MINUTES – Thursday, August 18, 2016

Present:
Mariana Ardizzone (Co-Chair), mariana@ardizzone.com.ar
Kristin Drecktrah Paz (Co-Chair), kpaz@fowler-white.com
Benedict Kirchner, Benedict.Kirchner@Steptoe-Johnson.com
Petra Stewart, petra.stewart@gmail.com
Kingsley Osei, Kingsley.Osei@suny.edu
Florian Jorg, Florian.Joerg@bratschi-law.ch
Patricia Sims, Sims.Patricia@epa.gov
Linda Lowson, globalregulatoryacademy@comcast.net
Belle Toren, belle@belletoren.com
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Chip Seward, chipseward2011@hotmail.com
Caryl Ben Basat, cwbenbasat@gmail.com
Mohammed Hashish, m.hashish@shandpartners.com
Fabian Pal, fabian.pal@hk-law.com

1. Announcements (Mariana Ardizzone / Kristin Drecktrah Paz)

- Introduction of and thank you to Ben Kirchner and Petra Stewart as this Call’s Minute Takers.
- Thank you to Carry Ciliberto and Rose Rameau for taking the minutes during the July 14, 2016 IENRC Monthly Call. The minutes of the July Call are included on the Committee’s website: http://apps.americanbar.org/dch/committee.cfm?com=IC742000
- Thank you to Caryl Ben Basat, Past Division Representative, and Belle Toren, Immediate Past Co Chair, for their unparalleled commitment and dedication to our Committee throughout their terms.

Mariana Ardizzone introduced Florian Jorg as the Division Chair (Business Law I). Florian Jorg introduced himself and let the Committee know he is in Switzerland. Florian offers his assistance to Committee members and encourages members to contact him (Florian.Joerg@bratschi-law.ch). Florian Jorg also introduced the SIL leadership as well as the IENRC leadership for the 2016-2017 year.

SECTION

Chair: Sara Sanford
Chair-Elect: Steven Richman
Vice Chair: Robert Brown
Secretary/Operations Officer: Lisa Ryan
Liaison Officer: Lelia Mooney
Policy Officer: David Schwartz
Budget Officer: William Mock Jr.
Revenue Officer: Joseph Raia
Technology Officer: Caryl Ben Basat
Rule of Law Officer: Nancy Stafford
Programs Officer: Marcy Stras
Membership Officer: Marcos Rios
Publications Officer: Patrick De Luca
Welcome and thank you to the incoming IENRC Leaders. All are encouraged to log into your ABA page, myABA, and then click the following link to reach the Leadership Portal for the SIL:

http://www.americanbar.org/groups/international_law/leadership.html

to look into the many Leadership Resources and Helpful Documents available there.

**Change of time of IENRC Monthly Call due to conflicts with SIL Boot Camps.** Mark your calendars for the 3rd Thursday of the month at 11 EST/EDT for the rest of the 2016-2017 ABA year.
- Conflict w/ boot camps
- Calls now third Thursday of every month instead

**Minutes Taking Schedule** for 2016-2017 term. **Mariana Ardizzone** assigned IENRC leadership with dates for minute-taking, and the Co-Chairs request that those listed please confirm their availability to take minutes.

**SIL Boot Camps** on June 9, 2016 featured SIL Chair Lisa Savitt with a discussion of this year’s activities in the Section and some long range planning. Ben Kirchner attended this Boot Camp on behalf of the IENRC. The Boot Camp is available at the ABA website (login required):
Minutes: IENRC Monthly Call of August 18, 2016

http://www.americanbar.org/content/dam/aba/uncategorized/international_law/2016-05-12_may_boot_camp_call-rule_of_law_membership.authcheckdam.mp3

Other Boot Camp recordings can be accessed at the Leadership Portal for the SIL: http://www.americanbar.org/groups/international_law/leadership.html

- Request for future Hot Topics programs for the 2016 – 2017 ABA Calendar Year starting with the first IENRC Call in August 2016. Contact Eddie J Varon Levy, incoming Communications Vice Chair, (eddiemxlaw@aol.com) or the Co-Chairs, Mariana Ardizzone or Kristin Drecktrah Paz, with your suggestions. On the call, Belle suggested social licensing for natural resources projects as a potential hot topic. Other outstanding hot topics under consideration are: the Sun Edison Bankruptcy; Environmental Records and Debarment of Access to Federal Lands by the US Department of Interior; the Pemex First Bidding Round; EPA’s breaking regulations on unconventional hydrocarbons; Private Clients in the Commodities Arena; and Best Environmental and Social Practices in Extractive Industries.

- Committee 2016-2017 Business Plan Due in September: All Committee Vice Chairs shall submit their plans for 2016 – 2017 in their respective areas before August 30. Kristin Drecktrah Paz will be coordinating the Business Plan. Proposals from other IENRC members also welcome and appreciated. Membership at large is welcome to submit proposals for the business plan to Kristin Drektrath Paz (kpaz@fowler-white.com).

2. Programs (Sacha Ahmad Kathuria / Melina Juarez-Segura)


IENRC Program: Opportunity or Barrier: The Effects of Trans-Pacific Partnership on Energy Trade and Investment

The Trans-Pacific Partnership (TPP), the first major multilateral trade agreement in two decades, is not yet a reality, but governments, energy sector and investors need to consider its effects on energy trade and investment. The TPP will impact the energy sector in many ways, including the elimination of tariffs, the opening up of new countries for investment, and the implementation of transparent environmental regulations. The 12 participating countries will be impacted in varying degrees: will it be a boon to LNG exports from Canada and Australia or a revival of the economy of Japan? Will it affect investment in Mexico? What about the non-participating countries, like Korea and China, might they ultimately join the “club”? This panel, comprising speakers from Australia, Canada, Japan, Mexico and the United States, will uncover the provisions of the TPP that facilitate/inhibit trade and investment in energy products and sector-related services, including exploration, extraction, engineering, power generation, environmental management and training within participating countries and lead to the prognosis: opportunity or barrier.

The Tokyo Meeting will have a track devoted to the TPP in which the IENRC program is included.

Moderator:
Jennifer L. Radford, jradford@blg.com
Partner, Borden Ladner Gervais LLP, Ottawa, Canada

Speakers:
Max Bonnell, King & Wood Mallesons, Sydney, Australia
Eduardo Diaz Gavito, Chevez Ruiz Zamarripa, Mexico City, Mexico
Osamu Umejima, White & Case, Tokyo, Japan
Marney Cheek, Washington DC, United States
Confirmed Co-Sponsors

- Asia-Pacific Committee
- Canada Committee
- Customs Law Committee
- International Investment & Development Committee
- International Environmental Law Committee
- International Procurement Committee
- International Trade Committee
- International Transportation Committee

Members are encouraged to attend Tokyo. The possibility of organizing an only IENRC dinner was evaluated. Mariana Ardizzone enquired Florian Jorg about the possibility of organizing a joint dinner with other Business Law Division committees. Florian Jorg would like to have IENRC members attending the Tokyo Conference to join the M&A Committee for dinner. A joint dinner of the IENRC and M&A committees will be then organized in Tokyo.

In addition to the Tokyo program, Jennifer Radford will be putting together a publication for the ILN due in November 1, which will focus on the TPP.


  The IENRC submitted to the Section one panel proposal for the Section’s 2017 Spring Meeting with the theme of "**New Leaders, New Laws: 2017 and Beyond**" when creating your proposals. Thank you to the Program Vice Chair, Sacha A. Kathuria.

  **Chair or Co-Chairs**: Sacha Kathuria: Midwestern Governors Association, Washington, DC

  **Title**: Climate Change, the Clean Power Plan, and Electricity Transmission: a road to innovative solutions or a stalemate?

  **Description**:

  The pressure toward emission reductions by the United Nations Framework Convention on Climate Change (UNFCCC) and the U.S. Clean Power Plan combined with the geostrategic realities are leading toward greater innovation in the renewable energy sector. Nevertheless, this push toward new energy sources have in some ways alienated traditional sources of energy, such as oil and coal. Is the push toward renewables leaving traditional energy in the dust? Or, is it possible to utilize renewables and traditionally energy sources together? This panel will discuss how the pressure to reduce emissions is affecting electricity transmission internationally.

- **SIL Regional Fora**

  **2nd 2016 Americas Regional Forum** on November 14, 2016 in Bogota, Colombia

  Update on program proposal chaired by Fabian Pal Fabian.pal@hklaw.com, with the IENRC as one of the primary committee sponsors.

  "**Ride the Energy Wave: An Overview of Key Legal Issues in M&A and JV transactions in the Latin American Energy Sector**"

  Energy is trending in Latin America from investments in renewable energy and government bids to the divestiture of energy assets by international conglomerates. In acquiring companies or entering into joint venture agreements in Latin America there are
many key legal issues and regulatory pitfalls that must be taken into consideration. This panel will discuss local regulatory, environmental, customs, security and labor issues as well as prior public consultation of the native populations. The panel will further discuss situations they have encountered and methods used to resolve them. Panel will address issues related to indigenous peoples.

Primary sponsoring committees for this proposed program:
IMAJV Committee
Latin America and Caribbean Committee
International Energy and Natural Resources
Young Lawyers Interest Network Committee

Suggested Speakers:
Moderator: Marisa Bascope, General Counsel at Globeleq Mesoamerica Energy
Jose V. Zapata - Holland & Knight (Bogota)
María Teresa Quiñones – Estudio Rodrigo, Elias & Medrano Abogados
Juan Francisco Mackenna - Carey
M. Lorena Schiariti – Marval, O’Farrel & Maira1

Fabian Pal noted a full set of panelists is set, and he tried to get representation from countries in the region that have seen a lot of development in renewable energy, such as Peru, Chile and Colombia. The topic will touch upon M&A & JV in renewable energy. It will also look at public consultations and issues related to native populations. Mariana Ardizzone requested that Fabian Pal and Sacha Kathuria touchbase with each other to avoid duplications between the programs chaired by each of them for Bogota and Washington.

Early Bird registration ends on October 7m 2016, you can register at this link:
http://shop.americanbar.org/PersonifyImages/ProductFiles/252713323/BogotaRegistrationForm.pdf

- 2017 Europe Forum on June 11-13 in Barcelona, Spain. Europe Committee is spearheading this Forum.

Florian Jorg will keep us up to date on matters related to the Europe Forum and let us know if there is an opportunity to participate.

2017 Africa Regional Forum (date to be confirmed - June or July 2017) is in the early stages of planning. Africa Committee is spearheading this Forum. Probable location is South Africa. Belle is on the steering committee for the Africa Committee and can report on developments (but is not attending the forum). If someone from IENRC would like to get involved, it would be great to have more involvement in this forum.

Ultimately Belle Toren and Mohammed Hashish will keep us up to date on matters related to the Africa Forum. The theme has not yet been decided upon. While natural resources could be a theme fit to the venue, human rights may prove the primary theme. Further involvement from the IENRC will be determined depending upon the theme.

3. Publications

In connection with the 2016 Call for Articles for the 2016 Year in Review, Petra Stewart confirmed she received contribution commitments from members of the following jurisdictions:

- Angola
- Argentina
- Australia
Belarus  
Bolivia  
Brazil  
Cameroon  
Cape Verde  
Congo (DRC)  
Congo (Republic of)  
Ecuador  
Egypt  
Equatorial Guinea  
France  
Gabon  
Mali  
Morocco  
Mozambique  
Nigeria  
Portugal  
Russia  
Sao Tome  
Timor-Leste  

No one has committed to covering: Canada, the United States or Mexico. So, nothing from North America yet. Also, no one has committed to any country in Asia. Contributions from these jurisdictions are strongly encouraged.

If you are interested in contributing to the IENRC’s 2016 YIR article, please email Petra Stewart, 2016 IENRC YIR Editor, at petra.stewart@gmail.com by August 21, 2016. In that email, indicate the country or countries that you would like to cover (you are welcome to cover more than one and are encouraged to do so).

Actual submissions are due to Petra Stewart on October 9, 2016

Contents

Submissions should identify and summarize significant events affecting the law or the judicial system of the country(ies) / institution(s) of your choosing that occurred in 2016 or whose impact was felt in 2016. The submissions should be factual representations about the legal developments and should not contain personal opinions. In addition, submissions should contain citations to verifiable sources, including reliable websites.

Format Requirements

Times New Roman, 12 pt. font for the body and footnotes  
Double-space the body and single-space the footnotes  
Each country submission should be no more than one page (our Committee's entire submission has a word limit)  
Ensure citations are verifiable and in Bluebook format  
Try to include a citation for each sentence  
Include a brief bio of no more than two sentences

Call for Articles for the next Committee Newsletter (Update by Mark Gould) --. Please contact Mark Gould regarding articles for the next newsletter that should be circulated in the Fall 2016 at mark.gould@agg.com. The last newsletter was issued a month ago, and the forthcoming newsletter will be issued sometime after Tokyo, likely in November.
International Law News - You can access past issues of the ILN at this webpage: http://www.americanbar.org/publications/international_law_news/2015/summer.html

- Winter 2017 Issue Deadline: November 1, 2016
  Theme: Trade Partnerships, including the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP)

- Spring 2017 Issue Deadline: January 1, 2017
  Theme: Arbitration, Mediation, and Online Dispute Resolution (ODR)

International Law News (ILN) publishes high-quality submissions on topics of interest to international law practitioners, researchers, and students. ILN editors are interested in articles addressing each issue’s theme, but articles on other topics are also appreciated.

Jennifer Radford (moderator of the TPP Tokyo panel sponsored by the IENRC, will be putting together a publication for the ILN due in November 1, 2016.

To submit an article or ask questions about the process, e-mail Contract Editor Lori Lyons at lori@lyonscorner.net

Please attach your article submission as a Word document and provide each author’s name and email address. ILN does not publish footnotes or endnotes; please embed important cites within your text. You may also refer to the ILN Author Guidelines.

- Feature articles are typically 2,000–3,000 words in length; short “Briefly Noted” articles of about 400–650 words may also be submitted.
- ILN editors are seeking interviews with notable contributors to the field of international law for our “ILN Interviews” column. If you would like to interview someone, please submit your idea for Editorial Board approval.

Ideas for future themes and articles are welcome.

4. Projects (Benedict Kirchner (Hydraulic Fracturing Subcommittee Chair)

- Hydraulic Fracturing Subcommittee. Please contact Ben Kirchner if you wish to join this subcommittee or be involved in the planning of the webinars, benedict.kirchner@steptoe-johnson.com

Ben Kirchner and Mariana Ardizzone are working on the book proposal to be submitted to Patrick De Luca, Section Publications Officer, and Kimberly Rosenfield, Executive Editor, ABA Book Publishing.

The proposed book will compare the legal regimes applicable to exploration and production of unconventional resources in the top 20 ranking countries covered by the World Shale Resource Assessments Report issued by the EIA (https://www.eia.gov/analysis/studies/worldshalegas/) through a comparative law questionnaire tailored and responded by experts in energy and natural resources in the different jurisdictions.

The comparison will provide useful benchmarks for practitioners, regulators and policy makers to shed light on issues affecting the industry and communities and exchange lessons learned and good policy across boundaries. Surveys will be sent out if/when the project is approved.

If you are interested, please let Ben Kirchner benedict.kirchner@steptoe-johnson.com and Mariana Ardizzone know at mariana@ardizzone.com.ar. They welcome your participation and comments!
5. Policy

- If you have new Policy initiatives, please contact Patricia Sims, incoming Vice Chair 2016-2017, Policy, at Sims.Patricia@EPA.gov.
  - Topic of interest right now → after 40 years update to the Toxic Substance Control Act
  - Fair amount of discussion on how the old Act & Reach relate
  - Impact of BREXIT
  - Would be interested in hearing what other policy issues are of interest to the committee

6. Rule of Law

- If you have Rule of Law initiatives for 2016-2017, please contact John Regis Coogan, the incoming Vice Chair 2016-2017, Rule of Law, at jcoogan@IFC.ORG.

7. Diversity

- If you have Diversity initiatives for 2016-2017, please contact Tammie Smith Long, incoming Vice Chair 2016-2017, Diversity at tsmith126@hotmail.com.

8. Membership

- If you have Membership initiatives for 2016-2017, please contact Rose Rameau, incoming Vice Chair 2016-2017, Membership at roserameau@gmail.com.

9. Communications

- If you have a Hot Topics program proposal for 2016-2017 or wish to work on invigorating the IENRC LinkedIn page, please contact, Eddie Varon Levy, incoming Vice Chair 2016-2017, Communications at eddiemxlaw@aol.com.

IENRC on LinkedIn: [http://www.linkedin.com/groups?gid=5174728](http://www.linkedin.com/groups?gid=5174728)

10. Liaison - AIPN

   Ben Kirchner continues as Liaison with the Institute of Energy Law at the Center for American and International Law (Plano, TX). Confirmation of whether Elvis Angyiembme continues to be the Liaison with the AIPN was sought by Mariana Ardizzone. Immediately after the call, Caryl Ben Basat confirmed that Elvis Angyiembme continues as Liaison with the AIPN for 2016-2017.

11. Website (Cynthia Sullivan-Brown)

   The link to the IENRC Website: [https://apps.americanbar.org/dch/committee.cfm?com=IC742000](https://apps.americanbar.org/dch/committee.cfm?com=IC742000)

   Ben Kirchner (outgoing IENRC website manager) already coordinated transition with Cynthia Sullivan-Brown (incoming IENRC website manager). Mariana Ardizzone asked Ben to confirm if latest minutes are already showing on website or still pending upload.

   You can contact her at cynthia@sullivanbrownlaw.com.

12. New Business and New Members
Kingsley Osei – Procurement Counsel for SUNY, from Ghana, joined the IENRC call for the 2nd time as he is currently involved in solar projects financed through tax equity.

Section Retreat: Several IENRC members (Caryl Ben Basat, Mariana Ardizzone and Patricia Sims) attended the retreat in San Francisco in July. As Technology Officer, (Caryl Ben Basat went to a meeting on technology. The SIL has hired a consultant to streamline the technology process in the Section, and a staff person has been hired for the email system.

Thank you.

Mariana Ardizzone - Kristin Drecktrah Paz Co-Chairs
International Energy and Natural Resources Committee
ABA Section of International Law

Emails

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Kristin Drecktrah Paz, kpaz@fowler-white.com

Website: https://apps.americanbar.org/dch/committee.cfm?com=IC742000

IENRC on LinkedIn: http://www.linkedin.com/groups?gid=5174728