Index

Abbreviations used:
NGO non-governmental organisations
OECD Organisation for Economic Co-operation and Development
TNC transnational corporations

Abad v Bayer Corp. (2009)(US) 108
act of state doctrine 114–16
actus reus
for aiding and abetting 103–4, 153
and corporate criminal responsibility 129
Administrative Offences Act (Germany) 128
African Court on Human and Peoples’ Rights 175
Afrimex case (2008)(UK) 50–51
Agreement on Trade-Related Investment Measures (TRIMs)(1995)(WTO) 74
aiding and abetting 101, 103–4
act or omission, and causation 153–4
complicity 152–3
and corporate criminal responsibility 101, 103–5, 129, 153–4
evidence of, and due diligence 105
Aldana v Del Monte Fresh Produce (2005)(US) 102
Alien Tort Claims Act 1789 (US) 95, 99–106
class actions under 101
and comity 117
command responsibility 100–101, 160
and knowledge or intent 104–5
law of nations, violation of 101–2
and liabilities of states and individuals 105–6
and state action, requirement of 103–4
and sovereign immunity 111–12
and US treaties, violation of 102–3
Alston, Philip 38
American Convention on Human Rights 174–5
Anglo-Iranian Oil Company (1951)(ICJ) 194
anti-corruption/ bribery measures 117
in Europe 136–7
extra-territorial legislation on 98–9, 136–8
and International Criminal Court (ICC) 133, 138–9
in US 129–30, 137–8
anti-money laundering measures
in EU 134–5
in Spain 134–6
in US 133–4
apartheid 101–5
Argentina, corporate criminal responsibility 128, 139
ASEAN Intergovernmental Commission on Human Rights (AICHR) 175
Australia
Australian Corporate Responsibility Network 7–8
Australian Minerals Industry Framework for Sustainable Development 23
AWB Ltd, conflicts of interest concerning 48
BHP/ Papua New Guinea case 77–9, 173–4
‘clearly inappropriate forum’ test (forum non conveniens) 110
corporate criminal responsibility 128–9, 139
corporate governance 7–8
corporate social responsibility 7–8
James Hardie Group asbestos case 80–85
OECD National Contact Point, actions by 171, 173
Parliamentary Joint Committee on Corporation and Financial Services (JCCFS) 7–8

Banco Nacional de Cuba v Sabbatino (1964)(US) 114–15
Belgium, corporate criminal responsibility 128, 139
bilateral investment treaties (BITs) 1, 3 and investor protection 75–6
TNC role in, potential benefits of 4, 193–6

Bodner v Banque Paribas (2000)(US) 107

bribery see anti-corruption/bribery
Bribery Act 2010 (UK) 136

Burnett v Al Baraka Inv. and Dev. Corp (2003)(US) 113

Business and Society Exploring Solutions – A Dispute Resolution Community (BASESwiki) 168–9
Business in the Community (UK) 7–8
Business Leaders Initiative on Human Rights 33

Canada
comity 116–17
corporate criminal responsibility 128, 139
international enterprise liability in 98
causation
and act or omission, in international crime 153–4
and sphere of influence 36–40
in US Alien Tort Claims Act cases 103–5

Chambers, Rachel 35

China
corporate governance 9
corporate social responsibility 11
civil cases against TNCs see also extra-territorial legislation
NGO role in 93–4
agency cases 97–8
success rates of 117
tort and negligence claims 94–7

Civilizing Globalization 2
Civil Law Convention on Corruption (1999)(Council of Europe) 98–9

Clark, J.A. 22
Climate and Environmental Justice Tribunal, proposed 196
Clough, Jonathan 83, 137–8
coercion 152–3
comity 116–17
command responsibility 100–101, 160
Companies Act 2006 (UK) 6–7
complementarity principle, of International Criminal Court (ICC) 138–9
complicity, concept of 152–3, 155
Connelly v RTZ (1998)(UK) 95
Convention against Corruption (2003)(UN) 137
Convention against Transnational Organized Crime (CATOC)(2000)(UN) 133
Convention on Civil Liability for Oil Pollution Damage (1969)(IMO) 149

Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID)(1966) 74–5, 188

Corporate Code of Conduct Bill 2000 (Aust) 8
corporate criminal responsibility 3, 4–5
act or omission, and causation 153–4
actus reus and mens rea (action and intent) 128–9, 153
aiding and abetting 101, 103–5, 129, 153–4
basis for international law on 151–2
bribery and corruption 136–8
command responsibility 100–101, 160
complicity 152–3, 155
concept, historical development of 127
and corporate mobility 80–85
and criminal sanctions 155–7
and international treaties 133–8
joint criminal enterprise 160
knowledge requirement 104–5, 154
money laundering 133–6
Racketeer Influenced and Corrupt
Organizations (RICO) Act
and state responsibility, overlap
between 47–8, 73–85
of subsidiaries 80–85
corporate governance see also corporate
social responsibility
in civil law systems 8–10
codes of conduct, development trends
22–3
in common law systems 6–8
self regulation and voluntary codes 3,
11–14, 23–7, 55
corporate social responsibility 2
in civil law systems 8–10
in common law systems 6–8
employee share ownership schemes 9
and ethical investments 22–3, 54–8,
149
focus of, trends in 21–3
global standards for
Global Reporting Initiative 28
ILO Tripartite Declaration (1977)
29–31, 182
ISO 26000 Guidance on Social
Responsibility (Draft) 43–6
need for 27–8
OECD Guidelines for
Multinational Enterprises
(1976) 41–3
UN Draft Code of Conduct for
Transnational Corporations
(1990) 14, 28–9
UN Global Compact 3–4, 8, 28,
31–3, 36–40
industry-wide codes of conduct 23–6
national reporting requirements 11
value of 21, 54–5
voluntary codes 11–14, 23–7, 55, 180
Corporate Social Responsibility
Voluntary Guidance
(CSRVG)(India) 12–13
Corporations Act 2001 (Aust) 7
Crawford, James 155–6
Criminal Law Convention on Corruption
(1999) (Council of Europe)
(proposed) 137
Declaration Against Corruption and
Bribery in International
Commercial Transactions
(1996)(UN) 136
Denmark, corporate social responsibility
11
dispute resolution, international
conventions and agencies for
74–6, 188, 204
Doe v Unocal (1997)(US) 95, 99–100,
105
Dole Food Co. v Patrickson (2003)(US)
113
Dow Jones Sustainability World Index
55, 149
Draft Articles on the Responsibility of
States for Internationally
Wrongful Acts (2001)(ILC) 4–5,
47–8, 151–3
on complicity 152–3
and criminal sanctions 155–7
and reparation 157–8
Draft Code of Conduct for Transnational
Corporations (UN)(1990) 14,
28–9
Draft Code of Crimes Against the Peace
and Security of Mankind
(1996)(ILC) 153
Draft Norms on the Responsibilities of
Transnational Corporations and
Other Business Enterprises
(UN)(2003) 3, 14
background 34
basic provisions 34–5
innovative aspects of 35–6
and non-state parties 35–6
remedies under 157
status of 41
due diligence
as evidence, in aiding and abetting
cases 105
and human rights, respect for 3, 46,
48–51, 96–7
and sphere of influence concept
49–51, 96–7
and supply chains 52–3, 96–7
Eastern Carelia, Status of (Advisory Opinion) (1923)(ICJ) 203

employee rights, codes of conduct on 22, 26–7

employee share ownership schemes 9

environmental law

dispute resolution 188–9

ICJ role 195–8

non-state access to 195–8

and international trade, conflicts between 189–93

and jus cogens 187

TNC responsibilities concerning 5, 130–32

Cerrejon coal mine case 173–4

Corrib gas field case 172–3

Union Carbide/ Bhopal case 79–80, 84–5

treaties and agreements concerning 149, 187–8

conflicts between 188–93

increased TNC role in, implications of 191–6

tribunals concerning 188–91

Equator Principles 24–6, 55, 180

ethical behaviour see corporate social responsibility

European Convention on State Immunity (1972)(Council of Europe) 112

European Court of Human Rights 174

European Union, anti-money laundering measures 134–5

Extractive Industries Transparency Initiative (EITI) 24

extra-territorial legislation, use of

Alien Tort Claims Act 1789 (US) 95, 99–106

and comity 117

command responsibility 100–101, 160

and knowledge or intent 104–5

law of nations, violation of 101–2

and liabilities of states and individuals 105–6

and state action, requirement of 103–4

and sovereign immunity 111–12

and US treaties, violation of 102–3

barriers to 91

act of state doctrine 114–16

comity 116–17

forum non conveniens 95, 108–11

political question doctrine 116

sovereign immunity 111–13

on corruption 98–9, 117, 136–8

extra-territorality matrix 92–3

and jus cogens 4, 150, 157, 175, 187

nationality principle 92

territorial principle 92

Torture Victim Protection Act 1991 (US) 107–8

treaties, applicability to TNCs 178–9, 193–6

universal principle 92

Fafo Institute, survey on applicability of criminal offences to non persons (2006) 127–9, 139

Field, Andrew 159

Filartiga v Peña-Irala (1980)(US) 100–101

financial services sector, voluntary codes of conduct 24–6, 55

Fitzmaurice, Malgosia 202–3, 206–7

Foreign Corrupt Practices Act 1977 (US) 137–8

Foreign Sovereign Immunities Act 1976 (US) 112

forum non conveniens 95, 108–11

Australian ‘clearly inappropriate forum’ test 110

in US courts 110–11

Framework Convention on Tobacco Control (WHO) 57

France

corporate criminal responsibility 128

corporate social responsibility 11

Fraser, Malcolm 73

Frynas, Jedrzej 94

FTSE4Good Index 55, 149

General Agreement on Tariffs and Trade (GATT)(1994)(WTO)

and environmental protection, conflicts between 189–93

most favoured nation rule 189

national treatment rule 189
Germany
  corporate criminal responsibility 128, 139
  corporate governance 9
Global Compact see under United Nations
Global Reporting Initiative 28
Global Solutions Limited (Aust) 42–3
Google 40
Gordon, Richard 210
Guide for Integrating Human Rights into Business Management (BLIHR) 33
Guidelines for Multinational Enterprises (1976)(OECD) 41–3
Gulf Oil Corp. v Gilbert (1947)(US) 111
Hall, John 13–14
Henley, Peter 21
Hilao v Estate of Marcos (1996)(US) 106
Hockman, Stephen 196
Horrigan, Bryan 10
human rights
  2008 Survey of human rights abuses (OHCHR) 103
  institutions concerning 174–9
  jus cogens, applicability to TNCs 175
OECD Guidelines for Multinational Enterprises on (1976) 54
TNCs responsibility to act within 2, 48–51, 54
and due diligence 3, 46, 48–51, 96–7
enforcement mechanisms 174–9
and supply chains 52–3, 96–7
Human Rights Council (UN) 176–9
India
  corporate criminal responsibility 128
  corporate social responsibility 11–13
  Union Carbide/Bhopal case 79–80, 84–5
Indigenous and Tribal Peoples Convention (1989)(ILO) 78–9
Indonesia
  companies legislation 9
  corporate criminal responsibility 127
for environmental damage 130–32
  corporate social responsibility 85
intent (mens rea)
  and corporate criminal responsibility 128–9, 153
  and US Alien Tort Claims Act 104–5
Inter-American Commission on Human Rights 174–5
Inter-American Court of Human Rights 174–5
International Bar Association, Working Group on OECD Guidelines for Multinational Enterprises 52–4, 171, 174
International Centre for the Settlement of Investment Disputes (ICSID) 74–5, 188, 204
International Chamber of Commerce 195
International Court for the Environmental Coalition (ICE Coalition), proposed 196
International Court of Justice (ICJ)
  Advisory Opinions from, potential role of 202–5
  contentious proceedings in 205–6
  and environmental disputes, role in 195–8
  as global court of appeal, potential benefits of 202, 206–7
  jurisdiction, countries declining 147
International Criminal Court (ICC)
  and anti-money laundering/anti-corruption legislation 133, 138–9
  and claims against individuals 148
  on command responsibility 160
  complementarity principle 138–9
  on joint criminal enterprise 160–61
  and national legislation, on criminal responsibility 127
  as possible forum for TNC cases 4–5, 158–62
  arguments for and against 161–2
  international enterprise liability 98
  International Finance Corporation (IFC) 13
Equator Principles 24–6, 55, 180
international financial institutions
enforcement role of 179–81
Equator Principles 24–6, 55, 180
International Labour Organization (ILO)
Indigenous and Tribal Peoples
Convention (1989) 78–9
and remedies against TNCs, role in enforcement 182, 204
International Law Commission (ILC)
on complicity 152–3
and criminal sanctions 155–7
and reparation 157–8
international law, generally
absence of, consequences 103–4
and jus cogens 4, 157, 175, 187
sources of 150–51
International Monetary Fund
enforcement role of 179–81
Equator Principles 24–6, 55, 180
International Money Laundering
Abatement and Financial Anti-Terrorism Act 2001 (Patriot Act) (US) 133–4
International Organization for Standardization (ISO)
ISO 26000 Guidance on Social Responsibility (Draft) 43–6
investments
bilateral investment treaties (BITs) 1, 3
and investor protection 75–6
TNC role in, potential benefits 4, 193–6
dispute resolution concerning 74–5, 188
ethical/socially responsible 54–8
value of 21, 54–5
and investor protection 74–6
and local communities, protection of 76–85
ISO 26000 Guidance on Social Responsibility (Draft) 43–6
Iwanowa v Ford Motor Co (1999)(US) 116
Jackson, David 82
James Hardie Group asbestos case 80–85
Japan
corporate criminal responsibility 128, 139
corporate governance 10
joint criminal enterprise 160
jurisdiction, of international law over TNCs see extra-territorial legislation
jus cogens, applicability to TNCs 4
and Convention on Law of Treaties 150, 157
and environmental law 187
and human rights 175
Kadic v Karadzic (1995)(US) 100
Keitner, Chimène 106
Kimberley Process Certification Scheme 24
Kinley, David 2, 35, 175, 180–81, 354
knowledge requirement under international criminal law 154
and US Alien Tort Claims Act 104–5
law of nations, and US Alien Tort Claims Act 101–2
Law on Economic Crimes (1955)(Indonesia) 131
Law on Environmental Protection and Management 2009 (Indonesia) 132
Law on the Environmental 1997 (Indonesia) 131–2
Leary, Virginia 182
legal personality, of corporations 1–2, 80–84
and limited liability 83–4, 94
<table>
<thead>
<tr>
<th>Status in International Law</th>
<th>147–50</th>
</tr>
</thead>
<tbody>
<tr>
<td>And Status of Individuals</td>
<td>147–8</td>
</tr>
<tr>
<td><em>Lubbe v Cape plc</em> (2004) (UK)</td>
<td>95</td>
</tr>
<tr>
<td>McBeth, Adam</td>
<td>149, 177, 181</td>
</tr>
<tr>
<td>McCorquodale, Robert</td>
<td>47, 148–9</td>
</tr>
<tr>
<td>MacDonald, Donald</td>
<td>56</td>
</tr>
<tr>
<td>Malaysia, Corporate Social Responsibility</td>
<td>11</td>
</tr>
<tr>
<td>Mendes, E.P.</td>
<td>22</td>
</tr>
<tr>
<td><em>Mens Rea</em> (intent)</td>
<td></td>
</tr>
<tr>
<td>And Corporate Criminal Responsibility</td>
<td>128–9, 153</td>
</tr>
<tr>
<td>And US Alien Tort Claims Act</td>
<td>104–5</td>
</tr>
<tr>
<td><em>Metalclad Corp. v United Mexican States</em> (2004)(ICSID)</td>
<td>75–6</td>
</tr>
<tr>
<td>Mining Sector, Voluntary Codes of Conduct</td>
<td>23–4</td>
</tr>
<tr>
<td>Money Laundering see Anti-Money Laundering</td>
<td></td>
</tr>
<tr>
<td>Multilateral Investment Guarantee Agency (MIGA)</td>
<td>74</td>
</tr>
<tr>
<td>Multilateral Investment Treaties (MITs)</td>
<td>75–6 see also Bilateral Investment Treaties (BITs)</td>
</tr>
<tr>
<td>Multinational Enterprise Liability</td>
<td>98</td>
</tr>
<tr>
<td>National Contact Points, under OECD Guidelines for Multinational Enterprises</td>
<td>41–3, 50–51, 168</td>
</tr>
<tr>
<td>Cooperation between, Importance of</td>
<td>172–4</td>
</tr>
<tr>
<td>And Remedies for Wrongful Acts of TNCs, Role in Obtaining</td>
<td>170–74</td>
</tr>
<tr>
<td>Nationality Principle, of Extra-Territorial Jurisdiction</td>
<td>92</td>
</tr>
<tr>
<td>Nations, Law of, and US Alien Tort Claims Act</td>
<td>101–2</td>
</tr>
<tr>
<td>Negligence Claims, Against TNCs</td>
<td>94–7</td>
</tr>
<tr>
<td>Agency Cases</td>
<td>97–8</td>
</tr>
<tr>
<td>Ness, Richard</td>
<td>131–2</td>
</tr>
<tr>
<td>Netherlands</td>
<td></td>
</tr>
<tr>
<td>Corporate Criminal Responsibility</td>
<td>128, 139</td>
</tr>
<tr>
<td>Corporate Social Responsibility</td>
<td>11, 57</td>
</tr>
<tr>
<td>OECD National Contact Point, Actions by</td>
<td>171–2</td>
</tr>
<tr>
<td>New Zealand, Corporate Criminal Responsibility</td>
<td>139</td>
</tr>
<tr>
<td>Nolan, Justine</td>
<td>26</td>
</tr>
<tr>
<td>Non-Government Organisations (NGOs), Role in Civil Cases against TNCs</td>
<td>93–4</td>
</tr>
<tr>
<td>North American Free Trade Agreement (NAFTA)</td>
<td>75–6</td>
</tr>
<tr>
<td>Norway</td>
<td></td>
</tr>
<tr>
<td>Corporate Criminal Responsibility</td>
<td>128, 139</td>
</tr>
<tr>
<td>Corporate Social Responsibility</td>
<td>56–7</td>
</tr>
<tr>
<td>OECD National Contact Point, Actions by</td>
<td>172–3</td>
</tr>
<tr>
<td>Norwegian Government Pension Fund Global</td>
<td>56–7</td>
</tr>
<tr>
<td>Nuclear Weapons Cases (1996)(ICJ)</td>
<td>197–8, 205</td>
</tr>
<tr>
<td>Nuremberg Tribunal, On Liability of States and Individuals</td>
<td>106, 159–60</td>
</tr>
<tr>
<td>OECD</td>
<td></td>
</tr>
<tr>
<td>Guidelines for Multinational Enterprises (1976)</td>
<td>41–3</td>
</tr>
<tr>
<td>Amendments</td>
<td>51–4</td>
</tr>
<tr>
<td>On Human Rights</td>
<td>54</td>
</tr>
<tr>
<td>International Bar Association Working Group on</td>
<td>51–4, 171, 174</td>
</tr>
<tr>
<td>National Contact Points, Role of</td>
<td>41–3, 50–51, 168, 170–74</td>
</tr>
<tr>
<td>On Supply Chains</td>
<td>52–3</td>
</tr>
<tr>
<td>Multilateral Agreement on Investment (MAI)</td>
<td>74</td>
</tr>
<tr>
<td>Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones</td>
<td>50, 85</td>
</tr>
<tr>
<td>Office of the High Commissioner for Human Rights, 2008 Survey</td>
<td>103</td>
</tr>
<tr>
<td>Ok Tedi Mine Case (Papua New Guinea)</td>
<td>77–9, 193</td>
</tr>
<tr>
<td>Papua New Guinea, BHP/ Ok Tedi Mine Case</td>
<td>77–9, 193</td>
</tr>
<tr>
<td>Patel, Raj</td>
<td>27</td>
</tr>
</tbody>
</table>
Patriot Act 2001 (US) 133–4
Permanent Court of International Justice 127
Pinochet, Augusto 134–5
political question doctrine 116
Posner, Michael 26
Presbyterian Church of Sudan v Talisman Energy (2009)(US) 105, 115–17
Principles for Responsible Investment (RPI)(UN)(2006) 56
Protect, Respect and Remedy Framework for business and human rights (UN) 3–5, 210
on corporate due diligence 48–51, 96–7
PT Newmont Mining (Indonesia) 131–2
Pulp Mills on the River Uruguay (Argentina v Uruguay) (2010)(ICJ) 196–8
Regie Nationale de Usines Renault SA v Zhang (2002)(Aust) 111
remedies, for TNCs wrongful acts barriers to 167–9, 209
human rights enforcement mechanisms 174–9
need for 146–7, 157–8, 167–70
OECD National Contact Points, enforcement role 41–3, 50–51, 168, 170–74
reparation 157–8
trade sanctions, dangers of 181–2
Riggs Bank cases (2004)(Spain) 134–5
Rodolfo Flores v Southern Peru Copper Corp. (2003)(US) 101–2
Rodriguez v Drummond Coal (2007)(US) 99
Ruggie, John 38–41
BASESwiki, establishment of 168–9
extra-territorality matrix 92–3
on need for judicial mechanisms, against TNCs for wrongful acts 167–70
necessary principles for 169–70 and role of OECD National Contact Points 170–74
Saleh v Titan Corp. (2005)(US) 102
Salomon v Salomon & Co Ltd (1897)(UK) 21
Sarei v Rio Tinto (2002)(US) 114–16
Sen, Amartya 210
Simons, P. 47
Social Accountability International (SAI), accreditation standards 41, 54–5
Social Investment Forum (SIF) 13
South Africa
corporate criminal responsibility 128, 139
corporate social responsibility 11–12
South African Truth and Reconciliation Commission 154
In re South African Apartheid Litigation (2009)(US) 97, 104–5
South West Africa Proceedings (1970)(ICJ) 205
sovereign immunity, and extra-territorial jurisdiction 111–13
multilateral treaties concerning 112–13
restrictive approach to 112
Spain
anti-money laundering legislation 134–6
corporate criminal responsibility 128, 139
Special Representative of the Secretary-General on Business and Human Rights (UN) see Ruggie, John
sphere of influence, concept of 3, 36–40 and due diligence 49–51, 96–7
and supply chains 52–3
Index

Spiliada Maritime Corp. v Cansulex Ltd (1986)(UK) 108–10
State Immunity Act 1978 (UK) 112
state responsibility
  act of state doctrine 114–16
  home state, definition 14
  host state, definition 14
  and TNCs, relationship between 73–4
  Australian BHP/ Papua New Guinea case 77–9
  ILC Draft Articles on (2001) 4–5, 47–8, 151–8
  and protection of local communities 76–85
  Union Carbide/ Bhopal case 79–80, 84–5
Stephens, Tim 188–90
supply chains
  complicity 152–3
  and due diligence 52–3, 96–7
Sweden, corporate social responsibility 11–12, 57
Tadaki, Junko 175, 180–81
territorial principle, of extra-territorial jurisdiction 92
TNCs, generally see also corporate criminal responsibility; corporate social responsibility;
environmental law; human rights accountability vacuum 5, 146–7
civil cases against
  agency cases 97–8
  NGO role in 93–4
tort and negligence claims 94–7
definition, of corporation 1–2, 14
and global economy, role/ place in 1–2, 73, 146–7
goals of, conflicts over 2–3, 6–10
and international treaties
  applicability to 178–9
  increased role in, potential benefits of 191–6
and investor protection 74–6
  jus cogens, applicability of 4, 150, 154, 157
legal personality of 1–2
  corporate mobility 80–85
  and individuals, status of 147–8
  and limited liability 83–4, 94
status, under international law 147–50
models for
  in civil law 8–10
  in common law 6–8
self regulation and voluntary codes 3, 11–14, 23–7, 55, 180
and state responsibility, relationship between 4–5, 47–8, 73–4,
  77–85, 151–8
tort claims, against TNCs 94–7
  and agency cases 97–8
Torture Victim Protection Act 1991 (US) 107–8
treaties
  and TNCs
    applicability to 178–9
    increased role in, potential benefits of 191–6
    and US treaties violations, and Alien Tort Claims Act 102–3
    Vienna Convention on the Law of
      150, 157, 194
Tuna, United States Restrictions on Imports of (1994)(GATT Decision) 190–91
Ukraine, corporate criminal responsibility 128, 139
Union Carbide/ Bhopal case 79–80, 84–5
United Kingdom
  and act of state doctrine 115
  Bribery Act 2010 136
  corporate criminal responsibility 128, 139
  corporate governance 6–7
  corporate social responsibility 6–7
  negligence cases, against TNCs 95
  OECD National Contact Point, actions by 171–2
  State Immunity Act 1978 112
United Nations
  Convention against Corruption (2003) 137

Declaration Against Corruption and Bribery in International Commercial Transactions (1996) 136


Global Compact 3–4, 28

Human Rights Council 176–9

Principles for Responsible Investment (RPI)(2006) 56


Special Representative of the Secretary-General on Business and Human Rights (see Ruggie, John)

United Nations Conference on Trade and Development (UNCTAD), World Investment Report 2009 1

United States

and act of state doctrine 114–15

Alien Tort Claims Act 1789 95, 99–106, 111–12

and comity 117

command responsibility 100–101, 160

and knowledge or intent 104–5

and law of nations, violation of 101–2

and liabilities of states and individuals 105–6

and state action, requirement of 103–4

and sovereign immunity 111–12

and US treaties, violation of 102–3

anti-corruption measures 137–8

anti-money laundering measures 133–4

corporate criminal responsibility 128, 139

corporate social responsibility 8

Federal jurisdiction, overlap with international law 107–8

Foreign Corrupt Practices Act 1977 137–8

Foreign Sovereign Immunities Act 1976 (US) 112

and forum non conveniens 110–11

negligence cases, against TNCs 95

OECD National Contact Point, actions by 172–3

Patriot Act 2001 133–4

Racketeer Influenced and Corrupt Organizations Act 1970 (RICO) 129–30

Torture Victim Protection Act 1991 107–8

United States v Philip Morris (2009)(US) 130

universal principle, of extra-territorial jurisdiction 92

Voluntary Principles on Security and Human Rights (VPs) 23–4

Voth v Manildra Flour Mills Pty Ltd (1990) (Aust) 110

Wal-Mart 57


Works Constitution Act 1972 (Germany) 9

World Bank 180
Index

World Investment Report 2009 (UNCTAD) 1
World Trade Organization (WTO) Agreement on Trade-Related Investment Measures (TRIMs)(1995) 74 enforcement role, against TNCs 181–2

General Agreement on Tariffs and Trade (1994)(GATT) and environmental protection, conflicts between 189–93

Xuncax v Gramajo (1995)(US) 100