



A natural resources network

By the Raw Materials Group

Transnational corporations are increasingly powerful actors in the world economy. Although systematically collected by international institutions like the World Bank and the UN, mining contracts between TNCs and developing countries are normally treated as confidential. This policy is a severe hindrance to the negotiating ability of the developing countries.

In a series of articles RMR will therefore publish mineral contracts of special interest. The contracts have been selected from an archive set up by the Raw Materials Group as part of a project to establish an international network for natural resource information.

The first article in our series proposes a legal framework, within which contracts can be analyzed and developed.

One of the reasons for establishing a natural resource information network is the difficulties that many developing countries experience in attempting to obtain data on investment agreements in other countries. In particular, the *United Nations Centre on Transnational Corporations* (UNCTC) has not adequately fulfilled its potential function as a basic provider of this information. In the following introduction we outline some of the reasons for the shortcomings of the UNCTC and the other international agencies that have responsibilities in this area.

1. While UNCTC has a large file of investment and minerals and petroleum laws and contracts, it does not make these files generally available. The contracts which UNCTC receives from one country, usually in the course of its advisory work, are treated as confidential, and if another country asks for advice, even about the same issue, it does not receive the actual contracts, but only UNCTC's summary of country practice in the field. Since good negotiating strategy depends on being able to formulate precise contractual language, not merely to articulate positions of principle, the lack of access to the raw materials – namely, the contracts which other countries have signed – is a severe hindrance to countries negotiating ability.

2. Similar confidentiality restrictions apply to investment contracts that have been collected by other international agencies, eg the Commonwealth Secretariat, the World Bank and UNIDO.

Each of these organisations has a large file of material, but does not make it available to developing countries in a way which permits good contracting points to be imitated (or improved upon) and dangers to be avoided.

3. Moreover, the basic policy mission of agencies such as the UN and the World Bank is to support the negotiation

of investment agreements, and not to suggest to countries that they might be better off undertaking the projects themselves, without a foreign investor. The proposed natural resources information network would include data on methods of undertaking oil and mineral exploration and development without recourse to multinational investors, as well as on investment agreement terms and conditions.

4. Proposals for widespread dissemination of investment contract information have been presented to a variety of UN organizations, including UNCTC, the UN Division of Natural Resources, Energy and Transport, and UNIDO, always without success. This suggests that the UN is unlikely to take action in this area.

5. The only generally available source of oil and mining contract is a commercial vendor, the Barrows Co of New York, which charges extremely high prices (over 75 000 USD for a worldwide set of petroleum agreements alone), and which generally runs several years behind in making its information available. These costs are beyond the reach of many developing countries, especially those that have little or no current production but that need to deal with investors seeking exploration agreements.

The Editors

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A full list of contracts available will be published in a forthcoming issue. Copies of these contracts will be available as prints or on disk. We would also appreciate copies of contracts not yet available from our archive.