

Panel on the UN Principles for Responsible Contracts
First annual UN OHCHR Business & Human Rights Forum
Wednesday, December 5, 2012, 13:45 to 15:15 Room XXII

Introduction

In 2011, the UN Special Representative of the Secretary-General for Business and Human Rights, John Ruggie (SRSG), presented his final report to the UN Human Rights Council. Along with the report, the SRSG presented the “**Principles for Responsible Contracts**” a guide for negotiators and others on how to ensure the management of human rights risks is integrated into State-investor contract negotiations. This document was the result of four years of research and consultation that the SRSG undertook during his mandate.

Since its publication this document has stirred interest among States, NGOs, companies and others. The Principles have also been referenced in a number of contract reviews, NGO capacity building workshops and in the development of global standards for investment project contracts. However, the document remains little known.

The Principles aim to help the parties to plan for, prevent and mitigate negative impacts on people who are not party to the contract but are impacted by it. Additionally, the Principles are meant to help enhance the positive impacts that investment can bring to the enjoyment of human rights.

How can the “Principles for Responsible Contracts” make a positive impact on State-investor contracts in practice? What be done to optimize the utilization of the Principles? This session will pose these questions to a panel of experts who are directly engaged in either negotiations or in working to improve State investment policy and State-investor contracts.

Panelists



Motoko Aizawa
Advisor to the Sustainable Development Network
World Bank Group

Motoko Aizawa is Advisor to the Sustainable Development Network, World Bank. She is an expert on environmental, social and governance dimensions of sustainability as well as policy initiatives to help governments and companies improve their sustainability performance. Motoko is the principal author of the 2006 IFC Sustainability Policy and Performance Standards, and the human rights provisions of the 2012 versions of these documents. These human rights provisions resulted from her close interaction with the Special Representative of the UN Secretary-General on business and human rights, Professor John Ruggie, as well as OECD, business groups, and civil society organizations. She currently leads efforts by the World Bank to update its Environmental and Social Safeguard Policies.



Antonio Carvalho Coelho

Senior Counsel

Legal department of exploration and production division of TOTAL

Antonio Carvalho Coelho is senior counsel in the legal department of the exploration and production division of the French oil and gas company Total. After many years in charge of drafting and negotiating international oil and gas contracts, he is now advising different departments of Total on many legal aspects of international contracts, including the designing of contractual mechanisms to address corporate social responsibility concerns. In the first years of his professional career, he was in law private practice in Portugal. He holds a Law Degree from the Law Faculty of the University Coimbra, Portugal.



Seward Montgomery Cooper

**Legal Advisor to the President of Liberia
Republic of Liberia**

Seward Cooper is an international and corporate lawyer, serves as the Legal Advisor to the President of Liberia, Nobel Peace Laureate Ellen Johnson Sirleaf. He is also a member of Liberia's Inter-Ministerial Concessions Committee that negotiates contracts for development of Liberia's mineral resources. He was the first head of the African Development Bank's (AfDB) Integrity and Anti-Corruption office.

Prior to that appointment, he was the first Chief Counsel and Unit Head for Good Governance, AfDB. Cooper has also led the international practice group of one of America's largest multi-cultural law firms based in the Washington D.C. metropolitan area; worked as managing partner of one of Liberia's largest law firms; and lectured as an adjunct professor of business law at the University of Liberia. A former president of the Liberia Chamber of Commerce, he has written extensively on legal matters.

He is an alumnus of the College of West Africa (diploma), the University of Liberia (Bachelor of Business Administration), the University of Wisconsin-Madison (post-graduate studies in agricultural economics), and the University of Wisconsin Law School (Doctor of Law - Juris Doctor). He is admitted, *inter alia*, to practice in the Supreme Courts of Liberia and of the United States of America.



Lorenzo Cotula

Senior Researcher - Law and Sustainable Development and Team Leader – Investment

International Institute for Environment and Development (IIED)

Dr. Lorenzo Cotula is a senior researcher in law and sustainable development and the team leader on investment at the IIED, a think-tank based in the UK. Lorenzo has published extensively on natural resource investments in the global South, and on the law regulating these investments. Recent publications include the book *Human Rights, Natural Resource and Investment Law in a Globalised World: Shades of Grey in the Shadow of the Law*, published by Routledge in 2012, and a journal article on ‘Reconfiguring Investment Contracts to Promote Sustainable Development’, written with Kyla Tienhaara and forthcoming in the *Yearbook on International Investment Law & Policy*. Before joining IIED in 2002, Lorenzo worked on assignments with the Food and Agriculture Organization of the United Nations. He holds a Law Degree (cum laude) from the University “La Sapienza” of Rome, an MSc in Development Studies (Distinction) from the London School of Economics, and a PhD in Law from the University of Edinburgh. Lorenzo is also completing a Postgraduate Certificate in Sustainable Business at the University of Cambridge.

Shades of Grey in the Shadow of the Law, published by Routledge in 2012, and a journal article on ‘Reconfiguring Investment Contracts to Promote Sustainable Development’, written with Kyla Tienhaara and forthcoming in the *Yearbook on International Investment Law & Policy*. Before joining IIED in 2002, Lorenzo worked on assignments with the Food and Agriculture Organization of the United Nations. He holds a Law Degree (cum laude) from the University “La Sapienza” of Rome, an MSc in Development Studies (Distinction) from the London School of Economics, and a PhD in Law from the University of Edinburgh. Lorenzo is also completing a Postgraduate Certificate in Sustainable Business at the University of Cambridge.



Herbert P. M'cleod

Special Adviser, Office of the President

Freetown, Republic of Sierra Leone

Herbert M'cleod is currently Special Adviser in the Office of the President of Sierra Leone. In this position, he provides advice on economic development issues with a focus on mining and finance. He occupied a similar position in the previous Government, from 2005 - 2007. He was recently the Coordinator of the Sierra Leone Conference on Development and Transformation, an exercise aimed at “rethinking” the development strategy of the country and setting targets for the next

twenty-five years. He is also Co-leader of the Government’s team re-negotiating mining agreements. In 2005, he took early retirement from the United Nations Development Programme (UNDP), where he had held numerous senior level positions including United Nations Resident Coordinator, and Humanitarian Coordinator in the Democratic Republic of Congo from 2002 – 2005. He also served as Resident Coordinator in Eritrea and Cameroon. From 1995 to 2002 he was the Director, Division of Operations Policy, UNDP, a position that covered all five regions including Africa.

He has provided advice to Governments on a variety of issues in development including the negotiation of mineral contracts, management by results, the introduction of performance contracts, planning etc. He is currently a member of the World Economic Forum’s Network on Conflict Prevention.

Mr. M'cleod is a national of Sierra Leone and obtained his academic training in Economics from The Institute of Social Studies at The Hague, Netherlands, and the University of Sierra Leone.



Hafiz Mirza

Chief, Investment Issues Section; Investment Trends and Issues Branch

UN Conference on Trade and Development (UNCTAD)

Professor Hafiz Mirza is Chief, Investment Issues Research, in the United Nation's Division on Investment and Enterprise at UNCTAD, based in Geneva. As well as working on the *World Investment Report*, he and his team are responsible for a range of research projects related to Foreign Direct Investment (FDI), Transnational Corporations (TNCs) and Development. This work includes programmes and projects in areas such as FDI Impact and Development, Responsible Agricultural Investment, FDI/TNCs and Green Growth, South-South FDI and the Investment-Trade Nexus. He is Deputy Editor of *Transnational Corporations*, and is also responsible for the UNCTAD Symposium/Network on International Investment for Development, which aims to increase collaborative research and other activities between UNCTAD, academia and other researchers. He is on a leave of absence from his position as Professor of International Business at the Bradford University School of Management. He has published extensively in the areas of International Business and Development Studies.



Benoit Palmer

**Senior Corporate Counsel, Simandou Project
Rio Tinto**

Benoit Palmer is a graduate of Université de Montréal (1998) and was admitted to the Quebec Bar in 1999. Early in his practice, he worked as a litigator for the firm Joli-Coeur, Lacasse, Geoffrion, Jetté St-Pierre based in Montreal, Canada. For the past decade Mr. Palmer has worked as in-house counsel for Alcan, a large Canadian-based aluminum producer, and for Rio Tinto, a leading mining group headquartered in the UK, which acquired Alcan in 2008. As in-house counsel, Mr. Palmer has been involved in supporting group operations in North America, Europe and Africa and has had extensive involvement in the development of large scale projects in Africa. He is currently based in Paris and is senior corporate counsel to the Simandou project, a large scale iron ore mining and infrastructure greenfield development project located in the Guinea, West Africa which will comprise a mine, approximately 670 km of railway and a port.

Moderator



Andrea Shemberg
Legal Advisor on Business & Human Rights

Andrea Shemberg is a legal consultant on business and human rights with more than 10 years of experience in the field, including 4 years as Legal Adviser to the UN Secretary-General's Special Representative John Ruggie. Andrea headed the Special Representative's work on investment and human rights and advised him on a wide range of international law and business and human rights issues. In addition to leading the joint research conducted by the International Finance Corporation and the Special Representative on investment

contracts and human rights, she authored the final report, "Stabilization Clauses and Human Rights". Andrea was also responsible for leading the Special Representative's project to develop the "Principles for Responsible Contracts," the subject of this session.

Andrea began her legal career as a management-side attorney in Labour and Employment law. She has been Legal Advisor to the Economic Relations team at Amnesty International UK and Legal Officer of the Economic Relations program at the International Commission of Jurists. Andrea holds a JD from The Ohio State University and an MSc in Human Rights from the London School of Economics.

Concluding Remarks



Gerald Pachoud
Senior Policy Advisor
Peacebuilding Support Office, United Nations

Gerald Pachoud is Senior Policy Adviser in the United Nations Peacebuilding Support Office. His main role is to advise the Assistant Secretary-General for Peacebuilding Support and to lead strategy development on the role of the private sector in peacebuilding.

From 2005 to 2011, Gerald had the honor and the pleasure of serving as the Special Adviser to the Secretary General's Special Representative on business and human rights, Professor John Ruggie. In this role, he was closely involved in the conceptual, political and operational development of the "protect, respect and remedy" framework, and in the drafting of the UN Guiding Principles on business and human rights.

He is currently on leave from the Swiss Department of Foreign Affairs, where he initiated and led the program on business and human security after having worked at the Ministry of Economic Affairs, the Swiss Mission to the United Nations in Geneva, and an international management firm.

Gerald holds a master's degree in international law from the Graduate Institute of International Studies and a bachelor's degree in international relations from the University of Geneva. He was a research fellow with the Kennedy School of Government at Harvard University.