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DUBAI

INTERNATIONAL BAR ASSOCIATION ANNUAL CONFERENCE



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Final programme

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Managing environmental risks of deep sea resource extraction

Joint session with the Environment, Health and Safety Law Committee, the Mining Law Committee and the Oil and Gas Law Committee.

Session Chair

Eugene E Smary Warner Norcross & Judd, Grand Rapids, Michigan, USA; Chair, Environment, Health and Safety Law Committee

Natural resource exploration and extraction in a marine environment poses potential significant risks of contaminating the world's oceans. Over the last several decades, the evaluation of those risks has been focused on oil and gas exploration and production. The associated hazards became world news with the recent Deepwater Horizon event in the Gulf of Mexico. However, the search for rare earth elements has now begun focusing on ocean bed exploration, and the loss of arctic ice pack has raised the issue of discovering substantial new mineral wealth in previously inaccessible areas of the globe. This panel will seek to discuss the nature of the risks posed and the legal mechanisms in place – or needed – to protect the fragile ecosystems where these resources are likely to be found. The session will focus on the views and experience of the environment, health and safety, mining and oil and gas practitioners in dealing with these risks. Immediately following this session the Maritime and Transport Law Committee will host a session dealing with environmental risks from the maritime law perspective. Members are encouraged to attend both sessions, which will be held in the same venue.

Panellists

Layla Hughes World Wildlife Fund, Juneau, Alaska

Tim Martin adr.governance.inc, Calgary, Alberta, Canada

Dr Samantha Smith Nautilus Minerals Inc, Milton Queensland, Brisbane, Australia

DUBAI C, FIRST FLOOR

New directions in business and human rights: identifying and meeting corporate human rights responsibilities in new business areas

Presented by the Corporate Social Responsibility Committee.

Session Chair

Peter Stern Morrison & Foerster, San Francisco, California, USA; Regional Representative Asia General, Corporate Social Responsibility Committee

Scrutiny of corporate human rights responsibilities has often focused most closely on mining and other extractive industries. But the scope of inquiry regarding business and human rights has expanded to include firms other than the extractives. Harvard Professor John Ruggie, who serves as the UN Secretary-General's Special Representative on the issue of transnational business and human rights, has formulated an influential set of 'Guiding Principles' in this area. The Guiding Principles contain a widely cited 'protect, respect, and remedy' framework for business and human rights, the scope of which extends beyond the extractives and covers all companies.

A series of new 'soft law' initiatives will also affect extractive and non-extractive industries alike: these include the ISO 26000 guidance standard on social responsibility (launched on 1 November 2010), the proposed update of the OECD Guidelines for Multinational Enterprises, and the new IBA Model Mining Development Agreement.

How will extractive industries adapt to meet these new expectations? Further, what are the human rights responsibilities of non-extractive firms that finance, supply, manage and otherwise contribute to the success of major projects? How do non-extractive firms identify relevant human rights issues and analyse them as business risks?

Focusing attention on the UN Special Representative's Guiding Principles and related initiatives, the panel discussion will seek to situate business and human rights in the next stage of CSR development.

Speakers

Stéphane Brabant Herbert Smith, Paris, France; Regional Representative Europe, Corporate Social Responsibility Committee

Hans Daems Hitachi Europe, Maidenhead, England

Arvind Ganesan Human Rights Watch, Washington DC, USA

Liam McCollum General Electric, Dubai, UAE

Lubna Qassim United Arab Emirates Ministry of Economy, Dubai, UAE

Peter Taylor Rio Tinto Ltd, Sydney, New South Wales, Australia

DIAMOND, NOVOTEL WORLD TRADE CENTRE – DUBAI

Private enterprises and growth capital

Presented by the Closely Held and Growing Business Enterprises Committee.

Session Co-Chairs

Andrés Cerisola Ferrere, Montevideo, Uruguay; Publications Officer, Closely Held and Growing Business Enterprises Committee

Udochi N Iheanacho Udochi Iheanacho Partnership, Lagos, Nigeria; Newsletter Editor, Closely Held and Growing Business Enterprises Committee

This session will focus on issues entrepreneurs face when seeking capital in the context of high growth companies. The role of counsel, in the context of rendering legal and strategic advice, is the focus of this interactive panel that will consider, among other topics, the preparation of pitch interviews, characteristics of most attractive targets, expectations of professional investors, term sheet negotiation, valuation, option pools, exit-related clauses, unavoidable concessions and trade-offs, hidden risks, the interaction with a real board of directors, and dispute management in the context of startups.

Speakers

Jay A Lefton Borden Ladner Gervais, Toronto, Ontario, Canada

Alberto Navarro Navarro Castex Abogados, Buenos Aires, Argentina; Council Member, Public and Professional Interest Division

Tom Speechley Abraaj Capital Limited, Dubai, UAE

Douglas M Young Baker & McKenzie, San Francisco, California, USA

SHEIKH RASHID HALL E, GROUND FLOOR

Recapitalising financial institutions in distress – can it really work?

Presented by the IBA Task Force on the Financial Crisis.

Session Co-Chairs

Lisa Curran Allen & Overy, Rome, Italy; Council Member, Legal Practice Division

Hendrik Haag Hengeler Mueller, Frankfurt, Germany; Council Member, Legal Practice Division

The worst of the global financial crisis is over – so it seems at least. While much work has gone into developing new rules and instruments designed to prevent large financial institutions from becoming insolvent to protect the system from systemic risk, no one would seriously claim that enhanced capital and liquidity requirements immunise banks against financial distress. This means that designing innovative tools to stabilise an ailing financial institution is equally important. Based on their experience with the current crisis, governments have become acutely sensitive to the risk of finding their arms twisted into interfering with funds not in the budget.

The trend is clearly towards new self-cure mechanisms under which the financial industry and investors are obliged to bear the cost of a bank's restructuring. Although some of the new tools like, for example, contingent convertible bonds ('CoCos'), that convert into equity once a certain level of regulatory capital is not maintained, have already made their way into the market, others are still under consideration. Often, their legal ramifications are deep and complex. While regulators and investors are used to focusing on the consolidated financial figures of a banking group, as soon as the parent institution becomes insolvent former group assets start walking in many different directions.