Minutes: IENRC Monthly Call of December 15, 2016

Present:
Mariana Ardizzone (Co-Chair), mariana@ardizzone.com.ar
John Coogan, jcoogan@ifc.org
Nick Kowalski, nick@njkowalski-law.com
Amala Nath, amala.nath@nortonrosefulbright.com
Mark Gould, mark.gould@agg.com
Glenn Chernigoff, GChernigoff@CFTC.gov
Sheila Hollis, sshollis@duanemorris.com
Jay Ray, jray@cailaw.org
Linda Lowson, lmlowson@gmail.com
Belle Toren, belle@belletoren.com
Kinsley Osei, Kingsley.Osei@suny.edu
Caryl Ben Basat, cwbenbasat@gmail.com

1. Announcements (Mariana Ardizzone)
   - General
     - Mariana Ardizzone began by welcoming all the participants and thanking the minute takers for the November and December Calls. Introduction of Amala Nath and Nick Kowalski as this call’s minute takers.
     - Kristin Drecktrath Paz advised in advance she could not join this call due to conflict with training course at her hew law firm. Note that her email address changed to KPaz@shutts.com.
     - Mariana indicated that the IENRC is looking for volunteers to manage IENRC Committee Website and LinkedIn group and to help with Communications. Some of the benefits of getting involved with these efforts are the flexibility to work remotely at any time, it provides a good opportunity to become involved and started with the committee and can be good for young people with tech skills. Please contact Mariana Ardizzone (mariana@ardizzone.com.ar) and Kristin Drecktrah Paz (KPaz@shutts.com) if you are interested in the opportunity.

   - Membership Bootcamp (Mariana Ardizzone)
     - Mariana Ardizzone provided a brief report on the Rule of Law Bootcamp call with Officer Marcos Ríos which took place on Thursday, December 1, 2016.
     - The salient points from the Bootcamp Call include:
       - Purposes is to generate new members and retain existing ones – the membership team is the marketing and sales department of the Section and is made up of individuals who have positions within the group and also other members who want to provide guidance and motivation to be part of ABA and the IENRC; members can let non-members know the advantages/benefits of the Section for personal growth and as a professional
       - Considerable opportunity to grow for young attorneys or foreign attorneys,
especially those active in the ABA and in other organizations who may benefit from membership; some subcommittees also include a young person group and mentorship group

- All members should submit ideas to Rose Rameau (roserameau@gmail.com) to get more people involved to help the committee and provide information on career advancement, substantive improvement as a lawyer etc.

- **SIL Boot Camps Schedule** (Mariana Ardizzone)
  - Mariana Ardizzone informed the group that the next book camp will be Thursday, January 12, 2017 with Officer Lelia Mooney.

  - Boot Camp Calls start at 11:30 a.m. ET on the days noted

<table>
<thead>
<tr>
<th>IENRC Participant</th>
<th>Bootcamp Date &amp; Theme 11:30 a.m. ET</th>
<th>To be reported on IENRC Monthly call</th>
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| Mfon Etukeren; Nicholas J. Kowalski; | **Thursday, January 12, 2017**  
**Liaison Officer Lelia Mooney** | **Thursday, January 19th, 2017** |
| Cynthia Sullivan-Brown; Rony Zimmerman | **Thursday, February 9, 2017**  
**Technology Officer Caryl Ben Basat** | **Thursday, February 16th, 2017** |
| Sacha Kathuria Melina Juarez Segura | **Thursday, March 2, 2017**  
**Programs Officer Marcy Stras** | **Thursday, March 16th, 2017** |
| Patricia Sims; Jorge Alejandro Long | **Thursday, April 6, 2017**  
**Policy Officer David Schwartz** | **Thursday, April 20th, 2017** |
| Tammie Smith Long, Allin “Chip” Seward | **Thursday, May 4, 2017**  
**Diversity Officer Mark Wojcik** | **Thursday, May 18th, 2017** |
| Mariana Ardizzone; Kristin Drecktrah | **Thursday, June 1, 2017**  
**Chair Sara Sandford** | **Thursday, June 15th, 2017** |
| Mariana Ardizzone; Kristin Drecktrah | **Thursday, July 6, 2017**  
**Incoming Chair Steven Richman** | **Thursday, July 20th, 2017** |

- Designated participants kindly confirm their availability to dial into these bootcamps and provide a brief verbal report at the following IENRC monthly call.

- **Hot Topics and Other Items**
  - Ongoing request for future Hot Topics programs (approximately a 10 – 15 minute presentation). Contact Kristin Drecktrah Paz (KPaz@shutts.com) with your suggestions.

  - A Hot Topics discussion is scheduled for our coming January 19th call. David Sims (david_sims@ios.doi.gov) – Debarment Program Director; US Department of the
Interior, who will discuss remedies in DOI to admit or bar companies to participate in certain programs on federal lands.

- If anyone is interested in presenting a hot topic on the effect of the US election on the TPP, that would be welcome.

- Request for Proposals from the Uniform Law Commission ended on December 15, 2016.

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

- **2017 Spring Meeting on April 25-29, 2017 in Washington, DC (Capital Hilton)**
  - Registration is now open at Early Bird Rates
  - The IENRC will be presenting the following program chaired by Sacha Kathuria:
    
    **Climate Change, The Clean Power Plan, And Electricity Transmission: A Road To Innovative Solutions Or A Stalemate?:** 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.

- **2017 Fall Meeting on October 24-28, 2017 in Miami (JW Marriott Marquis)**
  - We would like to submit more proposals for this meeting (can have up to 3); please let Sacha Kathuria (sacha.kathuria@gmail.com) or Melina Juarez (melina.juarez@sotorisolve.com) know by January 4, 2017 of any program ideas and they can help put them into the appropriate format.
  - Belle Toren indicated that this is a very cost effective conference which will have lots of international attendance. Also, by the time the conference happens, Trump will have been in office so there are some topic possibilities focused on the new administration. Also, Miami looks like a good venue for proposals addressing policy changes in some Latin American countries.

- **Africa Regional Forum on June 25-27, 2017 in Cape Town, South Africa**
  - The Africa Committee is spearheading this and the forum is now on June 25 – 27.
  - With much dedication from John Coogan, the IENRC and the International Anti-Corruption Committee prepared and submitted the following proposal for a
program to be chaired by Severin Wirz (swirz@traceinternational.org), Consultant, East and Southern Africa, TRACE International:

**Skillfully Walking the Tightrope when Addressing Corruption Risks in the African Extractive Sector – Causes, Effects and Mitigation Strategies**

Perceived and actual corruption risks in the extractives sector are high worldwide – including in Africa. Incentives for corruption by unscrupulous companies and government officials can be particularly high in states with governance and accountability challenges. There are many dimensions: in many countries, foreign companies are subject to local content laws that may be abused to pay bribes. And projects are often associated with military and police security who may themselves seek to extort improper payments.

It is no surprise, then, that the OECD has reported that companies from the extractive sector comprise the largest percentage of foreign bribery cases worldwide. Often times, these cases involve grand corruption, with the most senior-level government officials involved.

In this panel, we will explore corruption in the extractive space across the African continent, looking both at its causes and effects as well as the success stories: what companies are doing to avoid such behavior.

Specific topics for discussion will include: a survey of local laws regulating the extractives sector, and how those laws both positively and negatively affect bribery risks; contracting issues that arise when doing business with government counterparties in the natural resources space; risks stemming from changing political environments in long-term projects; practical steps that companies in the extractive sector use to mitigate corruption risks; and how corruption in the natural resources space undermines the rule of law.

**Suggested Speakers:**

Mr. Elvis A. Angiyembe, Regional Ethics & Compliance Counsel, Africa (minus Egypt), Weatherford* (Moderator)
Ms. Kathleen Mbau, Head of Compliance (Kenya), Tullow Oil
Mr. Dominique Abrokwa, Sector Compliance Officer Oil & Gas, SNC-Lavalin*
Mr. Steven Powell, Director of Forensics, ENS Africa*

* Indicates that panelist is confirmed. Please note that panel chair will ensure that female panelists with significant experience in the area will be included on the final panel to satisfy the gender diversity requirements of the SIL.

- **Europe Forum on June 11-13, 2017 in Barcelona, Spain**
  - The Europe Committee is spearheading this forum.
  - The IENRC has invited the European Committee, the International Transportation Committee; the International Trade Committee; the International Environmental Law Committee; the Export Controls and Economic Sanctions Committee and the
Asia/Pacific Committee to develop a joint program on biofuels tentatively named “Biofuels in the Spotlight” targeting legal issues facing the production, trade and use of biodiesel and bioethanol, the EU Renewable Energy Directive (RED), its enforcement under Spanish domestic laws and the European Court of Justice (ECJ) and World Trade Organization (WTO) rulings striking down the EU’s wide anti-dumping duties on all ethanol imported from the United States and biodiesel imported from Argentina and Indonesia.

So far, the International Environmental Law Committee and the International Transportation Committee have agreed to sponsor the program. The Europe Forum selection committee will select the proposals only after the Christmas Holiday.

- **Russia and Eurasia Committee – Legal Developments in the Arctic**
  - Zachary N. Klein (znklein@gmail.com) is working on a series of programs regarding legal developments in the Arctic. Their first webinar tentatively planned for November or December, will concern energy rights and exploration, and they requested the IENRC to recommend speakers familiar with legal developments in the Arctic related to this topic.
  - Professor Cymie R. Payne was kind enough to recommend Betsy Baker (http://bakerarctic.net/) and Timo Koivurova (https://lacris.ulapland.fi/en/persons/timo-koivurova(258e5e53-7a1c-4db3-9ef7-e7bee8ce40e3).html).

3. Publications (Petra Stewart / Mark Gould / Amala Nath / Wojciech Baginski)
- Year in Review – The deadline was December 1 and we have articles covering about 10 countries.
- Committee Newsletter – Mark Gould asked if anyone was able to provide updates or photos from the Tokyo conference. If anyone is interested in the Committee Newsletter, they should send an email to Mark Gould (mark.gould@agg.com).
- 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
  - Spring 2017 Issue Deadline: January 1, 2017 – The theme is “Arbitration, Mediation, and Online Dispute Resolution (ODR)”. Contributions from IENRC members for this publication are strongly encouraged since IENRC members were scheduled to deliver an article on the TPP for the last issue of the ILN but did not deliver. [NRF1]
  - To submit an article or ask questions about the process, e-mail Editor Lori Lyons at lori@lyonscorner.net. Ideas for future themes and articles are welcome.

4. Projects (Benedict Kirchner)
- Ben Kirchner and Mariana Ardizzone submitted a preliminary book proposal to Patrick De Luca, Section Publications Officer, and Kimberly Rosenfield, Executive Editor, ABA Book Publishing.
• The proposed book would 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 would 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.

• There was phone call on October 21, 2016 led by Kimberly Rosenfield, Executive Editor, ABA Book Publishing. While the ABA is strongly interested in publishing a book on fracking, a comparative law approach on unconventional E&P regulations would also require substantive legal analysis; the IENRC is looking for guidance/editorial work from a professor or academician for the publication so if anyone knows a good professor who would like to help, please contact Ben Kirchner (benedict.kirchner@steptoe-johnson.com) and Mariana Ardizzone (mariana@ardizzone.com.ar).

5. Policy

• If you have new Policy initiatives, please contact Patricia Sims.

6. Rule of Law

• Please see the Programs section above related to the program on Corruption Risks in the African Extractive Sector, which is the Rule of Law effort organized by the IENRC for 2016.

7. Diversity

• The Committee needs to increase membership and strengthen our communication regarding diversity. We need fresh participation into the Committee and should reach out to interested peers or friends. If you have Diversity initiatives, please contact Tammie Smith Long (tsmith126@hotmail.com).

8. Membership

• See the Announcements section above regarding membership. If you have Membership initiatives, please contact Rose Rameau, (roserameau@gmail.com).

9. Communications

• See the Announcements section above regarding communications. Mariana Ardizzone has posted an opportunity for a new Communications Vice Chair. If you wish to work on invigorating the IENRC LinkedIn page or Website, please contact Mariana Ardizzone (mariana@ardizzone.com.ar) and Kristin Drecktrah Paz (KPaz@shutts.com).

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

10. Liaison - AIPN - IEL
11. Website

- See the Announcements section above regarding communications. Ben Kirchner had previously indicated he may be interested in helping with the Website and Caryl Ben Basat said she would contact him to see if he may do this while a new Communications officer is selected. The ABA is upgrading its website which will be implemented by 2018 so it would be good to get our page updated before this.

- If you wish to work on invigorating the IENRC LinkedIn page or Website, please contact Mariana Ardizzone (mariana@ardizzone.com.ar) and Kristin Drecktrah Paz (KPaz@shutts.com).

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

12. New Business and New Members

- SIL is calling for new officer appointments for the various committees for next year.

13. Committee appointment recommendations

The Section is now asking for your recommendations for Committee chair and vice chair appointments for the next ABA bar year (September 1, 2017 to August 31, 2018). A couple of key things to note:

- **Committee Officers must be current Section members.** Staff will confirm that all nominated committee leaders are current Section members before sending to us for consideration.

- **Members may self-nominate to Committee co-chairs.** Please consider self-nominations when you recommend your slate.

- Per the Section bylaws, **no Committee Chair, Co-Chair or Vice Chair shall serve in the same capacity for more than three successive one year terms** except when special circumstances make such extended service desirable for the Section. Please identify yourself as the person you recommend to continue as co-chair if your term is not up. If you have served more than 3 years, please let us know why you think it is best you continue.

- **Keep diversity in mind** when making your nominations.

Please note that committee office is one of the building blocks of all Section activity. Please make sure you have the time and are prepared to make the commitment to do what is required. If you have any questions as to that, which are not answered in the leadership portal, please contact us.

The Co-Chairs will review the list and provide their recommendations to the Section by January 20th. In conjunction with general listserv announcement and to draw attention to the opportunities, Mariana Ardizzone asked whether it would be appropriate to invite and solicit nominations from specific individuals who may be interested in accepting positions for the upcoming year. Caryl Ben Basat and Belle Toren agreed that would be acceptable. Mariana Ardizzone will review membership roster and send some random individual invitations to encourage involvement and participation.

Once the Section receives all committee nominations by the January 20th deadline, staff will
compile proposed committee lists for our review along with Division Chairs at the Midyear Meeting (February 3-5, 2017). Draft appointment lists will be sent to Committee Co-Chairs after the Midyear Meeting for final review so appointments can be finalized in advance of the 2017 Spring Meeting (April 25-29).

Thank you,

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

Emails

Mariana Ardizzone, mariana@ardizzone.com.ar
Kristin Drecktrath Paz, KPaz@shutts.com

Website: https://apps.americanbar.org/dch/committee.cfm?com=IC742000
IENRC on LinkedIn: http://www.linkedin.com/groups?gid=5174728

Thank you for your continued interest in this list. If you have any issues you may contact the list owner via email: LISTNAME-request@mail.americanbar.org, the ABA Service Center at phone: 1-800-285-2221 or email service@americanbar.org or International Law Support Staff at SILcomtech@americanbar.org.

For other issues, please see:

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