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Pro Bono Opportunities to Advance the Rule of Law Globally

Robert E. Lutz

“Volunteer Senior Lawyers bring expertise and gravitas to U.S. government international technical assistance for commercial law reform.” This sentiment, expressed by a number of U.S. government officials, is central to an opportunity for ABA International members to engage remotely and in-person in commercial law reform projects around the world. The idea of a possible synergy between volunteer senior lawyers and USG technical legal assistance was initially suggested by a close colleague.¹ The result was a collaboration between the U.S. Department of Commerce’s Commercial Law Development Program (“CLDP”) and the Senior Lawyers Division (SLD), Senior International Committee. Born in April 2021, the collaborative relationship benefitted from the focused involvement of CLDP’s leadership (Joe Yang and Marc Tejtel), and Bob Lutz, Co-chair of the International Committee of the SLD,² who worked in the subsequent several months to shape the original notion. Ultimately, they fine-tuned this partnership to establish a program of opportunities for senior lawyers.

What is CLDP?

CLDP is a division of the U.S. Department of Commerce’s Office of General Counsel that was established in 1992.

CLDP has a double mandate: To help developing countries create legislative, regulatory, and judicial environments conducive to trade and investment, and, at the same time, to create a level playing field in these countries for U.S. firms. Since its inception, CLDP, working at the behest of U.S. embassies, has helped more than 70 foreign governments create legislative, regulatory, and judicial environments conducive to increased trade and investment.

CLDP is a small organization of about 70 employees: international lawyers and international program specialists supported by an administrative staff. To carry

out its work, CLDP relies on the expertise of its lawyers, often supplemented by the expertise of two kinds of outside experts: USG officials, in particular federal judges and regulators, as well as volunteer senior lawyers with expertise in private practice.

Where and what specifically does CLDP do?

CLDP operates worldwide and offers volunteer opportunities to senior lawyers through this unique collaboration to contribute to efforts that advance the rule of law through commercial legal reform. Current programming is conducted in many regions of the world:

- Europe and Eurasia;
- Latin American and the Caribbean;
- the Middle East and North Africa;
- South Asia;
- Southeast Asia and the Pacific; and
- Sub-Saharan Africa.

There are also Global Initiatives that target the development of commercial law frameworks, regulations and policies in energy sectors, women-owned and small business access to government contracts, digital connectivity, and international commercial arbitration.

A sample of regional projects illustrates the breadth of subject matter involved. For example, to assist the transition of countries to stable, market-based economies that are integrated with the world’s economies, CLDP works with countries aligning their rules and processes with international best practices [Eastern Europe, Southeastern Europe, the Southern Caucasus, and Central Asia]. It works with government procurement agencies to improve transparency, and effectiveness of systems and procedures, and also supports better insolvency practices [Latin America and the Caribbean]. In the Middle East and North Africa, CLDP connects U.S. experts with country counterparts for assistance and training on a range of commercial and

¹ The suggestion to the Office of General Counsel of the U.S. Department of Commerce is attributed to Don De Amicis, (former ILS Chair-2002-03), who works on legal assistance projects for the DOC.

² Included in the leadership of the ABA-SLD International Committee’s leadership on this project were: Aaron Schildhaus, Co-Chair of the

Committee, and Robert Brown, Co-Vice-Chair. Support from the SLD leadership was also instrumental and is gratefully acknowledged: Michael Van Zandt (SLD Chair, 2020-21); Al Harvey (SLD Immediate Past Chair); Carole Worthington (SLD Chair-Elect); Jim Schwartz (SLD Vice-Chair); and Tony Barash (Chair, SLD Pro Bono Committee).

legal issues. Relying upon private sector lawyers, businesspersons and professionals along with governmental officials, CLDP programming includes trade and investment assistance, intellectual property protection, technology transfer and innovation, competition and consumer protection, company and franchise law reforms, energy and mining extractive concerns, information and communication technology, transportation and infrastructure, eCommerce and cyber law, banking and financing, insolvency and bankruptcy, ADR, and women’s economic empowerment [[South Asia](#)]. CLDP also works with Southeast Asian and Pacific Island countries to develop transparent legal and procedural frameworks to oversee complex infrastructure projects in order to attract high quality investors and developers [[Thailand, Cambodia, Burma, Myanmar, Malaysia, Timor Leste, Indonesia, Philippines, Vietnam, and the Pacific Islands.](#)] In [Sub-Saharan Africa](#), CLDP seeks to reform and strengthen intellectual property legislation, administration and enforcement on a country and regional basis [[Ghana, Nigeria, Liberia, Mali, South Africa, Kenya](#)]; plus the [Economic Community of West African States \(ECOWAS\)](#), [Southern Africa Development Community \(SADC\)](#), and [East African Community \(EAC\)](#)].

On a [global-initiative level](#), CLDP helps countries on the verge of becoming major oil and gas producers to establish the capacity to manage resource revenues maximizing value and transparency. It relies on many *pro bono* lawyers and experts to help build and implement commercial law frameworks incorporating best practices of contracting, accounting and taxation in order to attract foreign investment.

What are the Roles of Volunteers and their Expertise?

“CLDP operates on an invitational basis to identify and address problematic points in a host country’s commercial law framework.”³ The CLDP attorneys, who have experience employing a variety of development approaches, assess whether improvements needed in a host country’s commercial law framework are substantive or procedural, human or institutional. If expertise is needed and available from private sector *pro bono* volunteers—especially from those with great experience and possessing a “senior’s gravitas”—an invitation for volunteers will be issued via various

channels, one of which now is the SLD-International Committee.

The type of legal expertise is specified in the CLDP announcement, and volunteers whose expertise matches a project’s requirement are invited by CLDP for a Zoom/TEAMS interview with CLDP’s project coordinators. Under this new cooperative program with SLD, volunteer senior lawyers—if selected after the interview—may be offered to do in-person or remote work, including *inter alia*—

- Seminar-type presentations for foreign officials;
- Simulation-styled training for the development of negotiation skills of foreign officials;
- Desktop or in-person review of draft laws and regulations to ensure they are compatible with international best practices;
- Revision of national investment laws ensuring they are conducive for foreign investors; or
- Service as arbitrators or judges for international moot competitions.

Thus today—because of the COVID pandemic—many of CLDP’s projects are being conducted on a remote basis. However, volunteers in a post-COVID world involved in some of the projects may enjoy the possibility of international travel (CLDP pays travel costs) and of person-to-person interactions with foreign government officials, diplomats, and lawyers.

How do I get involved?

Step One: All interested SLD members are encouraged to join the SLD International Committee. ABA members of 62 years of age or older are automatically entitled to, and enrolled free in the Senior Lawyers Division. To become an International Committee member, however, you may simply send a note to: Emily Roy, Director, ABA Senior Lawyers Division, emily.roy@americanbar.org. Tell her that you would like to be enrolled as a member of the SLD International Committee.

Step Two: To be considered for a CLDP project, please send a note indicating your expertise in subject matters coupled with a copy of your resume to Bob Lutz, CLDP/SLD-Int’l Liaison at: rlutz@swlaw.edu. Relevant submissions will be shared with CLDP and kept on-file to provide a resource-base for current or future assignments.

Step Three: From time-to-time, new projects are initiated. When a special project is developed, CLDP will

³ See [CLDP.doc.gov](#)—“Areas of Expertise”.

contact the SLD-Int'l Committee and an announcement to the SLD-International Committee membership will be made by Bob Lutz to which members—with the requisite qualifications and interest—may respond, again, with CV and cover letter to: rlutz@swlaw.edu. Applicants will be contacted directly by CLDP thereafter should their expertise and availability make them viable *pro bono* contributors to the project.

Providing this unique access for Senior Lawyers to one of the USG's premier international legal assistance programs dramatically expands the range of opportunities seniors may receive as members of the SLD-International Committee. It also enables Senior Lawyers, whose legal careers span many successful years, to extend their appreciated "gravitas", advance the rule of law, and help make a positive impact on the lives of many people around the globe.

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