

Workshop muses on international rules for multinationals

At the 2002 World Summit for Sustainable Development in Johannesburg, governments recognised the need to 'actively promote corporate responsibility and accountability'. Exactly a year later, where are we?

Since Johannesburg, there have been continuing efforts by governments to promote corporate responsibility through voluntary codes of conduct for businesses at international, regional and national levels. However, we have seen only limited attempts to initiate intergovernmental discussions on binding rules for business. A proposal from several developing countries to discuss the obligations of investors as part of talks on international investment rules in the World Trade Organisation is one of only a few

attempts to address the World Summit's call for corporate accountability in a global setting.

While there might be a general consensus among governments that binding rules and voluntary codes for business go hand in hand, most would argue that rules for business are best made by governments at the national level, while voluntary codes can be developed at all levels – nationally, regionally and internationally. But the international NGOs and grass-roots organisations that campaigned for corporate accountability at the World Summit – including Friends of the Earth International, Greenpeace International and Christian Aid – are less convinced.

Although it is appropriate and necessary for countries to develop their own rules for business activities affecting their people and their environment, it is not always an effective way of ensuring justice for communities suffering adverse impacts from corporate behaviour – especially against multinational businesses which have many economic and legal advantages to shield them from liability.

It is against this background that FIELD collaborated with Christian Aid and CAFOD to host a Legal Workshop on the International Regulation of Multinationals in July this year. The London workshop brought together 30 legal practitioners, academics and representatives from non-governmental organisations



FIELD is working to find ways of keeping big business in check

from around the world to develop ideas for future international regulation of the social and environmental impact of multinationals.

Recognising the political and legal challenges set against imposing international rules on multinationals, participants debated the need for international approaches to regulation and explored different ways in which international law might apply to multinationals through national and international institutions and processes. It is expected that the ideas generated by the workshop will feed into a larger follow-up meeting of non-governmental and grass-roots organisations campaigning for corporate accountability in the wake of the World Summit.

For more information on the workshop go to http://www.field.org.uk/tisd_5.php or contact alice.palmer@field.org.uk

Welcome

to the first issue of our new-look 'FIELD in brief'. International environmental law can be a uniquely effective mechanism for political and economic power to be channeled towards the greater good. But if present and future generations are to realise the full value of this tool, transparency is a critical issue.

With this in mind, we have recently restructured and developed our website to provide a clearer and more accessible resource, designed with a wide range of possible users in mind. The new site contains comprehensive information on each of our three programmes as well as pages covering our cross-cutting work on: Capacity Strengthening; Advice, Assistance & Advocacy; and Rights, Participation and Redress. It also offers an extensive catalogue of FIELD guides and research papers.



FIELD's work is widely regarded as being at the cutting edge of international environmental law and we hope that our new site will help to reflect and to reinforce this. The address is the only thing that hasn't changed: www.field.org.uk

You can now support our work online – please read the appeal on the back page of this newsletter.

FIELD to host Cancún Legal Clinic

FIELD is hosting a Legal Clinic with partner organisations at the World Trade Organisation Ministerial Conference in Cancún, Mexico. The clinic will provide legal advice and assistance to developing country governments on the trade and environment issues currently being negotiated and debated in the WTO.

This initiative follows a brainstorming workshop held in Bangkok in August. The workshop was organised by FIELD, the United Nations Conference on Trade and Development (UNCTAD) and the International Institute on Trade and Development and brought together government officials from the trade and environment ministries of six Asian countries – Bangladesh, Cambodia, China, Philippines, Thailand and Vietnam.

For further information on the recent workshop go to http://www.field.org.uk/tradesust_current.php

FIELD's input pays off with arrival of EU Emissions Trading Directive

In July the European Community formally adopted the first large-scale greenhouse gas emissions trading scheme in existence: the European Emissions Allowance Trading Directive. This pioneering directive is a central plank in the EU's strategy to implement the Kyoto Protocol. The Kyoto Protocol requires an overall reduction of 8% of the EU's greenhouse gas emissions from 2008-2012 compared to 1990 levels. Parliament's recent approval will allow the trading scheme to enter into force well before the end of 2003, giving an important signal that the EU remains fully committed to its Kyoto target.

FIELD played a key role in the design of the EU trading scheme. FIELD lawyers led the study to set out the principles of the scheme, as summarised in the Commission's Green Paper on Emissions Trading in 2000. FIELD provided the first draft legal text of the

Directive, most of which is still contained in the current Directive.

The revolutionary scheme will require that Member States set a limit or 'cap' on carbon dioxide (CO₂) emissions from large industrial facilities from 1st January 2005 onwards. Facilities covered by the scheme have the flexibility to reduce their emissions to these limits, to reduce their emissions in excess of the limits and sell the surplus 'allowances' to other facilities, or to exceed the limits and purchase 'allowances' representing emissions reduced in other facilities.

It is expected that initially around 15,000 facilities, including refineries, cement kilns and steel mills, will be covered by the scheme, controlling almost half of the EU's CO₂ emissions. The scheme can be further expanded to cover other greenhouse gases and

facilities after 2008. It contains a strict control regime, including guidelines for the monitoring and reporting of emissions and harmonised penalties.

FIELD lawyers are currently working on the implementation of the scheme. This phase of work includes the provision of legal advice to ensure that the monitoring and reporting guidelines are legally enforceable. Later this year, together with Maastricht University and London offices of law firm Baker & McKenzie, FIELD will hold a workshop on the legal status of emission reductions to address key legal questions on the implementation of the trading scheme. This workshop is being organised in partnership with the World Bank and European Commission.

For more information on the EU directive go to http://www.field.org.uk/climate_4.php or contact jurgen.lefevere@field.org.uk

Self-defence for Pacific Islands

Climate change, the loss of biodiversity and the dynamics of globalisation are increasingly affecting Pacific Island States. The realisation is growing that the causes and impacts of these pressures cannot be tackled in isolation. Climate change can, for instance, affect coral reef ecosystems, in turn destroying much needed protection against extreme weather events and



Atoll dwelling, Black Coral Island, Pohnpei, Micronesia

sea level rise and impacting in-shore fisheries. Illegal and unregulated fishing for international trade can deplete commercial fishing stocks, affecting an alternative source of protein and revenue when the productivity of reef ecosystems declines.

International legal frameworks can help tackle the causes of these problems and provide crucial financial and technical skills to allow Pacific islands to manage these impacts in an integrated manner. Ensuring that international legal frameworks recognise the needs of Pacific islands requires well-trained and well-prepared policy-makers and negotiators.

In April FIELD, in partnership with WWF's South Pacific Programme (WWF-SPP) and the South Pacific Regional Environment Programme (SPREP), organised the first regional workshop to strengthen the capacity of Pacific Island countries to negotiate and implement the international biodiversity, biosafety and climate change instruments. This workshop in Samoa was the first in a series of training events to be organised under the Memorandum of Understanding (MoU)

signed between FIELD, SPREP and WWF-SPP at last year's World Summit for Sustainable Development.

During the April workshop, 22 participants from 12 islands, including government and NGO representatives, received intensive training on how to enhance their effectiveness in international negotiations and discussed key substantive issues to be addressed in upcoming negotiating sessions under the UNFCCC and CBD. Participants also laid the foundation for the creation of regional networks to strengthen Pacific island participation in international negotiations.

FIELD's MoU with its regional partners foresees two workshops per year over the next three years. The next workshop in the series is scheduled to be held this autumn. FIELD and its partners are looking to expand the programme to include international trade issues and are actively looking for sponsors for upcoming workshops.

For more information, go to http://www.field.org.uk/climate_7.php or contact mj.mace@field.org.uk

Climate Insurance

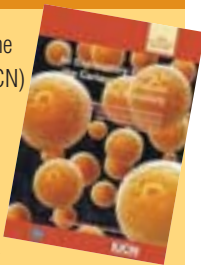
Increasing concentrations of greenhouse gases in the atmosphere are projected to bring increased temperatures, sea level rise, and an increasing frequency and intensity of extreme weather events, including droughts, floods, hurricanes, typhoons and tropical storms. These changes are likely to have enormous physical impacts on low-lying atolls and small island states, where land loss and coastal erosion are serious concerns. For small island states heavily reliant on coastal infrastructure and tourism, these events will also have enormous economic impacts. The availability of a variety of insurance mechanisms, to address these issues, and to facilitate reconstruction in the wake of extreme weather events, is a critical sustainable development issue.

The UNFCCC's reference to insurance was itself hard won by the Alliance of Small Island States (AOSIS) years ago, during the negotiation of the Convention text itself. FIELD's climate change team has been active in assisting AOSIS again in raising the importance of insurance issues, at COP-8 in New Delhi, at the meetings of the Subsidiary Bodies in June 2003, and at the UNFCCC's May 2003 insurance workshops, for which FIELD co-authored a background paper. As the issue of insurance gains prominence on the negotiating agenda, FIELD will continue to provide legal advice and support to secure successful outcomes for AOSIS members on this issue.

To read the UNFCCC background paper go to <http://unfccc.int/sessions/workshop/120503/reldocs.html>

Cartagena Biosafety Guide published

FIELD have collaborated with the World Conservation Union (IUCN) and the World Resources Institute (WRI) to produce an explanatory guide to the Cartagena Biosafety Protocol. The aim of the Guide is to raise awareness of the Cartagena Protocol, to aid understanding of legal obligations under it, and to facilitate implementation of its provisions. Copies of the Guide are being distributed free of charge to several hundred national officials and NGOs in developing countries and in countries with economies in transition, to assist them in implementation of the Protocol and the development of national biosafety laws.



Priced at £17, copies are available from IUCN Publication Services: +44 1233 277 894

Seminar success on access to genetic resources in Chile

On 29-30 May 2003, the *Fundación Sociedades Sustentables* ('Sustainable Societies Foundation') and FIELD, in collaboration with the *Centro de Educación y Tecnología* ('Centre for Education and Technology', CET) of Yumbel (VIII region, Chile) organised a two-day seminar on access to genetic resources. This is one of the key activities of a two-year project, funded by the Darwin Initiative for the Survival of Species of the UK Department of Environment, Food and Rural Affairs (DEFRA). The principal objectives of the project are to broaden awareness about access to genetic resources, benefit sharing and associated traditional knowledge, and to promote a policy debate on this issue, including recommendations on possible elements for a regulated access regime in Chile.

59 people participated in the seminar in May, including: rural and development organisations; regional and national authorities; researchers and academics; representatives of indigenous peoples; and environmental NGOs and local 'seed guardians'. The seminar included presentations on the international legal and policy framework on access to genetic resources, the current situation in Chile and past and current examples of bioprospecting in the country. In addition, representatives of the Office of Farming Studies and Policies of the Chilean Ministry of Agriculture (ODEPA) presented a draft bill on this issue. Seminar participants also learned about the work of CET centres on the conservation and exchange of seeds both in Chiloé Island and in Yumbel and the surrounding region.



Local 'seed guardians' conduct a seed-exchange ceremony as part of the FIELD seminar

Two sessions of working group discussions took place in the second day of the seminar, where participants debated how bioprospecting activities and access to Chile's genetic resources affect them, given the lack of legislation and policy on the matter, and their proposals for the way forward. The recommendations issued by the participants will provide key information to inform the national seminar on access to genetic resources in Santiago in November. A side-event about this project will be organised by FIELD and the *Fundación Sociedades Sustentables* in the margins of the second meeting of the CBD Ad Hoc Open-ended Working Group on Access to Genetic Resources and Benefit-sharing, which will take place in Montreal between December 1st and 5th.

For further information go to http://www.field.org.uk/biodiversity_pg4.php or contact carolina.lasen@field.org.uk

Bioprospecting in the Solomon Islands

The current phase of FIELD's Darwin-funded project on access and benefit-sharing in the Pacific Islands region involved FIELD's participation in a national workshop on access to genetic resources in Honiara (Solomon Islands) in May 2003. The two-day meeting in Honiara was organised by WWF-SPP and the Solomon Islands' Environment and Conservation Division (Department of Forests, Environment and Conservation) and was attended by government officials, community leaders, traditional healers and local and international NGOs. Workshop participants discussed examples of the country's experience of bioprospecting arrangements, current procedures and the lack of relevant legislation, which has resulted in

a number of serious concerns that this workshop aimed to tackle.

A working committee was established to advance these issues at the national level, led by the Environment and Conservation Division, but including representatives of other government departments such as agriculture, forestry, fisheries, cultural affairs, and education, as well as NGOs, community-based organisations, technical experts and women's organisations. There is a clear need to review existing national laws, identifying current gaps and overlaps, prior to the development of new legislation.

The report of the workshop is available at http://www.field.org.uk/biodiv_archive.php For more information contact carolina.lasen@field.org.uk

We were delighted in February 2003 to be joined by two new specialist staff lawyers:

MJ Mace has been practising law for 14 years. After working for Skadden, Arps in Washington D.C. for six years, in the areas of environmental law and international trade, she moved to the Pacific to work directly for the national government of the Federated States of Micronesia. There, she served as General Counsel to the FSM Supreme Court, and then as an Assistant Attorney General within the FSM Department of Justice. MJ is working on FIELD's Climate Change and Energy programme.

Jona Razzaque is a barrister and holds a PhD on Access to Environmental Justice in South Asia from the University of London. Before joining FIELD, Jona worked as the outreach co-ordinator for the Environmental Law Foundation (ELF) where she organised training for environmental lawyers practising in the UK and offered workshops on access to environmental justice for community groups. She has also worked as a consultant with the United Nations Environment Programme. Jona is working across all of FIELD's three programme areas.

- FIELD lawyers are holding a legal clinic at the 5th WTO Ministerial Conference in Cancun: 10th – 14th September
- FIELD are holding a side event at the 2nd meeting of the CBD Working Group on Access to Genetic Resources in Montreal: 1st - 5th December
- FIELD lawyers are attending the 9th COP to the UN Framework Convention on Climate Change in Milan: 1st – 12th December

Urgent appeal to our friends and supporters

While 2003 has been a truly exciting time in terms of the impact of our work, it has proved to be our most challenging period so far in terms of funding. In light of this, we need to ask all of you who support our efforts for more help than ever.

Please consider sending a cheque – payable to FIELD – to 52/53 Russell Square, London WC1B 4HP. Alternatively you can download a regular giving form or make a secure online donation at www.field.org.uk

If you would welcome information on how to include FIELD in a legacy, please write to Richard Leggatt or email him at richard.leggatt@field.org.uk

• RECIEL

FIELD started work on the Review of European Community & International Environmental Law (RECIEL) 11 years ago. Over that time the journal has grown into a mature, well respected review, with wide international readership. But also over that time RECIEL has changed and we now feel that the publication of RECIEL should no longer remain part of our core activities.

Together with Blackwell we have been looking for a new institutional basis for RECIEL. For the time being, Hugh Wilkins, the current managing editor and responsible for the last three excellent issues of RECIEL, has kindly offered to continue to fulfil this role, independently from FIELD. Individual FIELD staff will of course continue to contribute articles.

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