have reportedly used force to relocate villagers unwilling to move. In April 2006 property and vehicles belonging to the authorities were damaged.

There are conflicting accounts about the incident. LOHAP issued a press release saying militia armed with machine guns and heavy artillery attacked a group of affected people who had gathered at a school for a meeting in the Amri community, which has resisted displacement. LOHAP said the militia fired on the people without warning, killing three and injuring about 50 people. The authorities provided no medical or other assistance to the injured.<sup>9</sup> The Sudanese Human Rights Organisation in Cairo offers a similar account.<sup>10</sup> Of the companies, Lahmeyer International claims that villagers attacked two compensation teams and used live ammunition first, with security forces using live ammunition in response<sup>11</sup> – LOHAP has disputed this.<sup>12</sup> ABB called on the Sudanese government to open a full inquiry into the incident and make its findings public.<sup>13</sup> The China International Water and Electric Corp denied any such incident took place.<sup>14</sup> Sudanese officials claim that its authorities were trying to carry out a census but villagers turned violent, throwing stones, and security forces were responding to those attacks.<sup>15</sup>

Given the violence that has characterised the Merowe resettlement programme to date, the Governor of the Nile State approached the Committee representing the Manasir, the most numerous of the affected groups, to negotiate a resettlement agreement that would have the community's active support. The Governor's approach was accepted, and an agreement was formally signed in June 2006. Neither of the companies involved in the dam nor the financial institutions backing the project had any part in the negotiation or in bringing the parties together.

The Divest Sudan campaign's list of companies operating in Sudan with which they have concerns includes ABB – an example of the way in which international campaigns often focus on better known companies which are more likely to respond to activists and campaigning. Other groups have raised concerns with, and targeted, all three western companies but have found ABB to be the most receptive to their concerns.<sup>16</sup> Partly in response to the campaign's accusations, ABB claims that it follows and analyses the situation on the ground and carefully manages the company's activities and impacts. It has also argued that it is a supplier to foreign companies, and that it neither has operations on the ground, nor does it pay direct taxes to the Sudanese government. ABB believes the supply of power transmission equipment in northern Sudan will help to strengthen economic and social infrastructure, and support rights such as health care, education, and housing. ABB has ongoing discussions with a wide range of actors including NGOs, government officials and the UNDP about potential concerns and initiated a forum in Khartoum in May 2006 attended by representatives of the government, business, NGOs and UNDP at which it was decided to set up a business-led local network of the UN Global Compact. In order to avoid charges of complicity in human rights abuses it has developed a human rights checklist with Business Leaders Initiative on Human Rights<sup>17</sup> that is used before conducting business and it now works with an international human rights lawyer specialised in Sudan.<sup>18</sup>

The Sudan case highlights the reputational and operational challenges that can arise from investments that have little prior understanding of likely conflict impacts and dynamics at different scales. It also points to some common characteristics and variables that can shape the project/conflict interaction:

**Two-way dynamic:** Projects may cause conflict (e.g. resettlement causes conflict between host and relocated communities), or may exacerbate pre-existing conflicts/tensions (e.g. hiring policy selects staff from one ethnic group, increasing resentment from others; provision of revenue to the state is used to purchase arms). At the same time, conflict can impact a project (e.g. infrastructure may be targeted by conflict actors or project staff may be abducted), imposing a variety of costs.

**Geographical scales:** Projects can interact with conflict at all geographical scales, from the area closest to the project up to the national scale and beyond. Linkages exist between these different scales, with local-level tensions or conflict visible at national, regional or international levels, and vice versa.

**Level of complicity:** Contractors and their clients seldom willfully seek to start conflict, but their actions can directly or indirectly contribute to it. There is ongoing legal debate and an emerging body of case law over the extent to which companies can be found to have been ‘complicit’ in war crimes when operating in conflict zones, especially with regard to the principle of ‘known or should have known’, relating to egregious human rights abuses (see Box 4). The question of legal accountability in conflict-prone societies is likely to become more pressing in the future. For the purposes of CSBP, there is clearly a high responsibility and interest in preventing conflict. For the reasons outlined above, there is also an interest in acting to prevent conflict where the project may be only a minor factor. Given its escalating and dynamic nature, any manifestation of conflict in a country should be a cause for concern for the companies and contractors that operate there.

#### **Box 4: Legal risk to companies in conflict-prone states**

In conflict-prone states, the line between the state and a private investing company can become blurred. Companies often build or are expected to deliver services or infrastructure that traditionally the government meant to provide; they also often partner with state-owned companies and use state security forces.

This exposes companies operating in conflict zones to the risk of being implicated in the actions of the state. In several recent instances, companies have been accused in legal proceedings of having provided practical assistance to state security forces which have then committed human rights abuses, or violated international humanitarian law.<sup>19</sup> While many of the cases have involved project sponsors, in some cases, the executors, or sub-contractors, have also been implicated.<sup>20</sup> Some companies have provided money or resources and others have built infrastructure which the combating parties have used to commit abuses. Any relationship between a company and the state, or an armed group, cannot be considered as neutral.

Even if a company has not directly committed an illegal act, and even if it has not intended for such an act to be committed, if it can be established that the company has aided, abetted, assisted, facilitated, contributed, encouraged, or provided support to such acts, then the company’s officials run the risk of prosecution under international criminal law, and the company may be accused of being complicit in human rights abuses if such abuses follow.<sup>21</sup> And even if the state does not prosecute the company, individual litigants can, and have, sued companies for violating their rights, particularly under tort laws such as the Alien Tort Claims Act in the US.<sup>22</sup> While no company has lost a case so far, there have been 36 such cases filed against companies. These cases have adversely affected companies by generating negative publicity, imposing financial and legal costs, and making demands on management time. All of this affects the company’s operations.

While international law has not defined complicity clearly, several judicial pronouncements and normative statements have emerged and tighter definitions look likely to develop in the near future, strengthening legal proceedings against companies in such cases.<sup>23</sup>

### 3. Key elements of a conflict-sensitive approach

As depicted in Figure 1, clients and contractors can adopt a range of strategies for managing investment/conflict impacts.

Figure 1: Strategies for managing company/conflict risk



**Compliance:** At a minimum, projects should comply with national regulations (even if host governments are not implementing or monitoring them effectively) and internationally agreed laws, conventions and standards, including international humanitarian law. This is shown as ‘compliance’, at the base of the pyramid, and will assist in avoiding legal risk.

**Do no harm:** Beyond compliance, clients and contractors should be aware of their ability to create or exacerbate conflict and develop mitigation measures to avoid or minimise negative impacts. This requires improved conflict risk and impact assessment tools, and is shown as ‘do no harm’ at the centre of the pyramid.

**Peacebuilding:** Building on ‘compliance’ and ‘do no harm’ is the role clients and contractors can pro-actively take in contributing to the alleviation of the structural or causes of conflict in the interests of a more stable operating environment and safer world. This is shown as ‘peacebuilding’ at the top of the pyramid.

At first sight, the concept of contributing to peace can appear to be beyond contractors’ legitimate activities as private sector entities. On the contrary, CSBP simply enables contractors to carry out their legitimate business activities in a manner that promotes peace, and prevents conflict, as well as the costs and risks associated with it.

Another way of framing this approach is through the concept of a social licence to operate. Projects often need legal licences and approvals from relevant government agencies and departments. However, consensus is emerging that project clients and their contractors should also seek a ‘social licence’ i.e. the informed consent and support of local stakeholders to implement a project in their area. This is particularly important for projects in conflict-prone regions and those that:

- Are located in remote locations or locations with disputed land tenure among local residents or between local residents and the company or government
- Have significant environmental and social impacts, such as impacts related to involuntary resettlement, cultural property or impacts on indigenous peoples, or affect access to natural resources

- Form a large part of the local or regional economy; or
- Are perceived as ‘foreign’ or from outside of the community

CSBP provides a framework for companies that see the importance of improving their impact on host countries to think constructively about understanding and minimising conflict risk and actively contributing to peace. CSBP is guided by four key principles:<sup>24</sup>

**Participatory conflict analysis:** A richer analysis of context, including any existing or potential conflict, and a better understanding of potential project/conflict interactions can be achieved by drawing more creatively on the perspectives of those living in affected areas. Participatory analysis is a key ingredient of the overall CSBP approach and augments conventional impact assessment tools.

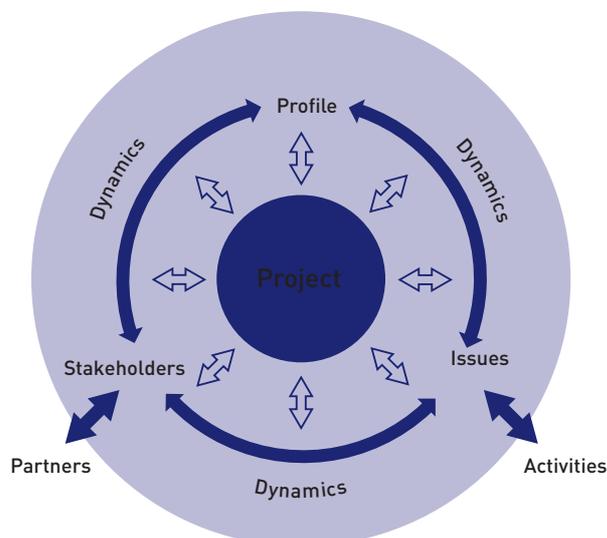
**Good communication:** Avoidance of challenging issues allows them to ferment and come up in aggravated scenarios at later stages. Open channels of communication and dialogue can help tackle contentious issues constructively where relationships break down. Improved communication processes are a key component of CSBP as a whole.

**Strong local relationships:** Stakeholders have a legitimate interest in a major investment that will make significant changes to their livelihoods and landscape. Open and transparent discussion, and a willingness to make revisions to a project in light of stakeholder concerns, accords value to others’ perspectives. An inclusive approach can make change more palatable to stakeholders and also builds local capacity.

**Shared decision-making:** The decision-making process in business activities becomes more open through CSBP. Shared decision-making invites transparency and trust, fosters legitimacy and relieves tensions – and is particularly important in conflict-prone areas. This has significant bottom-line benefits for companies, but may require more flexible approaches to project planning and delivery. Effective management seeks mutual recognition of different partner’s priorities.

Putting these principles into practice will help clients and contractors to identify conflict issues directly or indirectly impacted by a project, and design mitigating strategies to alleviate them and contribute to peace, in partnership with others, through core business, social investment, and in some cases policy dialogue activities.

**Figure 2: Conflict-risk analysis mitigation strategy**



The CSBP process will identify conflict issues and promote understanding of the two-way interaction between these and the project, as well as appropriate mitigation strategies. CSBP is designed to accompany the entire life-cycle of a project, which means it should be constantly updated to reflect the changing dynamic in the external context and as the project develops. Other tools exist that can be adapted for contractors to understand the potential conflict impacts of their projects at different levels, which complement the approach presented in this guidance note.<sup>25</sup>

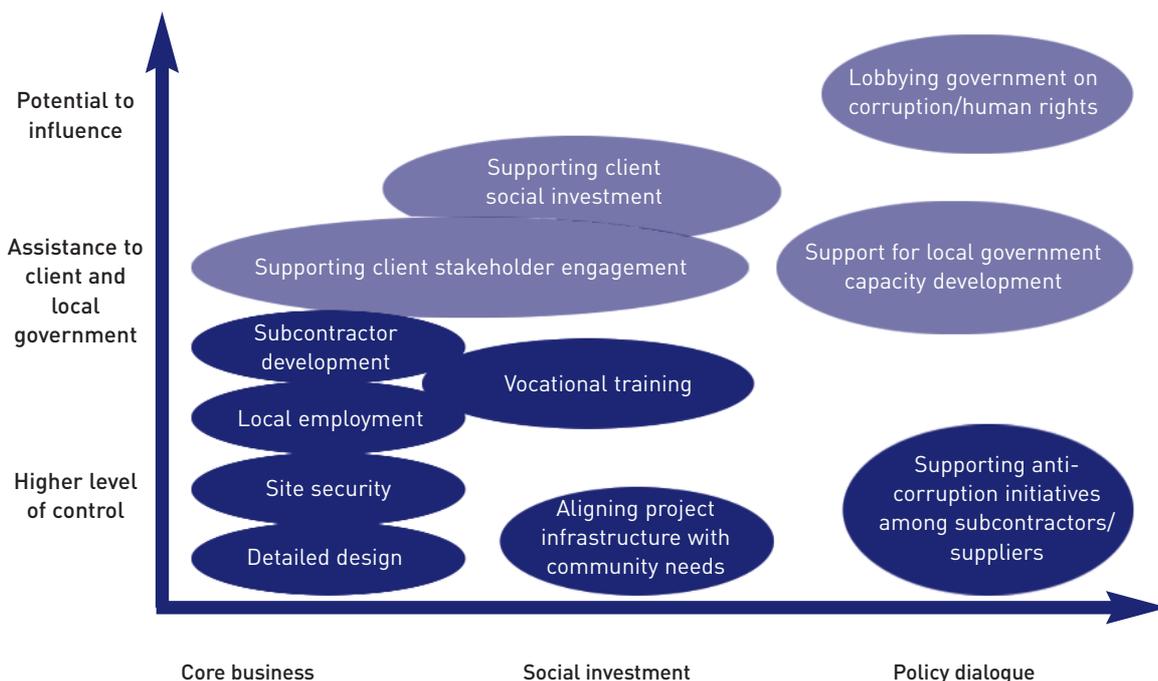
## 4. The importance of contractors

The role that engineering contractors can play in the development of CSBP and a social licence to operate in a conflict-prone country will vary with the nature of the project and the relationship with the client. Engineering contractors have traditionally had limited freedom to manoeuvre in managing social risk in the traditional client-contractor relationship.

However, engineering contractors will frequently be responsible for significant amounts of a project’s ‘on the ground’ activities. This can involve interactions with local communities and, as a result, inform local people’s crucial initial perceptions of the project. During both construction and operations, contractors will often supervise a large proportion of project employment opportunities and the procurement of goods and services from local businesses. They may also be at the fore of decision-making regarding the location of infrastructure such as access roads, or land disturbance through the storage of raw materials. If these activities are managed well they present opportunities to help secure the project’s social licence to operate, building the reputation of both the client and the contractor. If not managed well, they could damage the reputation of the project and create or exacerbate existing tensions with or between project stakeholders.

The following diagram provides an example of the possible ‘spectrum of influence’ of an engineering contractor’s business and project activities which contribute to the social licence to operate.

**Figure 3: Engineering contractors: typical spectrum of influence**



## 4.1 Clients and contractors: working together

Many companies and public sector clients are increasingly integrating conflict sensitivity into their management practices and are often at the fore of performance management in this area. For CSBP to be effective for projects in conflict-prone areas, clients need to select contractors with the right capabilities and integrate these into a holistic conflict-sensitive approach to the project. For their part, contractors should develop their capabilities in conflict sensitivity and pursue opportunities to ‘market’ these as part of their business development and tendering strategies.

### Box 5: Getting the right contractor for the job

Clients should select contractors who can support their own ethos, system and approaches, and effectively manage the potential conflict dimensions of their own activities. Many contractors have developed skills as part of their core business in working effectively with local communities and government, and have internal systems to manage social issues that can be developed to inform a conflict-sensitive approach. By maximising the use of these skills in delivering their activities, contractors can enhance their own reputation and that of the client.

For projects in conflict-prone areas this should form an essential consideration in the selection of any major contractor. One option is to ensure contractors have appropriate capabilities as part of any prequalification to tender for contracts. Criteria may include:

- Demonstrated track record of conflict sensitivity, stakeholder engagement and community liaison
- Formal social performance, environmental management and social risk management systems
- Competent and capable people in key stakeholder-liaison roles
- Internal anti-corruption measures

At the same time, particular consideration should also be given to local firms who may not have developed the experience to meet such criteria, but whose contribution to the domestic economy and long-term prospects for peace in a country may be greater than that of foreign contractors, and whose presence as part of the project will boost the social licence to operate. Steps can be taken to build such contractors’ capacities to operate to international standards.

Procurement processes need to ensure that contractual arrangements support conflict sensitivity. For example, providing incentives for saving costs on social investment programmes or rewarding rapid completion of activities involving resettlement may not be conducive to conflict-sensitive outcomes.

Key areas for putting the collaborative approach into practice include:

#### 4.1.1 Understanding the context and identifying potential conflict issues

Once a major contract is awarded, the successful contractors should be integrated into existing CSBP-related processes as early as possible, especially through appropriate conflict risk and impact assessment procedures. Contractors need to have an understanding of the project context and potential conflict dynamics. As part of the joint-analysis, the client and contractor should look in detail at aspects of the contract that have potential conflict dimensions within the project context and develop appropriate responses. Such aspects can include:

- Labour hiring policies and the demobilisation of workers at the end of the contract

- Occupational health and safety standards
- Management of workforce camps
- Location of permanent and temporary infrastructure
- Environmental impacts on local natural resources
- Security management policy, plans and procedures

#### 4.1.2 Stakeholder engagement

As outlined above, meaningful and transparent stakeholder engagement is at the core of CSBP, bringing together the four key principles: participatory analysis, good communication, strong local relationships and shared decision-making. Stakeholder engagement enables project staff to understand perceptions on critical issues and local dynamics and to build relationships with affected populations, taking local concerns into account.

Often the client will take the responsibility for the project's stakeholder engagement processes and will be the sole representative in formal interactions with government and local community leaders. As part of an integrated CSBP approach, contractors will need to be involved or closely linked to the process, as they may have frequent interactions with a wide range of the project's key stakeholders including employees, local suppliers, subcontractors, regulatory authorities and communities close to the project and/or camps.

Contractors may often be better placed to gather and analyse local information and so anticipate potential conflict flashpoints and incident scenarios. Closer interface between client, contractor and local stakeholders will promote a consistent and sensitive approach to security management. Sharing of information and building trust can create a 'virtuous circle' of enhanced capacity to anticipate and prevent conflict escalation and diffuse tensions when conflicts arise.

#### 4.1.3 Security arrangements

The security arrangements made by companies operating in conflict-prone areas can serve to exacerbate local tensions where security personnel do not conduct their responsibilities in line with internationally recognised best practice; or where state forces use disproportionate response. Some companies in the extractive industries have begun to standardise their approach to security by adhering to the Voluntary Principles on Security and Human Rights, including requiring contractors to also adhere to them.<sup>26</sup> Contractors should also have their own internal standards and understanding of relevant human rights and related issues.

Organisations operating in conflict-prone regions should have three levels of security management: (1) a security policy setting out a generic, group wide security policy; (2) security plans, which are context and project specific; and (3) security procedures: specific protocols which relate to a wide range of areas such as the hiring of security guards or the reporting of incidents.

#### 4.1.4 Corruption and transparency

The engineering sector has been ranked as second poorest in performance on corruption at all levels of the project. Recognition of this problem led in 2004 to leading UK engineering and construction firms adopting a set of anti-corruption principles.<sup>27</sup> If corrupt practices prevail, they can become a source of grievance to local stakeholders, and undermine the overall delivery of service and governance of a country, potentially contributing to state collapse, elite competition and conflict. Large contractors will frequently be required to sub-contract work, obtain regulatory approvals, move goods through customs etc., all of which present opportunities for corruption. It is important that contractors have robust internal systems and procedures to prevent corrupt practices. It is also important that the company and large contractors work together to ensure a unified approach.

## Endnotes

1. The term 'conflict-sensitive' is borrowed from the development and humanitarian aid sector that began developing conflict-sensitive approaches to development in the 1990s, see especially Africa Peace Forum, Cecore, Consortium of Humanitarian Agencies, Fewer, International Alert and Saferworld (2004) *Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack*.
2. Smith, D. (2004) 'Trends and Causes in Armed Conflict' in Austin et. al. (eds) *Transforming Ethno-Political Conflict: The Berghof Handbook* (Berlin, Germany: Berghof Center for Constructive Conflict Management).
3. United Nations Development Programme (UNDP) (2005) *International Development at the Crossroads: Aid, Trade and Security in an Unequal World* (New York, US: UNDP).
4. Smith (2004) *op. cit.*
5. UNDP (2005) *op. cit.*
6. Asiedu, E. (2005). 'Foreign Direct Investment in Africa: The Role of Natural Resources, Market Size, Government Policy, Institutions and Political Instability' *World Institute for Economic Research (WIDER) Research Paper No. 2005/24*. UNDP (2005) *op. cit.*
7. <http://www.sudandivestment.org/home.asp>
8. <http://www.irn.org/programs/merowe/>
9. Sudan Tribune [http://www.sudantribune.com/article.php3?id\\_article=15235](http://www.sudantribune.com/article.php3?id_article=15235)
10. *Ibid*
11. <http://www.reports-and-materials.org/Lahmeyer-response-Merowe-dam-3-May-2006.doc>
12. <http://www.reports-and-materials.org/LOHAP-response-to-Lahmeyer-re-Sudan-3-May-2006.doc>
13. <http://www.reports-and-materials.org/ABB-response-Merowe-dam-5-May-2006.doc>
14. <http://www.reports-and-materials.org/CWE-response-Merowe-dam-incident-12-May-2006.doc>
15. <http://www.terraily.com/2006/060423102947.sxn7mwoj.html>
16. Lahmeyer is privately-owned, hence not the target of the current divestment campaign. Some US universities and colleges have included Alstom among the companies whose shares they have decided to sell.
17. <http://www.blihr.org/>
18. ABB response to Divest Sudan <http://www.reports-and-materials.org/ABB-Sudan-reply-20-Apr-2006.doc>
19. *Wiwa v. Royal Dutch Petroleum Co.*, et. al., Case No.96 CIV 8386 (KMW) (S.D.N.Y. 2002); *Bowoto, et. al. v. Chevron*, et. al. Case No. C99-2506 (N.D. Cal. 2000); *The Presbyterian Church of Sudan, et. al. v. Talisman Energy, Inc.*, Case No. 01CV9882 (S.D.N.Y. 2001); *Sinaltrainal, et. al. v. Coca-Cola Co.*, et. al., Case No: 01-03208 (S.D. Fla. 2001); *Estate of Rodriguez, et. al. v. Drummond Company, Inc.*, et. al. Case No. CV-02-0665-W (N.D. Ala. 2002); *Sarei et. al. v. Rio Tinto, et. al.* Case No. CV 00-11695 MMM 221 F. Supp.2d 1116 (C.D. Cal. 2002).
20. The US-based Bechtel Corp., for example, has been criticised by Human Rights Watch (HRW) in its report on Enron Corp.'s operations in Dabhol, India, even though Bechtel, which was the executing contractor, held only a minor stake (10 percent) in the power plant it was building. See <http://www.hrw.org/reports/1999/enron/>. Likewise, HRW highlighted the alleged collusion between a joint venture of General Electric and Bechtel, and the US Government, to build the trans-Caspian pipeline, and their tolerance of human rights violations in Turkmenistan. See <http://www.hrw.org/wr2k/Issues-03.htm>. *Multinational Monitor* magazine, in May 2001, made several allegations against Kellogg Brown and Root, an US engineering company, for allegedly bribing Indonesian military. In October 2000, the *Wall Street Journal* reported Halliburton's dealings with the Myanmar government in constructing a pipeline. see <http://www.burmalibrary.org/reg.burma/archives/200010/msg00109.html>. These problems are not unique to US companies. British firm Balfour Beatty withdrew from building the Ilisu dam in Turkey after sustained pressure from human rights groups. French firm Schlumberger has been named in reports detailing human rights abuses in Sudan. And the Norwegian engineering firm, Aker Kvaerner, was criticised by the Norwegian OECD National Contact Point, upholding a complaint by human rights groups which were critical of its role in building facilities at Guantanamo Bay.
21. See, for example, *Tadic*. <http://www.un.org/icty/tadic/trialc2/judgement/index.htm>
22. The US Judiciary Act of 1789 established the federal judiciary. It included the Alien Tort Statute, now defined as the Alien Tort Claims Act, or 28 USC § 1350. The law states that the US district courts 'shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States'. Human rights lawyers have used the 'law of nations' provision to argue that US courts can hear cases against any entity to adjudicate claims of grave violations of human rights.
23. For further information see International Alert, 'Understanding Corporate Complicity in Zones of Conflict' forthcoming; and the Business and International Crimes project at the FAFO Institute for Applied International Studies, available at <http://www.fafo.no/liabilities/index.htm>.
24. Further guidance is available from International Alert (2005) *Conflict-Sensitive Business Practice: Guidance for Extractive Industries* (London, UK: International Alert).
25. This paper draws heavily on International Alert (2005) *op. cit.*; and Engineers Against Poverty (2006). For specialist human rights tools, see Danish Centre for Human Rights (2006) *Human Rights Compliance Assessment Tool* (Copenhagen, Denmark: Danish Centre for Human Rights). An example of the application of this approach by Balfour Beatty (a large UK engineering company) through a software-driven *Opportunities and Risk Management Framework* is described in EAP & ODI (2004).
26. *Voluntary Principles on Security and Human Rights* (2005) [www.voluntaryprinciples.org](http://www.voluntaryprinciples.org)
27. <http://www.transparency.org.uk/CEIdocs/TI.REPORT.OVERVIEW.pdf>

## Resources

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*Voluntary Principles on Security and Human Rights* (2005) [www.voluntaryprinciples.org](http://www.voluntaryprinciples.org)



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