

# : Global Governance Spotlight

3 | 2015

sef:

## The G7 CONNEX Initiative. Fit for purpose?

---

Myriam Carius/  
Opemiposi Adegbulu

**The G7 CONNEX Initiative (hereafter “the Initiative”) was one of the key points that were discussed at the G7 Summit in Elmau, Germany, in June 2015. It was launched in June 2014 to assist resource-rich developing countries with negotiating complex contracts, particularly in the extractive industries in order to foster the “right enabling environment” to use resources generated from the extractive industries to “make a huge contribution to reducing poverty”. Is the Initiative fit for purpose? Does it bring any new or added value to existing mechanisms on the negotiation of complex contracts? If not, what are the ways in which the G7 can provide active and sustainable assistance to resource-rich developing countries in relation to complex investment contracts? This paper will look at these questions largely from the perspective of resource-rich developing (African) countries to which the Initiative appears to be addressed, even if not stated explicitly.**

---

### The CONNEX Initiative – steps taken so far

It is widely known that many resource-rich countries, particularly in Africa have faced various challenges in negotiating complex contracts such as understanding and bargaining favourable terms in their interest. Oftentimes there are significant gaps in expertise, be it legal or otherwise, which are necessary for equity and development in the negotiation of complex (often very long term) contracts. The first step of the Initiative aimed at filling this gap. It therefore cre-

ated a comprehensive and user-friendly negotiation portal for host country governments (hereafter the “Negotiation Portal”) consolidating existing offers of assistance with contract negotiations.

The Negotiation Portal makes information and support available to resource-rich developing countries to prepare for, negotiate, monitor and implement large scale investment projects, e.g. on land, agriculture or infrastructure. It includes a graphic and detailed roadmap of the key four stages of large scale investment processes (see page 2) as well as a searchable database of major support providers that offer assistance to host governments during these stages. The four key stages addressed by the Initiative are: setting the legal and policy framework, the pre-negotiation stage (the period during which a government identifies a particular project or investment and conducts feasibility studies and impact assessments), the contract negotiation stage as well as the contract implementation and monitoring stage (see page 2). Although aimed at host-governments of investment contracts, the Negotiation Portal is also readily accessible to other stakeholders or interested parties, such as civil society organisations, academics or students who want to learn more about the investment process and how to monitor the implementation of investment projects.

In addition to the Negotiation Portal, the G7 has organised various conferences in 2015 to define the values for negotiation support for resource-rich (or mineral-rich) developing countries. A Code of Conduct has also been drafted which sets out the duties

and guiding principles of conduct for all advisors to governments on negotiating complex contracts (hereafter the “Code of Conduct”). There have also been consultations and surveys for governments of the targeted developing countries, companies,

### The Negotiation Portal Roadmap

#### 1. Setting the Legal and Policy Framework

Government Policies and Strategies  
Legislative and Regulatory Frameworks  
Sector-Wide Analyses

#### 2. Pre-Negotiation Stage

Feasibility Studies  
Impact Assessments  
Tender Process and Financial Structure

#### 3. Contract Negotiation Stage

Prepare for the Negotiation  
Assemble a Negotiation Team  
Develop a Negotiation Position  
Contract Negotiation

#### 4. Implementation and Monitoring Stage

Monitoring  
Implementation  
Grievance Mechanisms

© <http://negotiationsupport.org/roadmap>

NGOs and current support providers on the Code of Conduct for the advisors or experts. The Code of Conduct focuses on values such as integrity, honesty, tolerance, sensitivity, respect, impartiality, avoidance of conflicts of interest and even the appearance of impropriety, independence and the need to provide unbiased advice as well as respect of confidentiality to which advisors must adhere when providing advice to the governments. It also provides a clear and concise definition of bribery and corruption from which advisors must abstain. All these aspects of the Initiative are very commendable, yet there is a sense that something is missing.

### Added value for contract negotiations?

There are many support providers, regional and otherwise for resource-rich developing countries seeking advice, support or expertise on negotiating, implementing and monitoring complex contracts. Prominent examples are the African Legal Support Facility, the Columbia Centre for Sustainable Investment or the International Institute for Sustainable Development Investment Program which focuses on assisting resource rich developing countries prepare for, negotiate, monitor and implement large scale investment projects in different capacities. These support providers offer multi-lingual assistance and expertise, technical, legal, fiscal, etc. Essentially, the

various existing support providers appear to provide sufficient assistance for countries that require or need it. However, the Initiative is different because its Negotiation Portal provides centralised information on existing support providers. The emphasis on transparency, professional diligence and independence advocated in the Code of Conduct are commendable as well. As a next step, the Code of Conduct ought to be taken on board by support providers in the management of advisors, to provide services of assistance and expertise for the host countries in order to ensure that the assistance provided is done in an ethical and sustainable manner. The Initiative has also put in place a laudable consultation conference to ensure dialogue and debate various aspects of the Code of Conduct with representatives of service providers, developing countries, companies as well as NGOs and to revise it accordingly.

### An independent initiative?

While these efforts of the Initiative are commendable, it becomes problematic where it seeks to create its own support or assistance tool because of the potential obstacles of neutrality, independence and conflict of interest concerns.

A number of other bilateral and multilateral international institutions currently providing support to African or other resource-rich developing countries have refrained from creating initiatives for the negotiation of complex contracts because they believe that they do not have an entirely neutral stance in advising these countries. Especially the World Bank and the International Monetary Fund (IMF) have considered the establishment of a fund to directly finance contract negotiation assistance for heavily indebted poor countries as inappropriate due to reasons of neutrality and impartiality in disputes among their members and third parties.

Natural resource management and complex investment contracts are highly politically sensitive issues, particularly for resource-rich developing countries, as commercial intentions and interests are deeply entrenched. Despite this sensitivity, there appears to be an absence of the (African) resource-rich countries voices or perspective in the creation of the Initiative.

Many of the prospective investors in natural resource exploitation originate from G7 countries. Consequently, they have pressing and valid interests in ensuring that the investor companies and entities from G7 countries have better bargaining power in the negotiation of these contracts. Given the perception that these entities could be powerful enough to exert pressure on the governments of the G7 countries through their alleged market power and even presence, it seems unclear how the governments of the G7 countries can ensure an appropriate and ad-

equate assistance to resource-rich countries that is at the same time not detrimental to the interests of the prospective investors from G7 countries.

---

### Hearing the voice of resource-rich countries?

Another significant concern is the seeming absence of the resource-rich developing countries' voice in the creation and implementation of the Initiative. This is really unfortunate as in order to provide a bespoke solution to resource-rich countries with regards to the provision of support in the negotiation of complex contracts, it is crucial to really ascertain what the needs and expectations of the targeted countries are. It appears that, at this stage, it might be better to simply retain the Negotiation Portal and then focus on consulting with the targeted resource-rich countries in order to find other mechanisms/initiatives which can be used to ensure that all parties achieve their intended goals. Such a process would take into consideration their needs and expectations towards external multidisciplinary advisory support for developing countries for complex contract negotiations. In short, for the Initiative to be effective, the voice of the targeted countries should be predominant and indispensable to assist in providing support on complex contract negotiation.

---

### Recommendations for a forward-looking initiative

The negotiation, monitoring and implementation of complex (investment) contracts does not begin and end at the provision of support with the use of external advisors. It is clear from the demand for such advisors that there is an enormous need for technical, legal and fiscal knowledge and expertise in these resource-rich developing countries. Therefore, a more sustainable way for the G7 countries to provide assistance in this matter would be to contribute significantly to the transfer of knowledge and expertise on the various technical, legal and fiscal aspects of managing complex contracts. This would reduce the need to use support providers, reduce the costs of managing complex contracts and make sure that the citizens of resource-rich developing countries are able to better contribute to the negotiation of complex contracts, rather than make use of external advisors time and time again which can only really be a temporary solution to the problem.

The funds which seem to be available for the Initiative could be dedicated to an actual transfer of knowledge on areas such as geology, fiscal and legal considerations, etc. Investments in the education, training and development of local professionals to build up the capacity to assist their governments locally would ripple out on to the generations to come.

One practical way of ensuring a sustainable transfer of knowledge could be the creation of centres of excellence in partnership with regions made up of resource-rich developing countries where local professionals and postgraduate students are trained in various areas and capacities. Here, G7 countries could assist by providing experts, academics and advisors as well as contributing to the exchange, sharing and transfer of knowledge and skills which would later make these resource-rich countries better equipped to deal with and manage complex contracts themselves. This is invariably a more sustainable approach to negotiating and managing complex contracts as it has a long-termist vision rather than the creation of another support provider.

All in all, the Initiative appears to be well-meaning because it aims to improve the negotiation and management of complex contracts for resource rich developing countries. Nevertheless, it seems to be lacking a thorough consultation of the supposedly most interested parties in the Initiative, the resource-rich countries themselves.

---

#### Authors

**Myriam Carius** | Managing partner of the legal counsel firm Cadiciss. Myriam advised banks, financial institutions, borrowers and sponsors as well as African governments in the natural resources sector while on secondment at the African Legal Support Facility (ALSF).

**Opemiposi Adegbulu** | LLB, LLM. and Master of Law and Business Ethics, currently a PhD student in law at the University of Leeds.

#### Further information

Negotiation Support Portal  
<http://negotiationsupport.org>

## Global Governance Spotlight series

### Global Governance Spotlight 2|2015

A milestone on the road to fairer global taxation?  
The 3rd International Conference on  
Financing for Development  
*Wolfgang Oberland*

### Global Governance Spotlight 1|2015

The United Nations and Global Health Crises.  
Lessons learned from the Ebola outbreak  
*Cornelia Ulbert*

### Global Governance Spotlight 7|2014

The Shanghai Cooperation Organisation.  
A Regional Agenda with Geopolitical Significance?  
*Nadine Godehardt*

### Global Governance Spotlight 6|2014

Internet Governance and the Protection of Privacy.  
Which way forward?  
*Rolf H. Weber*

### Global Governance Spotlight 5|2014

The Private Sector in the Post-2015 Negotiations.  
A plea for a stronger emphasis on corporate  
human rights responsibility  
*Brigitte Hamm*

### Global Governance Spotlight 4|2014

Autonomous Weapons Systems.  
Humanising or Dehumanising Warfare?  
*Frank Sauer*

### Global Governance Spotlight 3|2014

Adding Value to Natural Resources.  
A multilevel challenge  
*Antonio M.A. Pedro*

### Global Governance Spotlight 2|2014

The EU-11: The Global Avant-Garde?  
The negotiations on a financial transaction tax  
*Hubert Zimmermann*

### Global Governance Spotlight 1|2014

The WTO Bali Package. Does it mark the  
resurgence of trade multilateralism?  
*Noemi Gal-Or*

### Global Governance Spotlight 8|2013

The World Bank: Quo Vadis?  
Environmental and social safeguards under review  
*Christian Scheper*

### Global Governance Spotlight 7|2013

The Minamata Convention.  
Towards a zero mercury world?  
*Elena Lymberidi-Settimo*  
*Michael T. Bender*

### Global Governance Spotlight 6|2013

Global Governance for Health.  
In search of leadership  
*Cornelia Ulbert*

### Global Governance Spotlight 5|2013

Transparency in the Resource Sector.  
The basis for sustainable development  
*Raimund Bleischwitz*

### Global Governance Spotlight 4|2013

The Status Quo is Not an Option.  
The global governance challenge of nuclear weapons  
*Ramesh Thakur*

### Global Governance Spotlight 3|2013

The Arms Trade Treaty.  
Is the glass half full or half empty?  
*Herbert Wulf*

### Global Governance Spotlight 2|2013

Still a Bumpy Road. The Multiple Challenges  
of External Democracy Promotion  
*Stephen Brown*

### Global Governance Spotlight 1|2013

The Post-2015-Agenda.  
Common Goals for  
Development and Sustainability  
*Jens Martens*

### Global Governance Spotlight 2|2012

The Busan Process: Milestone or Stumbling Block  
for International Development Cooperation?  
*Elena Sondermann*

## Imprint

The Development and Peace Foundation was founded in 1986 on the initiative of Willy Brandt. As a cross-party and non-profit-making organisation, the sef: provides an international high-level forum for shared thinking on urgent peace and development issues.

Global Governance Spotlight is a policy-oriented series whose purpose is to critique international negotiation processes from a global governance perspective.

**Published by**  
Development and Peace Foundation/  
Stiftung Entwicklung und Frieden (sef:)  
Dechenstr. 2 : 53115 Bonn : Germany  
Phone +49 (0) 228 959 25-0 : Fax -99  
sef@sef-bonn.org : www.sef-bonn.org

**Editor**  
Rebekka Hannes

**Design Basic Concept**  
Pitch Black Graphic Design  
Berlin/Rotterdam

Contents do not  
necessarily reflect the  
views of the publisher.

**Layout**  
Gerhard Süß-Jung