

106th American Society of International Law Annual Meeting Confronting Complexity

ROUNDTABLE PROPOSAL BY THE
INTERNATIONAL ENVIRONMENTAL LAW INTEREST GROUP

by Natasha Affolder

International Environmental Law's Unfamiliar Faces: Contracts, Concessions and Offset Agreements

International environmental law continues to struggle with integration of non-state and hybrid law-making, despite its ubiquity. Diverse forms of transnational conservation contracts are emerging to conserve discrete areas of land or water, including valued, endangered or critical habitat, between actors in more than one country. Conservation agreements are becoming a favored tool of US-based conservation organizations who argue that global threats to biodiversity are sufficiently urgent to merit direct action such as “renting” forests in foreign countries or “leasing” fishing areas for conservation purposes. To date, these agreements (which include biodiversity offsets, conservation concession agreements, easements, leases, and other contractual tools) have been debated as a market tool. Discussion of these instruments has been largely limited to the conservation biology literature and to the policy literature generated by conservation groups. Acknowledging the complexity of international law demands integrating accounts of transnational contractual agreements into the wider scholarship of international environmental law.

This roundtable draws attention to the transnational contracts that are emerging as a tool of environmental protection and situates these agreements within the wider architecture of international law. Many of these agreements are very recent and novel. This roundtable allows practitioners and academics to together examine climate change offset agreements, access and benefit sharing agreements, and emerging contract-based measures to promote tropical forest conservation through REDD+ initiatives. Discussion of the interaction between contracts and treaties promises to enrich (and complicate) our understanding of the challenges facing international environmental law.

Proposed Chair: Marie Soveroski, Managing Director, Earthrights International

Proposed Roundtable Participants:

- Professor Natasha Affolder, Associate Professor, University of British Columbia Faculty of Law, Canada (expertise in contractual approaches to international law and international biodiversity law).
- Professor Riccardo Pavoni, Associate Professor of International Law, Faculty of Law, University of Siena, Italy (expertise in international biodiversity law and REDD+ agreements).
- Professor Jorge Cabrera, Professor of Environmental Law, University of Costa Rica (expertise in biodiversity law and access and benefit-sharing agreements).
- Dr. Eduard Niesten, Director, Conservation Economics, Conservation International (expertise in negotiating and implementing conservation agreements).
- Peter Shelley, Esq., Vice President and Senior Counsel, Conservation Law Foundation (expertise in international conservation agreements and marine resource protection contracts).
- Jay Udelhoven, Senior Policy Advisor, the Nature Conservancy (expertise in marine protected area agreements).