a series of publications on the impact of corporate-led globalization on biodiversity

biodiversity, inc

Friends of the Earth International

dirty deals

cases of corporate influence over global environmental negotiations | august 2002

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* | A Friends of the Earth International (FOEI) Biodiversity Project publication compiled by Vicente Paolo B. Yu III, FoEI wto programme officer with contributions from the FOEI Forest Campaign; FoEI GMOs (Genetically Modified Organisms) Programme; FoEI Trade, Environment, and Sustainability Programme; and FoEI Climate Change Campaign.

introduction | part one

by vicente paolo b. yu III, foei wto programme officer

Increased corporate influence, at both the national and international levels, is driving and deepening the current trend for neoliberal economic globalization, often at the expense of other pressing social and environmental concerns.

One example is the powerful role of European and US services industry lobby groups in their countries' negotiating positions for the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). This is an influence that civil society organizations have not yet been able to match.

This process is also very evident in the development and implementation of multilateral environmental agreements (MEAs), many of which have been significantly weakened by corporate interests. MEAs are negotiated by states, but their conceptualization, formulation and implementation is almost always the result of interaction between multiple actors at the national and international levels. Corporate actors influence this process at each level, as we shall see.

Even the briefest of analyses shows this influence to be frequently negative. This stems from corporations' focus on reducing standards and obligations likely to adversely impinge on commercial interests. Progressive civil society organizations, on the other hand, have continually pushed for a stronger international system to promote and protect the rights and interests of people as human beings, in the economic, social and environmental spheres.

This trend of weakened global environmental governance must cease. People and their environments must supersede the short-term profit motive if we are to develop truly fair and sustainable economies. To make this shift we must increase the strength, status and scope of MEAs, and make corporations accountable for their actions and regulate their activities. Community and environmental rights must be protected from subordination to corporate-motivated trade and economic rules. This stance is crucially important in the negotiations on trade and MEAs currently taking place in the WTO.

Governments, especially at the UN World Summit on Sustainable Development (WSSD), must:

- state explicitly that multilateral environmental agreements will not be subordinated to free trade rules (and that this subordination should not be the outcome of current negotiations in the WTO); and
- introduce a binding international framework to effectively regulate the activities of corporations.

These two steps alone would go a long way to improving global governance structures that are designed to better the quality of peoples' lives and livelihoods and protect their environment.

case studies demonstrate corporate manipulation

This publication outlines examples of corporate influence over four major multilateral environmental agreements: the UN Convention of Biological Diversity (CBD), the CBD's Biosafety Protocol, negotiations on global forest policy, and the UN Framework Convention on Climate Change (UNFCCC). These case studies are drawn from the actual experiences of Friends of the Earth International member group experts and campaigners. In all four case studies, the negative influence of corporate lobbying is obvious. Indeed, multilateral environmental governance is eroding under corporate pressure.

case study one: local communities, indigenous peoples & the influence of private interests on the cbd | part two

by isaac rojas, friends of the earth costa rica/coecoceiba

1. setting the stage, defining the actors

The Convention on Biological Diversity (CBD) was perceived as an international instrument to protect biodiversity, and the rights of local communities and indigenous peoples over this diversity. Given the subject matter, a participatory role for these stakeholders and for non-governmental organizations (NGOs) was considered important. For decision-making on biodiversity necessarily requires the active input of community stakeholders, non-governmental, and governmental organizations, at a very minimum.

However, ten years after the CBD's creation, the issue of participation remains a sore point. This is especially true in key issues such as genetic resources and the fair and equitable sharing of derived benefits, intellectual property, community rights and technology transfer.

Citizen participation in decision-making is not only a basic human right and a Rio Declaration principle. It is also an important element of sustainability — but one that has been neglected. Instead, the current biodiversity management model being generated and promoted is solely based on economic benefits achievable through modern technology and patent protection. The immediate result of this model is the commoditization of biodiversity. Critically, this model excludes the role of local communities and indigenous peoples.

CBD +10 = more destruction Ten years after Rio,[1] the destruction of biodiversity continues unchecked. Governments unstintingly grant concessions for oil and mining extraction in natural protected areas. This threatens and in many cases totally destroys the biological and cultural diversity they contain. The construction of large dams continues to be authorized and the indiscriminate logging of forests proceeds unabated.

Another hazard is "the appearance of genetically modified crops on a commercial scale. Among these, the contamination of traditional landrace varieties is to be noted in Mexico, centre of origin of this crop. For this reason, wildlife biodiversity is threatened, such as in the case of the Monarch butterfly."[2]

only private interests satisfied Policies in favour of biodiversity protection have been ineffectual over these past ten years. Therefore public interest has not been satisfied. But it would seem that private interests have been satisfied — at the expense of conservation efforts.

"If State policies were more respectful of local populations and their traditional life-styles were respected, if in natural areas containing high biodiversity activities were not launched that in some way encourage colonization - such as the mining, oil or intensive wood extraction industries - and if they were to build roads to serve these industries, if in other areas of the country there existed living conditions that did not oblige people to migrate and settle in forest areas, the work of biodiversity conservation would be a lot easier and would have better results, and possibly protected areas would not be necessary."[3]

In the brief analysis which follows, we will focus on pivotal aspects of current discussions of biodiversity. We will also show how collective interests become subverted to private ones within a development model that excludes local communities and indigenous peoples.

2. how it came about

The idea of developing a convention for biological diversity arose from the International Law Commission of the International Union for the Conservation of Nature (IUCN). The original objective was to develop a framework that would unify binding legal instruments that existed at the beginning of the 1980s regarding conservation of natural resources. These instruments were regional agreements and others relating to migratory species, (illegal) trade in endangered species, and maritime affairs.

There is little evidence of industry influence or involvement during the first negotiations that were formally launched in 1988.

increasingly commercial focus has toll Over time, the negotiations increasingly determined that biodiversity preservation hinged on economic incentives to local communities and indigenous peoples. This commercial approach grew out of the economic promise held forth by biotechnology industry, then a new industry reliant on genetic information.

This logic led many governments, industries and civil society organizations to concern themselves exclusively with economic benefits derived from biodiversity conservation and use. Considerable debate took place over access to genetic resources and concrete mechanisms for benefit sharing with the relevant countries, local communities and indigenous peoples[4] This preoccupation with economic benefit has come at the expense of real solutions to environmental degradation, and has disrupted the quest for better living conditions of populations that subsist amongst biodiversity.

1 | Bravo, Elizabeth. El Convenio sobre Diversidad Biológica: diez años después. Paper presented at the International Congress on Bio-piracy and Ecological Debt, March, 2002, Quito, 7p.

2 | Ibid.

3 | Ibid.

4 | Bilderbeek, Simone; Biodiversity as Political Game, in Politics and the Life Sciences, August, 1993.

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3. intellectual property

biotech companies grow fearful

It was only in March 1992, two months before the last round of negotiations for the CBD, that US biotechnology industry began to fear how this future convention might affect their unlimited access to genetic resources located in the South. They lobbied hard for the Bush, Sr. administration to reword key provisions in their favour. They feared most the provisions which introduced a de facto regime of licenses regarding the export of genetic resources, and which regarded intellectual property rights as a potential threat to the convention's effectiveness.

Access to genetic and biochemical resources and intellectual property are issues that have remained controversial over the past ten years. This is due to the negative impacts they have caused, which are mainly related to patents on life forms, and the questionable activities they have promoted, such as bio-piracy.

The language of the CBD which pertains to international law leaves the application of its articles to the discretion of the state, without the active participation of indigenous peoples and local communities. This language is especially critical when it comes to intellectual property, a highly controversial issue in the biodiversity debate. Intellectual property is also an issue which reveals the full extent of influence that private interests have had on this convention.

vague and contradictory texts

CBD articles[5] regarding intellectual property rights (IPRs) are vague and subject to diverse interpretations. For example, Article 16:2 states that:

> "In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights."

However, Article 16:5, states the following:

> "The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives".

These paragraphs of the same article seem to contradict each other. Why this confusing language? The history of the CBD negotiation process tells us that that Article 16:5, drafted at the second last negotiation meeting in February 1992, was a compromise Norwegian text which included some observations from the Netherlands. There were no major discussions when it was submitted, and the United States made no objections.

usa biotech lobby steps in

However, the text alarmed the American Association of Biotechnology Companies and related industries in the United States. They realized that US policies regarding intellectual property could be weakened. Prior to the last round of negotiations, the biotechnology industry sector did major lobbying that resulted in the United States delegation arriving with a strong pro-industry position.

The texts which had already been negotiated could not be re-opened for discussion. However, the text of Article 16:2, which had not been finally negotiated, provided the opportunity for the United States to make an amendment. They added the sentence related to the need for effective and adequate protection of intellectual property rights[6].

traditional rights protection languishes

Implementation of protections for traditional knowledge under the CBD has stalled. Knowledge associated with biological diversity possessed by local communities and indigenous peoples falls under CBD Article 8(j). But this has had no further implementation. Although some specific meetings have been held on the subject, this issue has not been incorporated into legally binding provisions to ensure effective protection.

5 | Ibid. 6 | "It is widely known that the TRIPS framework was formulated by transnational companies, working through the United States Intellectual Property Committee, the Japanese Federation of Economic Organisations (Keindaren), and the Union of Employees and Confederated Industries of Europe. The transnational companies participating in these chambers include Bristol Myers, DuPont, General Electric, General Motors, Monsanto, Pfizer, Rockwell and Warner", Singh Nijar, Gurdial; TRIPs and Biodiversity: the threat and responses: a Third World View, Third World Network, first edition, 1996, p.9. In Rojas, Isaac: En defensa de la diversidad: derechos comunitarios y biodiversidad, in Espacios, Flacso, 1999.

4. promotion of trade: the bio-trade initiative[7]

It is important to note that the protection of traditional knowledge is of a very different nature to the protection granted to patents. The latter secures individual property over a given period of time, creating a monopoly in favour of the patent owner. However, protection of traditional knowledge is incorporated in provisions to ensure the collective ownership by a specific community or indigenous people over a specific traditional knowledge, to prevent it from being appropriated through patenting of life forms. This guarantees the transmission of knowledge according to the traditions and cultural practices that exist in these social groups.

Protection of traditional knowledge should be provided in a manner that avoids creating cultural impacts. I should not use mechanisms foreign to traditional systems of rights available to the local community or indigenous population. This protection is the recognition of the collective creation and the important role that both indigenous peoples and local communities have played in the conservation, sustainable use and enhancement of biodiversity. With this protection, neither traditional knowledge nor biodiversity will be commercialized. This contrasts sharply with the case of patents, which only benefit their owners.

The Bio-trade Initiative renders biodiversity a commodity. It was launched by UNCTAD (United Nations Conference on Trade and Development) during CoP 3 to the CBD held in Buenos Aires in November 1996.

This initiative seeks to stimulate investment and trade in biological resources according to the three objectives of CBD. It aims to take advantage of the emerging investment and market opportunities for biodiversity products and services, particularly those related to biotechnology.

Under this initiative, biodiversity components are considered to be mere “products and services,” overlooking their spiritual and cultural value. The real owners of this industry are indigenous peoples and communities who live amongst the biodiversity or posses the relevant knowledge. But their rights to benefits from biodiversity are vulnerable. This is due to the lack of real mechanisms to ensure that technology transfer leads a nation to use the resulting commercial benefits to improve the living conditions of these inhabitants.

This initiative has rendered hydro graphic basins and carbon sinks as commodities. It also has sought to promote ecotourism, as well as bio-prospecting to produce commodities including natural colorants, paints, essential oils, biochemical compounds, medicinal extracts, and final products such as wood, handicrafts, nuts, fruit, perfumes and medicines.

One of the initiative’s objectives is to increase the consumption of bio-products in industrialized countries and in urban areas of developing countries. This market niche has traditionally been supplied by small producers under alternative economic schemes. This current trade does not greatly impact local economies or natural resources. But attempting to market these products on a global scale could produce strong distortions in local economies and in biodiversity resources.

autos in the amazon basket Later, in Lyon during 1998, another initiative known as the Amazon Basket was launched, a society formed by UNCTAD and the Brazilian NGO POEMA. The objective of POEMA is to promote ecological conservation through the development of commercial activities. An example is the collaboration between POEMA and Daimler Benz AG/Mercedes Benz of Brazil, which aims to perform research on fibres, dyes, oils, latex or resins for the automobile industry, and to install a pilot plant to manufacture automobile parts from coconut and latex fibres.

7 | Most of this item has been taken from Bravo, Elizabeth, op. cit.

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5. access to genetic resources and biopiracy: the case of the INBIO

Access to genetic resources is an issue that has been forcefully debate over the past three years. Its purpose is to place information contained in biodiversity and associated knowledge on the market.

The life sciences industry[8] (biotechnology industry, seeds industry, agrochemical products and pharmaceuticals) depends on access to genetic and biochemical resources to develop a large portion of its products, which it then patents to ensure market success.

This industry has been successful at persuading host national governments to use international negotiations to defend industry concerns over access to these resources. These fora have therefore mostly been promoted from the North. An excellent example is Switzerland, where many life sciences industries are headquartered. This nation has organized international events to discuss the access issue, and sponsored at least one CBD meeting on this matter.

inbio: private sales of public goods The access issue is an important one for Costa Rica's National Institute for Biodiversity (known by its Spanish acronym INBio). This private institute has taken a leading position on the matter, and has been promoted and defended by the various Costa Rican governments.

INBio is "a private institute with its staff appointed outside the walls of the Costa Rican state, but with sufficient representatives who can have an influence on ministers, legislators, university authorities, and some other high ranking officials from the governing class."[9] Its name leads most people believe it is a public institution. But no, this is a private body that has benefited from Costa Rica's rich national heritage of biodiversity.

In February 1989, representatives of sixteen public institutions and NGOs met in San José, Costa Rica to formalize plans for the creation of a biodiversity institute. I would collect and prepare a biodiversity inventory, integrate it into one collection under a single entity, centralize all information on biodiversity, and place this information at the service of the country.

During this meeting, a planning commission was set up to submit a proposal. The commission was subsequently legalized through a decree issued by Oscar Arias, then president of Costa Rica. In October 1989, INBio was established as a private, non-profit association with strong connections to the political elite, and was declared to be of public interest.

At that time, some international consultants made the following, rather telling comments:

> "INBio cannot adapt itself and come into line with a governmental organizational structure, as this would hinder the achievement of the purposes for which it was instituted. (...) The aims of INBio are to "protect, gather knowledge about, and use our biological diversity", and its strategy must be oriented towards reaching this aim efficiently. The wishes expressed by the donors who economically support the institute, and the urgent time-frame of the natural factors, oblige INBio to seek flexibility and achievement in its strategies."[10]

Thus INBio was created with the blessing of Costa Rica's scientific and political sectors. It benefited from the transfer of databases from important foundations, and from the centennial collection of the National Museum. INBio also obtained funding from "nature for debt" swaps.

contract with merck INBio then launched their biodiversity inventory, and proceeded to sell samples to the pharmaceutical company Merck. INBio's 1991 contract with Merck helped it position itself as an international-level negotiator that received prizes, funding and a strong advertising campaign. Later INBio won prizes and acknowledgement at the international level, which led to increased renown. The training of parataxonomers and their socio-environmental discourse also had an impact on the reputation.

It is key to note that Costa Rica's environment minister was never present at INBio's negotiations, although he would seem to be the primary stakeholder given his function and the fact that the natural resources being sold belonged to the state. In his absence a contract was signed that enabled lucrative activities to be carried out by a private institution that used public resources.

important issues overlooked The INBio-Merck contract saw the institute receive $US one million advance. US$100,000 was also granted to the Ministry of the Environment and Energy, to consolidate the protected area system and encourage the possibility of new contracts and sub-contracts. Issues of importance to the country such as "number of samples involved, percentage of possible royalties, ownership of the patents, consequences of patenting on local communities, the possibility of erosion of sovereignty were never mentioned... "[11]

8 | Rojas, Isaac; Access and Benefit Sharing, LINK, April 2002

9 | Rodríguez, Silvia; Conservación, contradicción y erosión de la soberanía: el Estadocostarricense y las áreas naturales protegidas, Doctoral thesis, 1993, April, Estudios de desarrollo de la Universidad de Wisconsin, Madison; p158.

10 | Rodríguez Silvia, op.cit, p161. Rodriguez also points out that at that time, and as a result of then-US President Reagan's policy, greater economic support was given to private institutions under the supposition that they were more efficient than public ones, in an attempt to hide the intention of promoting privatisation.

From the Merck contract onwards, INBio regarded itself as a partner and not as a supplier, because the institute only adds information and processing to collected samples. So far, INBio has signed almost thirty trade agreements. In reaching these agreements, it has established the following requirements: "commitment by the partner to cover all the research costs in the country, to contribute the equivalent of 10 percent of the budget to national wildlife protected areas, to provide monetary compensation in the form of royalties for the products reaching the market and contribute to the transfer of technology, training of Costa Rican scientists and, in many cases, to donate the necessary equipment and infrastructure for the development of research."[12]

Some of these requirements are beneficial to the nation and may be deemed reasonable in the context of a trade negotiation. For example, for the partner to fund the research budget is quite logical taking into account their financial capacity and interest in the business. On the issue of monetary compensation, payment is not ensured because a commercially-viable product is not always produced. Even if is, there can be difficulties involved in extracting payment once the company actually possesses the genetic resources. Finally, further investigation is necessary to learn how other requirements have been complied with. For example with technology transfer, it would be necessary to compare the quality of scientific equipment used by the partner at its headquarters with that transferred to the host country under the terms of the contract.

In another of INBio's agreements, this time with Diversa, it was agreed that all DNA sequences isolated by INBio for this company would become the property of Diversa.[13] This and other INBio contracts unleash a storm of unanswered questions. What is the legal basis for giving away the country's riches through patenting? Why haven't authorities promoted citizen participation or national discussion on this issue? Why is the public ownership of these goods not being respected, and why are these goods being privatized? If this model does not compensate for the public nature of the goods negotiated, will other rights be respected?

what profit, to what end?

Regarding economic benefits, a study by Nagoda and Tverteraas[14] shows (in US dollars and for the period 1991 to 1999) that through agreements with INBio a total of US$420,245 was provided to the Ministry of the Environment, US$856,248 to Conservation Areas, US$699,336 to public universities, and US$740,882 to others areas. INBio[15] has been given "support to protected wildlife areas, through direct payments to the Ministry of Environment and Energy, for an amount of US$512,148 in the year 2000, derived from the 10 percent of the research budgets. ... financial support to specific projects in conservation areas, universities and other groups for a total amount of $2,256.259 between 1991 and 2000." For the year 2000, public universities, conservation areas and others received a total of US$40,207 and the Ministry of Environment and Energy obtained $91,903.00. Thus a total of US$132,110 was obtained by these institutions in the year 2000.

INBio has strengthened its position as a model in the field of biodiversity contracting and marketing with numerous companies, on a national and international level - this being its greatest source of profit. It has benefited from its connections with the governing elite, regardless of governing party. In effect, it is part of the groups that have controlled the Costa Rican state over the past ten years. It has made economic profit a synonymous with benefit to the country.

Its contribution in monetary terms has not been what was expected from the terms of the agreement with Merck. So it must be said that INBio has sold Costa Rican biodiversity cheaply. The model of access and development INBio promotes is not the best one for the country. To make the INBio model operational, place public domain goods were placed in private hands; that is to say, what belongs to everyone is privatized.

11 | Rodríguez, Silvia; op. cit. p177. For more details, consult this same work, pages 174-185.

12 | Guevara, op.cit., p8 In Rojas Isaac, El Inbio ..., op.cit.

13 | Williams, Michael, First-ever global guidelines adopted on genetic resources, The Hague/Nairobi, 19 April, 2002 in Rojas, Isaac; Propuesta jurídica dentro del proceso nacional de definición de la naturaleza, alcances y requisitos de los derechos intelectuales comunitarios, May 2002.

14 | Nagoda, Dag and Tverteraas, Andreas; Biodiversity inventorying and bioprospecting as management tools. A study of the impacts of the National Biodiversity Institute (Inbio) on biodiversity management in seven Costa Rican conservation areas, University of Oslo, 2001.

15 | Guevara, op.cit. p.9.

case study one: local communities, indigenous peoples & the influence of private interests on the cbd | part two

by isaac rojas, friends of the earth costa rica/coecoceiba

6. access to genetic resources and bio-piracy: the international debate

During the first[16] week of October 1999, the first panel of experts on access and benefit sharing took place in Costa Rica. This meeting was a result of decision IV/8 of CoP 4 to the CBD, held in Bratislava, Slovakia. Other meetings were held in Montreal, Nairobi, Bonn, and finally at The Hague in 2002.

Fifty experts from different parts of the world were present at this meeting, selected by the CBD Secretariat from a list of candidates sent by the Parties. This panel's composition should make us reflect. Many of these experts came from the industrial sector and from botanical gardens. Some of the experts from the government sector upheld positions very far removed from national interests, and there was a marked absence of representatives of local communities and indigenous peoples.

The proposals arising from this first meeting underwent little changed in subsequent meetings. And in 2002, at CoP 6 in The Hague in 2002, the Parties approved voluntary guidelines for access to genetic and biochemical resources.

many access issues remain unsolved However, some of the basic problems over access had remained unsolved. These problems included the fundamental inequity between the interested parties at the time that access to genetic resources was negotiated. There are considerable power gaps between local communities, indigenous peoples, and countries of the South and the transnational companies that have the necessary resources to carry out this activity. The next problem is the existence of patents on life forms; the expert panel considered an appropriation of life to be necessary. And then there is the real lack of protection afforded to local communities and indigenous peoples for their traditional knowledge and other rights.

We expect that in the future bilateral agreements will be used as a mechanism between parties to allow access to genetic resources. This means that the above problems, and the development proposal they set forth, will extend into time without end. The North will continue its control over genetic resources, perpetuating the transformation of biodiversity and associated knowledge into a commodity, along with the loss of sovereignty of Southern nations over their public resources.

In return for access, there is talk of fair and equitable sharing of benefits derived from the use of genetic resources with the country of origin, according to Article 15 of the CBD. This includes talk of sharing with local communities and indigenous peoples in cases where their traditional knowledge is used (Article 8j of the CBD). However existing experience indicates that fair and equitable sharing is not part of the formula. We stress that this theoretical equity cannot arise from negotiations in which the parties are not equal. As such, talk of fair and equitable benefit sharing becomes mere rhetoric.

7. Conclusion

Ten years after the proclamation of CBD, there are still major issues that remain unsolved. These issues have been accepted as a necessity, despite opposition to them from major sectors of society on a global level. Simultaneously, the commercial vision of biodiversity has been strengthened. This model favours neither national interests, nor those of local communities and indigenous peoples. Instead it favours private interests that have acted either directly or through their governments.

It must be concluded that in terms of biodiversity protection, this first decade of the CDB has come up wanting.

16 | Rojas, Isaac; ¿Y lo justo y equitativo?, in Seedling, December 1999.

case study two: corporate interests versus biosafety concerns | part three

by juan lopez y villar, advisor on genetic engineering, foei gmo programme

Negotiations on the text of the Cartagena Protocol on Biosafety (Biosafety Protocol) were concluded in January 2000. The influence of corporate and trade interests on the Biosafety Protocol was, and continues to be, significant. At present corporations and pro-biotech countries exert very high pressure on countries that decide to implement strict national measures on Biosafety.

1. the need for binding regulatory frameworks on biosafety

Due to the potential risks of novel recombinant DNA technologies that appeared during the mid-1980s, most industrialised countries started adopting binding regulatory frameworks related to the safe handling of genetically modified organisms (GMOs). In contrast, most developing countries lacked similar regulation. This provided some biotechnology companies with regulatory loopholes that gave them the space to release GMOs in developing countries. For example, Monsanto carried out field trials with genetically modified soybeans in Puerto Rico, Argentina and Belize at the beginning of the 1990s.

In 1992, Professor Chetsanga of the University of Zimbabwe commented that "the most common form of biotechnology investment encountered in Africa involves biotechnology enterprises in developed countries wanting to come to Africa to carry out field trials of genetically engineered plants."

GMO field trials pose risks to human health and the environment in the countries that host them. In 1989, the UK Royal Commission on Environmental Pollution said, "If any country allows releases to be carried out without thorough scrutiny, control and monitoring there will be a consequent risk to the environment and to health in that country and more widely."

2. towards a biosafety protocol

An Expert Panel on Biosafety was established by the United Nations Environment Program (UNEP) in 1992. The majority of the Panel concluded in 1993 that in the absence of an effective international biosafety agreement, there was a need to work toward the adoption of a legally binding agreement. Subsequently, the Conference of the Parties (CoP) of the UN Convention on Biological Diversity (CBD) created an Open-Ended Ad hoc working group on Biosafety. This working group has mandated with drafting the Biosafety protocol.

The focus of the protocol was to be on transboundary movement of living modified organisms (LMOs). Between 1996 and 1999, this working group met six times, and submitted a draft text to the first extraordinary meeting of the CoP in February 1999 in Cartagena, Colombia. This meeting ended without any agreement, and the blame was put on six main agriculture export countries — the so-called Miami group — and the biotechnology industry, which put trade and corporate interests above biosafety concerns.

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3. miami group and industry water down biosafety protocol in 1999

The US position on GMOs has been always governed by trade imperatives. During the Biosafety Protocol negotiations, the US was only an observer and could not vote. However, it had a great influence in the talks through its allies, Canada and Australia. Beginning in 1998, at a meeting in Miami, the US, Canada, Argentina, Chile, Uruguay, and Australia formed a negotiating bloc for purposes of the Biosafety Protocol negotiations called the Miami group.

The Miami Group supported the interests of industry organizations representing agricultural, food and pharmaceutical companies. These industry organizations were represented during the Biosafety Protocol negotiations by a lobby group called Global Industry Coalition (GIC). It claimed to represent more than 2,200 firms from more than 130 countries and played a key role during the whole negotiation process. The GIC and the Miami Group were each other's best supporters. One of the major negotiating goals of the Miami group was to exclude all GMOs destined for human or animal consumption from the scope of coverage of the Biosafety Protocol. They also wanted to include a "savings clause" in the Protocol's text, with the goal of subordinating the Protocol to the World Trade Organization (WTO) agreements.

In February 1999, the Miami Group prevented the first attempt to reach an agreement in Cartagena, because they feared that the agreement could damage trade in commodities such as corn and soybeans. Most corn and soybean production in the US now comes from genetically modified (GM) seed. The six Miami Group countries blocked the consensus agreement for a Protocol made by approximately 120 nations.

After Cartagena it was clear that trade and corporate interests were at the root of this enormous failure, as one of the most active Southern organizations involved in the negotiations of the Biosafety Protocol pointed out. According to Chee Yoke Ling of the Third World Network (TWN), "From the start, the biotechnology industry, protected by the United States and other industrialised countries, demonstrated what was confirmed here: the Miami Group never wanted a Biosafety Protocol, but rather a free trade treaty."

4. introducing biotechnology at the wto

Before the Biosafety negotiations began, the US used every tactic to block their start. Once the negotiations become a reality the US tried to change the negotiation parameters by focusing on the trade aspects of biosafety trade regulation.

In this sense, the US sought to ensure that the Biosafety Protocol was subordinated to WTO rules. The US also called for the WTO to address biotechnology issues. Both of these initiatives would have allowed corporate interests to take clear priority over health, environmental, and socio-economic concerns.

Canada called for the creation of a WTO Working Party on Biotechnology. They stated that the WTO should "engage in a collective exercise aimed at establishing how trade and investment in biotechnology are covered by existing WTO provisions and whether the latter constitute a sufficiently effective regime from the WTO perspective." This proposal was included in the draft Seattle Ministerial Text in 1999. But that meeting fell prey to intense public demonstrations, preventing any working group discussion.

To move GMO issues into the WTO would have benefited GMO-exporting countries due to the WTO's pro-trade orientation. It would also have risked seriously undermining the relatively stronger negotiating positions of developing countries in the Biosafety Protocol negotiations.

5. biosafety protocol finally adopted

But in January 2000, the Biosafety Protocol was finally concluded in Montreal, Canada. It is a heavily negotiated and compromised agreement. Consequently, it is not as strong as it could have been. Some of the important achievements of the Protocol are the recognition in international law that LMOs are different from non-modified organisms, the inclusion of the precautionary principle, and the necessity for an advanced informed agreement for LMOs intended for deliberate release into the environment. Some of the weaknesses are the exclusion from the scope of the Protocol of pharmaceuticals, LMOs in transit and products derived from LMOs.

Despite not being a robust agreement, the Biosafety Protocol is a significant step forward because it establishes the basis for international regulation of GMOs, something that industry and the Miami Group have strenuously tried to avoid. However, the Biosafety Protocol is not yet in force since it has not yet reached the required number of State ratifications for it to enter into force.

6. industry and pro-biotech countries undermine national legislation on GMOs

Since 2000, the US has stepped up political pressure on any country that wishes to adopt strict national legislation on GMOs, including legislation based on the Biosafety Protocol. Leaked documents from the US and Argentinean governments obtained by Friends of the Earth reveal the consequences of the overwhelming pressure of the US threat, at the behest of industry groups. Warning that the US will seek WTO sanctions is intended to intimidate countries like Croatia and Bolivia, which seek strict GMO regulations.

The pressure has been also enormous in Asian countries such as China, South Korea and Thailand, which have planned to introduce new labelling laws for GMOs. In 2000, US threats to Sri Lanka of action under the WTO led to the abandonment of that nation's proposed ban on GMOs that was to have been implemented in September 2001.

But resistance to those threats has also emerged. Croatian environment minister Bozo Kovacevic said on January 14, 2002 that Croatia is going to draft legislation to ban production and limit imports of food containing GMOs, despite lobbying from the United States. According to Kovacevic, "the US government is lobbying for the interests of US companies, and that is their right. Our duty is to protect our interests and follow the legislation of the European Union."

argentinean soya industry waters down bolivian ban on gmos

In January 2001, Bolivia's agriculture minister adopted Ministerial Resolution 2001 which determines, "To ban, for a period of one year, the import of products, subproducts and foodstuffs of agricultural origin derived from genetically modified crops." This Resolution was made with the aim of protecting the health of the population in a provisional and preventive manner.

In a new negotiation with the government on August 23, 2001 the Bolivian Unique Sindical Confederation of Farmworkers managed to get their national government's commitment to extend the Resolution after December 2001 and upgrade it to a Supreme Decree.

However, by October 2001, the situation had changed completely. Fierce lobbying from transnational corporations kept up pressure on the government and its institutions to open the gate to modern biotechnology. That lobby, led by the Argentinean soy export industry, attacked the Bolivian Decree that adopted the ban on GMOs. A leaked Bolivian memo asserted that "the [Argentinean] soya corporate sector is behind [the pressure], because they export five thousand million dollars of genetically modified soy to Europe and North America".

Despite widespread opposition from Bolivian farmers, and environment and sustainable development leaders, the corporate lobby succeeded in October 2001 in getting the ban on import of GM products lifted until new rules are made.

case study two: corporate interests versus biosafety concerns | part three

by juan lopez y villar, advisor on genetic engineering, foei gmo programme

7. the way forward

The influence of corporate and trade interests on international and national biosafety frameworks has been highly significant during the multilateral negotiations of the Biosafety Protocol.

At present more than twenty countries have ratified the Protocol, which needs 50 ratifications to enter into force. Governments must therefore sign and ratify the Protocol as soon as possible.

Because the Protocol allows national governments to introduce national provisions stronger than those of the Biosafety Protocol, it is very important that national level biosafety frameworks go beyond the Protocol's somewhat compromised provisions.

wto used as weapon Recent cases of WTO threats against small countries that wish to adopt strict measures on GMOs reveals how WTO rules are being used as a tool by the US and biotech corporations to hammer through acceptance of GMOs around the world. Each nation in the world should have the right to establish a moratorium or ban on the introduction of GMOs until adequate regulatory frameworks, effective monitoring and enforcement capabilities are in place. This right is key to ensure sound biosafety regulation.

case study three: zombies & plantations – the impact of corporations on UN forest negotiations** | part four

by simone lovera, foei biodiversity project coordinator

1. governments as forest corporations

There are few sectors where corporate interests have as profound an influence on governmental policy as the forestry sector.

A peculiar characteristic of this sector is that part of these corporate interests are represented by government agencies themselves. In many countries the forestry department is responsible for both enforcement of forest conservation policy, and for the commercial exploitation of state-owned forest resources. This mingling of interests has been a major cause of inadequate law enforcement and corruption.[17] Other underlying causes of illegal logging and corruption are the remoteness of many forest resources and the low salaries of forestry staff. Government officials may be tempted to sell timber licenses and forest lands to large timber companies and agro-industrial landholders, companies often owned by high officials in the government itself.[18]

In countries where these practices are common, there is fierce resistance to putting issues of inadequate law enforcement and illegal logging on international forest negotiation agendas. Only recently, a number of countries realized that illegal plundering of their forest resources will lead to situations like that in Thailand, where a complete logging ban had to be imposed after 90 percent of the original forests were clearcut within a couple of decades.

2. "corporatization" of international forestry organizations: the ITTA

Powerful commercial interests over forestry policies have translated themselves into a strong political movement to create a separate forum for international forest policy. Predictably, this forum is dominated by forestry sector interests rather than those of forest conservation. One typical outcome is the International Tropical Timber Agreement (ITTA). Negotiated under the auspicious of the UN Conference on Trade and Development (UNCTAD), the ITTA is the first global, legally-binding instrument to deal specifically with the interests of the forestry sector.

The ITTA did not try to hide its corporate inclinations. It its Council, which is divided into producer and consumer country caucuses, the producer countries seldom hide their political motivation to promote commercial interests of large-scale logging companies that exploit their tropical forests. Consumer countries may pretend to more conservation-oriented arguments, but within their delegations the influence of timber companies and timber retailers has also been substantial.

Throughout the 1980s, the International Tropical Timber Council formed the arena for a vehement debate between producer countries and consumer countries. But when little consensus on fundamental issues seemed feasible, many countries and NGOs lost interest. They turned their attention instead to the UN Conference on Environment and Development (UNCED), or Earth Summit, of June 1992.

redundant instruments During the preparatory process for UNCED a lobby to negotiate a new legally binding instrument to cover all types of forests gathered political steam. Initially, the idea of a special Forest Convention was supported by a mixed crowd: the US, some industry interests, timber producing countries such as Canada, and numerous, mainly Northern, NGOs.[19] Ironically, the push for a Forest Convention took place in parallel to negotiations for a Convention on Biodiversity. The latter was to cover all forms of life in all countries. It is noteworthy then that an estimated 60 percent of this global biodiversity is represented by forest ecosystems. However, most people realized only after UNCED that the legally binding commitment to forest conservation they had sought through a new instrument had in fact just been adopted by more than 160 governments in the form of the new UN Convention on Biological Diversity (CBD).

** | This section was written by Simone Lovera, FoEI Biodiversity Project Coordinator, with contributions from Elias Diaz Pena, coordinator of the FoEI Forest Program and other staff of Sobrevivencia/Friends of the Earth Paraguay

17 | See inter alia: Verolme H. and Moussa, J., Addressing the Underlying Causes of Deforestation and Forest Degradation: Conclusions and Action Proposals, WRM, 1999.

18 | See also: Laletine, A. and Urushadze, A., Underlying Causes of Forest Loss in Theory and Practice, in Forest Cover, March 2002 and the report of the Paraguayan National workshop on the Underlying Causes of Deforestation and Forest Degradation, Asuncion, 2000.

19 | Most Southern NGOs opposed a Forest Convention, as they feared it would marginalize the role of indigenous peoples and forest-dependent communities in management of forests.

case study three: zombies & plantations – the impact of corporations on UN forest negotiations** | part four

by simone lovera, foei biodiversity project coordinator

3. the fao and finnish foresters

After UNCED, the first major forest debate outside the Biodiversity Convention took place at the third meeting of the Commission on Sustainable Development in 1995. The political landscape had completely changed. Almost all NGOs and indigenous peoples organizations (IPOs), with only a handful of exceptions, opposed a Forest Convention, as did the US and most other countries lacking a strong export or import-oriented timber industry.

As the CBD became increasingly active in the field of forest policy, organizations including the UN Food and Agricultural Organization (FAO), and nations such as Canada and Malaysia realized that their forestry industry interests might be undermined. They envisioned an independent Forest Convention as a vehicle to ensure these interests would be the determining forces in the management and conservation of forests.

The FAO's role is especially noteworthy in this debate. This agency has a relatively small forestry department that is almost exclusively focused on timber exploitation, but it was appointed the lead agency (task manager) for UN forest policy during the UNCED process, and has held and fostered that position ever since. FAO policies are heavily influenced by the Finnish forestry industry. This influence stems from a decade-long legacy of Finnish government support to this and other UN agencies through secondments of Finnish forestry experts (rather than through direct program support). This has led to an exceptionally high percentage of Finnish nationals in forest-related positions in numerous UN agencies. Many of these foresters have close personal links with the Finnish forest industry and Finnish forestry consultancy firms such as Jaakko Poyry Consulting.

Furthermore, both the Finnish and Swedish forestry industries are almost always represented within their nations' official government delegations to international forestry meetings. Admittedly, many Nordic government officials and individuals on UN secondment express clear concern for the need to combat deforestation. But the overall result of this forestry-oriented thinking has been the persistent removal from the agenda of issues such as consumption patterns. Such is bias of the FAO, and the many forums it directly or indirectly services as a secretariat.

compromise solution: new forests panel The battle between pro- and anti-Forestry Convention countries in 1995 resulted in a compromise solution to establish and Intergovernmental Panel on Forests (IPF). Thanks to the lobby work of NGOs and others, the FAO was not formally appointed as the secretariat to this panel. However, it did play a pivotal role in a unique interagency task force on forests set up to support the IPF. It also enjoyed a de facto domination of the New York-based IPF secretariat, staffed by secondments of each of the agencies. The IPF has been relatively successful in so far as it has produced 135 Proposals for Action. But the ultimate political battle concerned whether these Proposals for Action would foster a negotiation process for a Forest Convention.

4. towards a new forest convention?

This battle resulted in another compromise, a new forum called the Intergovernmental Forum on Forests (IFF), established in 1997 by the UN General Assembly Special Session to Review Agenda 21. The IFF was supposed to promote the implementation of the Proposals for Action, but it failed to do so. Instead it added some 120 new Proposals for Action and squandered most of its time on endless discussions on the need for a Forest Convention. At its last session, as still another compromise solution, a further forum was set up, the UN Forum on Forests (UNFF).

Mirroring the structure and mandate of the unsuccessful IFF, the UNFF has also been a failure during the first two years of its existence. The main reason stems from what NGOs have termed "the Convention Zombie" phenomenon, namely an idea (for a Forest Convention) that seems dead at the end of each negotiation process, yet rises from the grave at each new set of forest negotiations.

Throughout the ten years of pro- and anti-Forest Convention debate, few countries have changed positions markedly. But what is increasingly clear is the strength of the corporate lobby. This is especially true for the Canadian pro-Convention position. Canadian forestry industry associations have unrelentingly expressed a powerful pro-Forest Convention position, and the Canadian government has pumped millions of dollars into intersessional meetings and other campaigns to promote this position.

growing cooperation Meanwhile, there is a growing cooperation between the "foresters" forum, the UNFF, and the Convention on Biological Diversity. The CBD adopted its first work program on forest biodiversity in 1998, and a

5. forest corporations' promotion of plantations

subsequent, action-oriented and expanded work program in 2002. Both CoP 6 to the CBD and the draft Plan of Action for the World Summit on Sustainable Development call for intensive cooperation on forests between the UNFF and the CBD. While the UNFF has not yet clearly responded to this call for concrete cooperation, it is hoped that they will heed a recommendation adopted by the Heads of State at the WSSD. In terms of substance, the recommendations of the two fora have become increasingly coherent over the years, and while their focus is clearly different, there are few issues on which the UNFF and the CBD really dissent. The main exception is the role of plantations in sustainable forest management.

There is a clear logic behind the different approach of CBD and UNFF towards plantations. For the CBD, these frequently large-scale monocultures clearly threaten biodiversity. For the UNFF, they exemplify a healthy forestry industry. Even today few foresters see issue with promoting neat lines of even-aged, fast-producing trees that are undisturbed by diverse plants, wildlife and local communities.

Plantations are the negotiation issue most influenced by the forestry industry. Such corporate influence was clearly demonstrated at the intersessional 1999 meeting on "the Role of Planted Forests" organized by the Chilean government.

diverse motives Reporting to the IFF, this meeting was co-sponsored by an intriguing mix of governments. They included Chile and New Zealand, countries with highly influential and warmly fostered large-scale plantation industries. Portugal also formed part of the team, but mainly to promote research on the environmental and social impacts of its old cork and other plantations, research that mainly underlined the concerns of NGOs and IPOs over monocultures. Denmark was there to emphasize the need for increased biodiversity in old European plantations, and to warn Southern countries not to follow the Northern example of replacing forests with plantations. Finally, India was there too, with its own, unique experience of small scale community-driven tree planting.

The only thing uniting these experiences was the confusing term "planted forests", which as NGOs pointed out combined the good (community tree planting) with the bad (old European plantations) and the evil (new large-scale tree plantations).

plantation owners satisfy themselves The meeting turned out to be a feast for the many invited representatives of large-scale tree plantations. They included Westvaco Corporation from Brazil; Corporacion Chilena de la Madera, Compania Manufacturera de Papeles y Cartones, and Smart Wood, all from Chile; the Sarawak Timber Association from Malaysia; and Fletcher Challenge Forests, Carter Holt Harvey Forest, and Plantation Focus Limited, all from New Zealand. By pointing at the Indian experience these interests could safely claim that "planted forests" were socially beneficial. And by pointing to the Danish experience, that they sometimes contain relatively high levels of biodiversity, and should thus be actively promoted by government subsidies.

The New Zealand government subsequently took up a most active role in the dissemination of this meeting's report at the IFF and other important forest negotiations. Astonishingly, when a New Zealand government representative presented the results at a side event during the 7th meeting of the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA) of the CBD in November 2001, he quoted the most important recommendations, but replaced the term "planted forests" in each of the recommendations for "plantations". With this stroke, the workshop reported to the SBSTTA that "plantations" were socially beneficial and contained high levels of biodiversity.

case study three: zombies & plantations – the impact of corporations on UN forest negotiations** | part four

by simone lovera, foei biodiversity project coordinator

plantations and forest loss: a personal testimony from tasmania, australia

Today I went for a walk in the Tarkine. I was fortunate to sit beneath a wedge-tailed eagle that circled around me. Its nest must have been nearby as it seemed to linger, most curious about my intrusion. As I wandered into that spot, so similar to many other places in Tasmania's northwest, I had the pleasure of seeing a couple of wallabies and some rather rare trees, amongst which was a magnificent specimen of native olive. This was made all the more unique because I was on the edge of plantation country. This area is being converted from native forest to weed infested E. nitens plantations at an extremely rapid rate. A mere six weeks ago much of the cleared, piled up debris that surrounded me was magnificent rainforest, filled with myrtle, moss, ferns and teeming with life...

By the year 2020 the area of plantations in Tasmania will be doubled if we do not do something now. Old growth, which we are led to believe is well protected, is being cut down, burned and woodchipped... Thousands of jobs have been cut, jobs that were promised security... Forestry Tasmania tell us their logging is world's best practice but everyday clearfelling and streamside logging occurs... Communities disappear, towns are removed from maps as family homes and farms are levelled and put under plantations...

Matthew Campbell-Ellis, 99 Village Lane, Somerset, Tasmania, Australia (July 2002). Reprinted with permission

6. justifying plantations as carbon sinks: corporatising the forests and climate change debates

The role of tree plantations and forests as carbon sinks in the debates relating to the UN Framework Convention on Climate Change (UNFCCC) has grabbed much public attention. This has undermined related positions in discussions under other UN conventions and in other intergovernmental organizations.

calculated lowering of commitments By including the carbon storage capacity of their forests in their calculations, industrialized countries (mostly Annex 1 countries listed in the UNFCCC) were able to lower their commitments for carbon dioxide emissions reductions.[20] However, most major controversies arose over the role of Southern forests and plantations under the North-South flexible mechanisms AIJ[21] (Activities Implemented Jointly), and later the CDM (Clean Development Mechanism).

Before the 1997 Kyoto Protocol to the UNFCCC, electric utilities in the USA that were worried about the high marginal costs of carbon dioxide abatement[22] pushed for the inclusion of the "conservation sink" concept. Uncertainties about the policy regime relating to climate change and the prices within the carbon market became additional incentives for financing forest conservation or plantations. The carbon contained in a native forest, secondary forest or plantation (exotics or native) could be multiplied by a hypothetical price for carbon dioxide on the carbon market to project high levels of speculative profit. This attracted many project developers.

US companies such as AES, Texaco and General Motors massively invested in carbon sinks. Together, they represent 40 percent of the total carbon accounted for under the AIJ's Pilot Phase Projects. Approximately two-thirds of sinks projects are located in Latin America, a region were the US Initiative for Joint Implementation organized several workshops to engage governments' support for the concept.[23]

However, many scientific uncertainties remain over the real and permanent carbon dioxide sequestration[24] value of forests. Furthermore, the "side effects" have been pointed out by governments, NGOs, and the IIASA. These include the reinforcement of North-South inequity,[25] socio-economic effects, biodiversity, and leakages.[26] These are problems that must be taken into account.[27]

Environmental consultants, think tanks in the EU and USA, and university research centres were keen to help manage the associated risks and to design or certify the projects. Projects under the CDM should result in "sustainable development,"[28] a misty concept subjectively and differently defined by the various stakeholders. Because of the great uncertainties entailed in the creation of a new financial commodity (carbon), Kyoto Protocol debates relating to flexible mechanisms became increasingly technical and scientific. The sinks debate was dominated by a small community of scientists, economists and foresters, and this brought accusations of conflict of interest and intellectual corruption.[29]

20 | A political accord was reached between the 6th and 7th Conference of the Parties of the UNFCCC by allowing large quantities of sinks to Industrialised countries through Annex Z. For example, the volume of Russian forests doubled between these two UNFCCC conferences of the Parties - from 17 to 33 million cubic tons). For an evaluation on the demand and price of credits see www.wwf.org and www.climatenetwork.org.

21 | see www.unfccc.de/program/aij/aijproj.html.

22 | Sinks credits are substantially cheaper than credits from renewable energy, energy efficiency projects or national climate change policies to reduce emissions.

23 | Costa Rica led on this question. Even before the decision to implement a Pilot Phase of AIJ, four projects financed by US electric companies were already accepted by the US IJI in 1995: CARFIX, ECOLAND/Piedras Blancas National Park, Klinki Forestry and BIODIVERSIFIX. Workshops were held. The two most important before CoP 1: Chili March 1995, Costa Rica June 1995. See also Center for Sustainable Development of Americas www.csdanet.org.

24 | See contributions by the German Advisory Council on Climate Change, the accounting of Biological Sinks, and sources under The Kyoto Protocol, a Step Forward or Backwards for Global Environmental Protection, WBGU Bremerhaven p39, or Full accounting and the Kyoto Protocol: A systems-Analytical View Interim Report, IR-99-025, IIASA, p35. Also see Sinks that stink and Sinks: Who win$, who lose$, FoEI 2000, at www.foei.org.

7. planting the problem

lulucf heavy with northerners A special report on Land Use, Land Use Change and Forestry (known as Lulucf) was mandated to provide neutral scientific, technical and economic information to the UNFCCC. Here, environmental consultants including EcoSecurities, SGS, Drexler and Ass, Winrock International, and the Edinburgh Centre for Carbon Management played pre-eminent roles as members of the board for the Inter-Governmental Panel on Climate Change (IPCC) - in this case on the feasibility of accounting the sinks.[30]

Industrialized countries were over-represented, making up three-fourths of the authors and editors of the Lulucf report. Furthermore, the few Southerners on the project actually worked in northern institutions. When it came to definitions and accounting for forestry activities that could receive credits in industrialized countries, more than half the authors and editors were from the US, Canada or Australia, the three nations most active in demanding credits for their "national forests." Defined under article 3.4 of the Lulucf report, this text deals with credit for "additional land and forest activities" within national borders. These activities represent the market for many public and private forestry industries.

To avoid a political impasse during Kyoto Protocol discussions on implementation, the US, Canada, Australia and Japan were given a concession. They could lower the costs to corporations of mitigating emissions by allowing them to obtain credits for carbon sink forests or forest plantations. In the South, projects that had been intended to improve local sustainable development and help solve climate change became showpieces for lobbyists, to parade the cost-effectiveness of buying credits from sinks plantations.[31]

For example, the FACE Foundation (Forests Absorbing Carbon Emissions) established by Dutch gas and electricity companies played a very influential role in Dutch politics, and through Jan Pronk on the climate negotiations in general. The EU's official anti-sinks position was also plagued by dissension coming from, amongst others, the Finnish and French.

forestry, government interests converge here The promotion of forests as carbon sinks in the climate change debate comes at the expense of forest peoples and biodiversity. However, it converges the interests of governments and their forestry industries.[32] Establishing forest plantations makes the price of compliance with the Kyoto Protocol less costly when compared to industrial carbon dioxide emissions reductions. This route also allows forestry industries to seek and obtain governmental subsidies.

Examples of corporate influence over negotiations in this area are found in both private and public forestry industries. In many countries, national forestry agencies have been part of their national governments' Climate Change Task Force. In Brazil, the Aracruz company has influenced the Brazilian government position. Corporate influence is sometimes very explicit. For example the Carter Holt Harvey Forest, one of New Zealand's biggest tree plantation companies, has advised its government and was part of New Zealand's delegation to COP 6.2 of the UFCCC in Bonn.

25 | See www.cesindia.org, www.wrm.org.uy.

26 | Cadman T., 2001. The Kyoto Effect: How the push for Carbon Sinks by Industry and Government has become a Driver for Deforestation. A report for Greenpeace International and WWF, 20p http://www.panda.org/resources/publications/climate/carbonsinks/carbonsinks.html.

27 | Swiss Intercooperation, Lulucf Activities under the CDM: Opportunity or Threat to Biological Diversity Conservation, side event at CoP 6, The Hague, 14 November 2000.

28 | Kyoto Protocol Art 12: The CDM "shall assist countries to achieve sustainable development."

29 | Democracy or Carbocracy? Intellectual Corruption and the Future of Climate Change - Corner House, Larry Lohman 2001. See also WRM www.wrm.uy.org and Plantations Interests of Climate Panel Queried, Lohmann, L., Multinational Monitor, September 2000.

30 | International Panel on Climate Change. Watson, Noble, Bolin et al, Land Use, Land Use Change and Forestry, special report of the IPCC, Cambridge University Presse 2000 www.ipcc.ch.

31 | See treefarm projects in Tanzania and Uganda www.tree-farm.com and NorWatch 2000, CARBON DIOXIDElonialism, Norwegian Tree Plantation, Carbon Credits and Neo-colonialism in Uganda, Norwatch/The Future in Our Hands, Oslo www.fivh.no/norwatch.

32 | WBSCD program Sustainable Markets - Sustainable Forestry Initiative, Sustainable Paper Cycle, http://www.wbcsd.org

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by simone lovera, foei biodiversity project coordinator

8. commercial plantations against forests, people and sustainable development

A political agreement was finally reached in Bonn, Germany in June 2001. It accounted for national carbon stocks and sinks in relation to forestation and re-forestation activities under the CDM.

The extremely low price of a carbon credit (one to two dollars per tonne of carbon dioxide) favours a market which prefers large-scale exotic plantations with short rotations because they "store" carbon more rapidly. Small-scale projects based on the long-term will not be able to compete. Yet testimony of the negative effects of large-scale industrial tree plantations[33] abound. Extreme cases, such as those in Indonesia or Chile, reveal the dubious contributions of monocultures of eucalyptus or pine. Do these unsustainable flows of raw materials truly add value and contribute to sustainable development?

9. climate change is sinking other meas

The use of forests or forest plantations as carbon sinks is not a scientific, economic, environmental, socially beneficial or equitable solution to the problem of climate change or the quest for environmental justice. In the renewed debate, corporate influence geared in favour of commercial plantations can still be seen. Promoting single-species, large-scale plantations that entail limited public participation will make the situation worse. This trend will undermine other MEAs such as the CBD and the UN Convention to Combat Desertification, and produce little or no benefit to the climate in the long term. It will also shift resources away from community-based sustainable forest management (CBFM) projects that involve local communities and native species.

10. forest loss and corporate influence: conclusions

The results of the pro-plantation lobby are of considerable consequence. At the international level, we can point to several IPF and IFF Proposals for Action, as well as the WSSD draft action plan which recommends the "promotion of planted forests." The benefits to forestry industries are substantial: in many South American countries, for example, companies receive a subsidy for 75 percent of the start-up costs and for the first three years of a plantation's operation. The results of these subsidies are widespread destruction of native forests and other valuable ecosystems, displacement of indigenous peoples and local communities, depletion and pollution of freshwater resources, and soil deterioration.

33 | FoEI, FERN, WRM, Tree Trouble: A compilation of testimonies on the negative impact of large-scale monoculture tree plantations of the Parties to the FCCC, Oct 2001, http://www.foei.org/publications/forests/, http://www.wrm.org.uy/plantations/material/carbonfr.rtf.

case study four: climate change & corporate lobbying*** | part five

by kate hampton, foei climate change campaign international coordinator

1. Introduction

As climate change becomes worse, corporations have lied about the science and sought to prevent governments from taking action. Even though some companies have realised they can no longer dispute the evidence on global warming, they still refuse to support mandatory emissions reductions and the transition to clean energy.

In its 2001 report, the UN IPCC (Intergovernmental Panel on Climate Change) as the world's highest scientific authority on the issue has reviewed the latest scientific information from across the globe, and stated unequivocally that, "There is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities."

The IPCC projects an increase in global temperature of between 1.4 and 5.8°C, against 1990 levels, by 2100. The IPCC warns that this rate and level of change is "very likely to be without precedent" during at least the last 10,000 years, or since the last Ice Age. Scientists have already documented a wide range of impacts that are consistent with global warming such as changes in sea level, snow cover, ice extent and rainfall. There have been more persistent, frequent and intense El Nino events, as well as coral reef bleaching and shifts in plant and animal ranges. All these changes affect human beings, for instance by affecting water supply, agriculture, built infrastructure and disease patterns. Those least responsible for the problem will be the ones to suffer the most.

2. how corporations lie

Over the last decade the international oil corporation known as ExxonMobil (also known as Esso) has consistently challenged the scientific consensus linking fossil fuel use and climate change. It has argued that any climate impacts which arose would be negligible, or even beneficial. These views have been presented not only in public statements by senior executives and through ExxonMobil publications, but also by major advertising campaigns in mainstream media. ExxonMobil has attempted to influence the scientific debate by funding a number of climate sceptics who challenge mainstream climate science. They do so through direct contributions to thinktanks and institutes, and indirectly through their membership in business lobby groups such as the Global Climate Coalition and the American Petroleum Institute.

ExxonMobil's denial of the link between fossil fuels and climate change continues to this day. Recent ExxonMobil publications maintain "science is not now able to confirm that fossil fuel use has led to any significant global warming." The company refers to misleading evidence to back up its case.

"oregon petition" debunked

Exxon Chief Executive Lee Raymond publicises the "Oregon Petition" as supposed proof of extensive differences of opinion in the scientific community. This petition, which dismisses global warming and claims 17,000 signatories, has been totally discredited. Signatories were misled into believing it originated from the US National Academy of Sciences. Furthermore, the majority of signatories had no specialist climate knowledge, and many of the signatures were false.

Advertisements challenging climate science or intended to highlight uncertainties were also placed by ExxonMobil in mainstream media such as The Washington Post and The New York Times. For example, ads appeared in the New York Times in spring 2000 that included graphs illustrating the declining temperatures recorded in the Sargasso Sea. But the very scientists responsible for collecting this data stated it had no bearing on the global warming debate.

Within the scientific community a small number of climate sceptics have challenged the majority view that dangerous climate change caused by human activities is taking place. ExxonMobil has extensively promoted their views. One of the most well know is Fred Singer, founder of the Cooler Heads Coalition whose mission is to "dispel the myths of global warming by exposing flawed economic, scientific and risk analysis." Singer is also President of the Science and Environment Policy Project, and has links with the Atlas Economic Research Foundation, the Committee for a Constructive Tomorrow, and the Frontiers of Freedom Institute, amongst others, all of which promote the climate sceptic viewpoint.

ExxonMobil has also supported the Cato Institute, which lists another prominent sceptic Patrick Michaels as Senior Fellow, and the George C. Marshall Institute, whose director Sallie Baliunas has consistently argued that fossil fuel use does not contribute to global warming. In 2001, ExxonMobil donated more than US$850,000 to institutions linked to prominent climate sceptics.

*** | This section was written by Kate Hampton, FoEI Climate Change Campaign International Coordinator, with contributions from other FOEI climate change campaigners.

case study four: climate change & corporate lobbying*** | part five

by kate hampton, foei climate change campaign international coordinator

3. what governments promised and why they haven't delivered

bullying the scientists ExxonMobil's interference in the climate debate includes attempts to directly meddle in the conclusions and composition of the IPCC. During the drafting of the IPCC's First Assessment Report, ExxonMobil's chief scientific advisor Brian Flannery opposed recommendations for 60-80 percent carbon dioxide cuts, citing uncertainties in the behaviour of carbon. The corporation later called for rewording of the IPCC's Third Assessment Report to remove references to human interference on the climate.

But perhaps the most blatant example of such activity was an Exxon memo to the US White House in February 2001 by ExxonMobil senior environmental advisor Arthur G. Randol. This memo accused the IPCC Chair Bob Watson of advancing his personal agenda, leaking information, and being too outspoken. It called for Watson's removal. The memo accused other members of the US delegation to the IPCC of "aggressive agendas" and suggested their replacement by climate sceptics. The truth is that ExxonMobil were attempting to politically divide the IPCC. In 2002 the US administration did ExxonMobil's bidding and supported an alternative candidate, leading to the first contested election for the post, which Watson lost.

At the 1992 Rio Earth Summit, governments signed the UN Framework Convention on Climate Change (UNFCCC), agreeing to take action to avoid dangerous levels of global warming. Rich countries made a collective commitment to stabilise emissions at 1990 levels by 2000 and provide money to help poorer countries reduce their vulnerability to, and prevent, climate change.

Yet in reality, few rich countries kept their promises. The Kyoto Protocol was negotiated in 1997 to provide legally enforceable, national emissions reduction targets but agreement on rules for its implementation were only concluded at the end of 2001 in Marrakech. It is expected that the Protocol will enter into force in 2002, finally putting a real cap on CO2 emissions from those industrialised countries which "ratify", or pass the treaty into national law.

Because the Kyoto Protocol will only result in stabilisation, or a few percent reduction, in emissions from those industrialised countries that implement the agreement, it is only the first step in combating climate change. To succeed, scientists believe the international process must deliver 60 to 80 percent reductions in global emissions (against 1990 levels) by 2050.

beset by corporate influence At the landmark climate talks in Bonn, July 2001, there were at least 400 corporate lobbyists. The top sectors were those with a stake in conventional energy, such as:

- fossil fuel energy industry — 84 lobbyists including 28 from oil companies;
- automotive industry — 22 lobbyists;
- nuclear industry — 21 lobbyists;
- aluminium industry — 20 lobbyists.

Energy and oil corporations are also well represented by broader corporate interest groups like the Business Roundtable, International Emissions Trading Association, the International Petroleum Industry Environmental Conservation Association, the World Business Council for Sustainable Development, and the International Chamber of Commerce.

Key companies represented in Bonn which lobbied against the Kyoto Protocol included Exxon, Texaco, Chevron, General Motors, TotalFinaElf and Statoil. Others present and with little interest in tough emissions targets included Toyota, BP, Daimler Chrysler, Ford, Powergen, Gaz de France, BG, Boeing, Mitsubishi, Yamaha, VW and Audi.

emissions trading a dubious solution There has been mounting interest in market mechanisms like emissions trading, which discourage domestic action to reduce emissions and substitute it with cheaper and less reliable reductions in other countries. This interest is demonstrated by management consultants and emissions trading houses, which now have more lobbyists than any sector except the fossil fuel industry; enough to send 72 lobbyists to the Bonn talks. By comparison, the renewable energy and co-generation industries only managed to assemble 18 lobbyists for Bonn. Tuvalu, a small island state that will disappear with rising sea levels, only managed to send four delegates, fewer than some oil or car companies on their own.

4. how corporations deliver fossil fuel dependency

The energy systems of developing countries are being locked into a fossil-fuel dependent future, even though governments could easily take steps to re-orient global investment towards clean and renewable sources of energy and energy efficiency. Billions are spent yearly to support fossil fuel corporations by government-funded multilateral development banks and national export credit agencies. Rather than propping up the deployment fossil-dependent technology, taxpayers' money should be used to support technological leapfrogging and clean energy.

ecas shovel money towards fossils

Export credit agencies supported upstream fossil fuel projects and fossil fuel power projects in developing countries to the tune of US$73.8 billion between 1995 and 1999. Yet only a tiny fraction of this amount, US$2 billion, was spent on renewable energy projects by these agencies over the same period (World Resources Institute, May 2000). The World Bank has provided US$20 billion of fossil fuel financing for upstream projects and power plants since 1992, leveraging billions more in private funds (Institute for Policy Studies, October 2001). This reveals how taxpayers are effectively being used to subsidise fossil fuel companies while governments pay lip service to climate protection.

5. why the US government doesn't care about climate change

The US is responsible for one quarter of the world's carbon dioxide emissions but only harbours five per cent of the world's population.

The Bush, Jr. Administration published its National Energy Policy in 2001, based on the findings of the National Energy Policy Development Group led by Vice President and oil industry veteran, Dick Cheney. The Group advocated the construction of 1,300 to 1,900 new power plants over the next 20 years, or between one and two power plants per week. It is under investigation by the General Accounting Office, a US government watchdog.

In March 2001, even before publication of its energy policy, the Bush administration rejected the Kyoto Protocol at the behest of supporters in the energy sector — including bankrupt Enron and Exxon Mobil, the top two energy company contributors to Bush's election campaign. The administration has since failed to come up with any plan for domestic emissions reductions. The world's biggest polluter is still outside the climate agreement and shows no sign of returning within the lifetime of the current government. US carbon dioxide emissions are expected to soar 30 per cent above 1990 levels by 2012, instead dipping seven per cent below as agreed in Kyoto.

warping opinion and policy

Behind the US position are powerful fossil fuel industry lobby groups that have influenced public perceptions and worked to change policies. ExxonMobil corporation plays the lead role in much of this, while the most prominent lobby group was the Global Climate Coalition (GCC), set up in 1989. Other groups include the American Petroleum Institute (API), the International Chamber of Commerce (ICC) the US Business Round Table (BRT), and the Global Climate Information Project (GCIP).

These groups have bankrolled huge campaigns to misinform the US public and decision makers about the science of climate change, and promoted scare stories of the negative consequences of emission reductions that suggest huge impacts on the US economy and standard of living. For instance, in 1995 GCC sponsored weather forecasting firm Accu-Weather to produce a report which disputed National Climatic Data Center findings of increased weather extremes. In 1996, API commissioned an economic model to predict the costs of reducing carbon emissions. Although huge costs were shown to ensue from legally binding emissions reductions, the costs of inaction were conveniently omitted.

case study four: climate change & corporate lobbying*** | part five

by kate hampton, foei climate change campaign international coordinator

fossil lobbyists keen on byrd-hagel These lobby groups have also campaigned hard to oppose US involvement in the Kyoto Protocol and commitments to mandatory greenhouse gas reductions. In 1997, API commissioned a US newspaper ad stating its support for the US Senate's Byrd-Hagel resolution in the run-up to the US presidential elections. This resolution rejected US ratification of the Kyoto Protocol, and imposed conditions in direct contravention to the agreement if the president signed it in 1997, and if it were passed into law.

millions spent against the climate At the same time, the US lobby group BRT ran a one million dollar advertising campaign on climate change urging the US administration not to make policy commitments. The GCIP also ran a $13 million advertising campaign in the US press claiming that the "treaty isn't global... and it won't work" and that "Americans will pay the price." At a press briefing during the Kyoto negotiations, the GCC warned that "Economic damage .... could empty American pockets....millions of job losses, higher gasoline, food and heating bills," and claimed US sovereignty to be at risk from a "UN body dominated by developing countries."

During another climate meeting in 1998, the GCC distributed pamphlets to diplomats asserting that there was no certainty that human activity affects climate. API, with a lot of help from Exxon, embarked on a seven million dollar public relations offensive called the "Global Climate Science Communications Action Plan" in order to question climate science and convince the public that climate science was uncertain.

"our work is done" For a time, the GCC included among its ranks some of the world's most powerful corporations and trade associations associated with fossil fuels. However, in 1997 BP withdrew from the GCC, keen to improve their environmental credentials as Chairman John Brown conceded growing evidence of anthropogenic climate change. Their departure was followed by that of Royal Dutch Shell in 1998, Ford in 1999, then DaimlerChrysler, Texaco and General Motors in 2000.

Faced with such a rapid exodus of corporate members, the GCC was forced to announce a "strategic restructuring" and restrict its membership to trade associations. In January 2002 the GCC folded completely. Environmentalists celebrated, convinced the demise was due to the exodus of members. The GCC gave their own explanation. They announced their work to destroy the only international treaty to tackle global warming was now complete. As Frank Maisano, GCC spokesman, said, "We have achieved what we wanted to with the Kyoto Protocol"

6. conclusion

As with some other MEAs, the climate change debate has been fraught with corporate lobbying. More often than not this has meant that substantive provisions of both the UNFCCC and the Kyoto Protocol, as well as their implementation, reflect corporate interests. This translates to lower or less stringent environmental standards or lower levels of binding emissions reductions commitments. The fossil fuel industry and related sectors such as the automotive industry have used their considerable influence to increasingly transform the climate change debate. A quest to ensure the very survival of the planet and humanity has been transformed into an exercise to guarantee that global action to avert climate change does not harm fossil fuel industry profit margins.

conclusions: toward corporate accountability & strengthened international environmental governance | part six

by vicente paolo b. yu III, foei wto programme officer

Corporate interests are exerting a marked influence on international environmental law and policy. Important debates on social and environmental concerns are distorted as corporate profit-making and corporate economic interests become paramount.

Global environmental governance, in the form of environmental treaties and other international efforts, is increasingly subordinated to the trade and economic interests of corporations - especially those of developed and industrial Northern countries. Governments, especially Northern governments, increasingly tend to adopt as negotiating positions the perspectives raised by corporations. In so doing they neglect the concerns of those most directly affected by environmental problems - the poor and the marginalized. Such populations are also more directly dependent on a healthy environment and stable natural resource base for community survival.

time to take corporations to account There is no enforceable international system of rights and obligations under which corporations can be held accountable and liable for the damage their activities may cause to local communities and the environment. This vacuum of accountability virtually guarantees that corporations will continue to seek influence over global and national economic and environmental policy-making. They will strive to ensure that international and national regulatory regimes reflect their interests and facilitate their profit-maximizing activities. The less regulatory restraint, the less concerned they need be about the short-term and long-term toll of their activities on the environment and the poor.

A legal framework for corporate accountability is emphatically required. It would ensure the activities of corporate actors are made subject to the longer term objectives of economically equitable and ecologically sustainable development. And it would make them accountable both in terms of their commercial operations and their influence in international and national policy-making.

Business has a positive side that deserves to be recognized. This is particularly true of small- and medium-sized enterprises that form part of, and are accountable to, local communities. And there is the clearly positive contribution of “sunrise” industries such as renewable energy, which depend on business skills and creativity to deliver progress.

But there is an urgent and deepening debate over how corporate accountability can be increased. The accountability of corporations to owners and shareholders is backed by detailed rules and regulations. New rules are needed to spell out corporations’ accountability to other stakeholders in the national and global economic and environmental arena. These rules could take the form of a binding corporate accountability convention.

A corporate accountability convention must:

- establish mechanisms for adversely affected stakeholders to obtain redress through exercising rights;
- establish the social and environmental duties of corporations;
- establish rules for consistent high practices of corporations;
- create a market framework in which progressive companies can thrive, and governments can respond fairly to citizens’ demands rather than to corporate lobbying;
- ensure international, direct liability of corporations;
- establish sanctions;
- ensure the ecological debt owed by corporations to the South is repaid; and
- secure environmental justice for communities threatened with or exposed to environmental injustice in both North and South.

Furthermore, governments must ensure that the rights, obligations, and provisions of international environmental agreements do not become subordinate to global free trade rules and the corporate economic interests these trade rules serve. This is especially crucial when it comes to the rights of local communities, remedying environmental damage, and protecting and conserving global and national environmental and natural resources.

Governments must exercise the political will required to put the interests and concerns of local communities before those of corporations if we are to truly achieve economically and ecologically sustainable livelihoods.

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