

CIEL

Center for International Environmental Law

Annual Report 1995

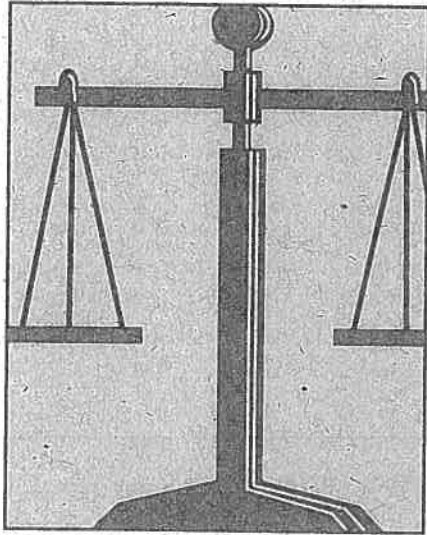


The Center for International Environmental Law was founded in 1989 to bring the energy and experience of the public interest environmental law movement to the critical task of strengthening and developing international and comparative environmental law, policy, and management throughout the world. CIEL's goals are:

- to solve environmental problems and promote sustainable societies through law;*
- to incorporate fundamental principles of ecology and democracy into law;*
- to strengthen national environmental law systems and support public interest movements around the world; and*
- to educate and train public-interest-minded environmental lawyers.*

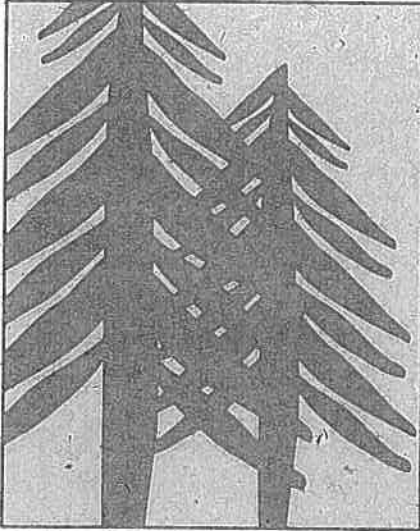
CIEL provides a full range of environmental and legal services in both international and comparative national law, including: policy research and publishing, advice and advocacy, education and training, and institution building. CIEL works in partnership with public interest lawyers, nongovernmental organizations, international institutions, and governments, especially those of developing nations and nations with economies in transition.

CIEL's program areas include Global Commons, Biodiversity and Wildlife, Trade and Environment, International Financial Institutions, Policy Analysis and Capacity Building, and a Joint Research Program with The American University Washington College of Law. CIEL's work covers more than sixty countries on six continents, with emphasis on the Western Hemisphere, Central and Eastern Europe and the Newly Independent States, and Asia.



Contents

President's Letter	1
Global Commons Program	3
Biodiversity & Wildlife Program	5
Trade & Environment Program	8
International Financial Institutions Program	11
Policy Analysis & Capacity Building Program	13
Staff	16
CIEL Publications	18
CIEL Supporters	21
Trustees, Staff, and Advisors	22



The President's Letter

Dear Friends,

This past fall, CIEL celebrated its fifth anniversary, which provided an occasion to evaluate what we have accomplished and to reflect on how to apply our founding principles into the future.

During the past five years, CIEL and international environmental law have grown side by side. CIEL has grown from a core of volunteers to a full-time staff of twelve lawyers, four "of counsel," and two MBAs working in Washington, D.C., Geneva, and Moscow. CIEL also has developed unparalleled expertise in major issues of international and comparative environmental law, including climate change, ozone depletion, biodiversity, marine conservation, wildlife protection, trade and environment, and sustainable development.

At the same time, the field of international environmental law has grown from the negotiation of agreements signed at the Rio Earth Summit to the painstaking development of increasingly specific obligations and the national laws and institutions needed to implement them. New agreements have been added and new institutions created, including the World Bank Independent Inspection Panel and the North American Commission on Environmental Cooperation (NACEC).

This Annual Report summarizes CIEL's major achievements during 1994 and 1995 and illustrates the breadth and depth of our work. For example, in our effort to solve environmental problems and promote sustainable societies through law, we assisted in three of the first four citizen claims filed with the World Bank's Independent Inspection Panel, which we helped persuade the Bank to establish in 1993. We also assisted in the first citizen submission filed with NACEC to protect migratory birds.

In our effort to incorporate fundamental principles of ecology and democracy into law, we participated in the Conferences of the Parties of the Biodiversity Convention, meetings of the council of the Global Environmental Facility, and the continuing climate change negotiations. CIEL also is launching a project for the United Nations Environment Programme to elaborate the principles and concepts for a new international law of sustainable development.

In our effort to strengthen national environmental law systems and support public interest movements around the world, we undertook projects in more than 60 countries.

In our effort to educate and train public-interest-minded lawyers, we now teach ten courses in international and comparative environmental law through our Joint Research Program with The American University Washington College of Law. During the past year, we produced three new books: *The Use of Trade Measures in Select Multilateral Environmental Agreements* and two Spanish versions of *Trade and the Environment: Law, Economics and Policy* (in Argentina and Mexico). In addition, we published numerous articles and reports on trade, biodiversity conservation, wildlife protection, multilateral

The President's Letter

lending institutions, environmental impact assessment regimes, sustainable development, and the state of national environmental law systems.

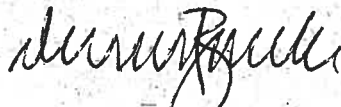
In 1995, CIEL launched several new initiatives. We established an office in Geneva to encourage greater transparency and democratic participation in the World Trade Organization and to encourage the integration of environmental values into WTO procedures. We initiated a summer program in Geneva and Paris with The American University Washington College of Law. We began a project to develop criteria for joint implementation projects based on a review of actual pilot projects. (Joint implementation would allow developed countries to satisfy part of their obligation to reduce greenhouse gas emissions by supporting emissions reductions or carbon sequestration in developing countries.) We also established a home page on the Internet, where many of our publications will be made available to the public, and worked with Mexican and Canadian law groups and the NACEC to create a comparative environmental law database for North America.

In reviewing our accomplishments, it is clear that we would not have been able to achieve so much without the invaluable contributions made by our many partners—the talented and dedicated environmental professionals around the world with whom we have had the honor to work these past five years. The energy and courage of our partners—many of whom were LL.M. students in CIEL's Joint Research Program at The American University Washington College of Law—have been indispensable to the growing movement to improve global environmental protection.

During the remainder of this decade, our dedicated staff and partners will continue to work on climate change, biodiversity protection, and the other issues that have been at the forefront of CIEL's agenda. We also will be investigating emerging threats such as "gender benders," or endocrine disruptors—the organochlorines and other chemicals that mimic hormones and disrupt the physiological balance that establishes gender and the ability for humans and animals to reproduce.

We need your continued support, however, to ensure our continued success.

Sincerely,



Durwood Zaelke, President
March 1996



Durwood Zaelke



Global Commons Program

The global commons includes the oceans, Antarctica, the atmosphere, and outer space. No individual, country, or continent owns them; everyone uses them for life's sustenance, pleasure, or profit; and protecting them is essential to continued life on Earth.

In the proverbial "tragedy of the commons," public grazing lands in a village were destroyed because the shepherds who shared the common land kept adding to their flocks to increase their personal wealth—to the detriment of their fellow shepherds, the entire village and, ultimately, to themselves.

Similarly, modern societies continue to overfish the oceans and add pollutants to the already overburdened oceans and atmosphere. Among the consequences are ozone depletion, global warming, and loss of biodiversity.

The goal of CIEL's Global Commons Program is to protect the earth's climate system, ozone layer, and ocean resources.

Climate

The Global Environmental Facility (GEF) is a multilateral funding mechanism administered by the World Bank, the United Nations Development Programme, and the United Nations Environment Programme (UNEP) to support projects relating to climate change, biodiversity conservation, ozone depletion and protection of the marine environment. Throughout 1995, CIEL advocated a GEF climate change strategy that would emphasize energy efficiency projects and "market-ready" renewable energy projects, such as solar and wind power. In a related effort, CIEL prepared a strategy paper analyzing different options for the GEF to catalyze private sector investment in sustainable energy. The paper will be distributed at the GEF Council meeting in April 1996. CIEL also continued to support nongovernmental organizations (NGOs), including the Climate Action Network, that advocate increased accountability and transparency in GEF operations.

Joint Implementation (JI) may emerge as one of the principal means of implementing the objectives of the Framework Convention on Climate Change, which seeks to reduce carbon dioxide and other greenhouse gas emissions. JI allows countries to form partnerships to reduce emissions of carbon dioxide, thus allowing countries to meet their emissions reduction obligations by financing less expensive reductions in other countries.

CIEL initiated an analysis of forest projects to ensure that JI is developed and used in a manner that protects forest ecosystems and biodiversity and provides verifiable reductions in net greenhouse gas emissions. Through a literature review, an analysis of project parameters, and on-the-ground monitoring and evaluation, CIEL will develop and advocate strong legal principles to ensure that JI forest projects achieve their climate objective while at the same time providing full protection for local communities and biodiversity.

The Ozone Layer

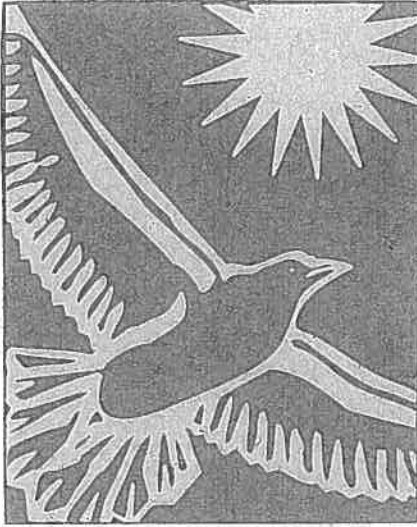
CIEL joined with Ozone Action, a U.S. NGO dedicated to stopping ozone destruction, to organize a workshop of leading scientists studying the impacts of ozone depletion and plaintiff-side litigators. Participants addressed relevant advances in science and the law and what those advances might mean for holding the manufacturers of ozone-destroying substances liable for ozone depletion.

The Marine Environment

CIEL served as legal advisor to the Wider Caribbean Initiative on Ship Generated Waste, a GEF-funded project of the International Maritime Organization (IMO). The initiative was designed to help countries in the Wider Caribbean region implement the Marine Pollution Convention of 1973/78. CIEL offered advice on maritime environmental policy issues, assisted in drafting model implementing legislation, and drafted portions of an enforcement and compliance manual for the IMO.

Other marine conservation work includes analyzing proposals to privatize fish stocks through individual transferable quotas and developing a handbook to inform policy-makers of the special challenges posed by marine biodiversity conservation. In addition, CIEL's book *Freedom for the Seas in the Twenty-First Century: Ocean Governance and Environmental Harmony* was selected as a co-winner of the 1994 Sprout Award for the best book on international environmental affairs.

Support for the Global Commons Program has been provided by the Turner Foundation, the U.S. Environmental Protection Agency, and the W. Alton Jones Foundation.



Biodiversity & Wildlife Program

Biodiversity is the variability of animal and plant species and natural ecosystems that help provide for basic human needs such as food, shelter, and medicine, as well as lending recreational, cultural, spiritual, and aesthetic benefits. Over the past few decades, society's growing consumption of resources has led to a rapid loss of biodiversity. Biodiversity is ultimately conserved or lost because of community and individual decisions about the use of land and resources. Those local decisions are increasingly influenced by international laws and policies.

Through its Biodiversity & Wildlife Program, CIEL works to develop and maintain international and national policies and laws that support conservation and sustainable use at the local level. The program strengthens the Convention on Biological Diversity and the Convention on International Trade in Endangered Species as legal tools for encouraging conservation. In addition, the program promotes innovative methods for integrating conservation principles with economic and trade policies.

The Biodiversity Convention

The Biodiversity Convention has been ratified by more than 130 countries, though not the United States. The Convention addresses new and complex issues related to biodiversity conservation, including, for example, economic incentives for biodiversity conservation, international trade in genetic resources and intellectual property, and bioprospecting.

CIEL is among the leading NGOs acting to implement the Biodiversity Convention. At the first Conference of Parties in 1994, the Clinton Administration and other NGOs asked CIEL to serve as the NGO advisor to the U.S. delegation. CIEL also participated at the second conference in 1995, focusing on living marine resources, bioprospecting, and genetic resources. In addition, CIEL assisted the Convention Secretariat in preparing background information on bioprospecting and benefit sharing.

The Convention confirms that countries rich in biodiversity (most of which are "developing") have both legal control over their biodiversity and a right to share in the benefits of its use. CIEL promotes the Convention's benefit-sharing principles through advocacy and advice to both environmental activists and U.S. officials administering bioprospecting programs.

In 1995, CIEL played a critical role in a successful NGO campaign to protect marine and coastal biodiversity under the Biodiversity Convention. CIEL drafted a handbook, *Applying the Convention on Biological Diversity to Marine and Coastal Biodiversity: A Handbook for Practitioners*, for NGOs and government officials, which analyzes legal and policy reforms needed to conserve and sustainably use marine and coastal biodiversity under the Convention. In a major step forward, governments at the second Conference of Parties adopted

important recommendations for marine conservation, based largely on NGO proposals developed in part through use of the handbook.

CITES and Wildlife Protection

Trade in rare wildlife species is the second most lucrative illegal trade in the United States, after narcotics. Since 1992, CIEL has advocated strong and realistic implementation of the Convention on Biological Diversity and the Convention on International Trade in Endangered Species (CITES) to protect endangered species. CITES limits international trade in products taken from plants or animals that are or may be threatened by trade. Examples of such trade-restricted products include elephant ivory, rhinoceros horns, and sea turtle shells.

CIEL has played a key role at the CITES Conferences of the Parties in working to protect CITES' integrity against challenges from wildlife trade interests. In 1995, CIEL published an analysis of the mutually supportive relationship between CITES and the Biodiversity Convention, which counters some governments' efforts to create conflicts between the two agreements, and an analysis of the relationships among CITES and other international trade laws. In addition, CIEL has examined the legal issues surrounding sport hunting of polar bears and the conservation of sea turtles. The turtle research will form the basis of a draft tripartite treaty for consideration by Nicaragua, Panama, and Costa Rica.

The Economics of Biodiversity

Integrating economic and environmental policy is essential to an effective strategy for biodiversity conservation. In recognition of this need, Article 11 of the Biodiversity Convention requests parties to examine the impact of economic incentives on the conservation and sustainable use of biodiversity.

In July 1995, CIEL published *What Price Biodiversity? Economic Incentives and Biodiversity Conservation in the United States*. The report examines the impact of current economic policies on private sector decisions affecting biodiversity. It also identifies policy reforms that will remove incentives for destroying habitat and will create or expand the use of economic incentives for conservation. CIEL was subsequently invited to join the U.S. delegation to the Organization for Economic Cooperation and Development's Expert Group on Economic Aspects of Biodiversity. As the sole NGO participant, CIEL has had a unique opportunity to influence the group's policy recommendations, which will be published in late 1996.

In cooperation with Conservation International, CIEL wrote a policy paper titled *Encouraging Private Sector Support for Biodiversity Conservation: The Use of Economic Incentives and Legal Tools*. The paper was distributed widely at international meetings and among affiliates of Conservation International in tropical countries. CIEL has also organized workshops and roundtables on economic incentives for conserving biodiversity.

Since 1992, CIEL has advocated strong and realistic implementation of the Convention on Biological Diversity and the Convention on International Trade in Endangered Species (CITES) to protect endangered species around the world.

Biodiversity and Trade Law and Policy

International trade policies have a major impact on the earth's biodiversity. Liberalization of trade, for example, tends to increase exploitation of natural resources and the negative impacts on biodiversity. International trade policy, may also interfere with national and international conservation laws and policies.

In 1995, CIEL continued to promote the integration of conservation policies and laws with trade policies and to propose law and policy reforms that would integrate conservation goals with trade policies. A review of the relationships of trade rules with both the Biodiversity Convention and CITES was included in CIEL's *The Use of Trade Measures in Select Multilateral Environmental Agreements*, published in 1995 by UNEP.

Since the North American Free Trade Agreement will likely be expanded to include Chile, which could increase unsustainable logging of Chilean forests, CIEL is working with Chilean and U.S. NGOs on the potential impact of trade policy on Chilean forests and national forestry laws.

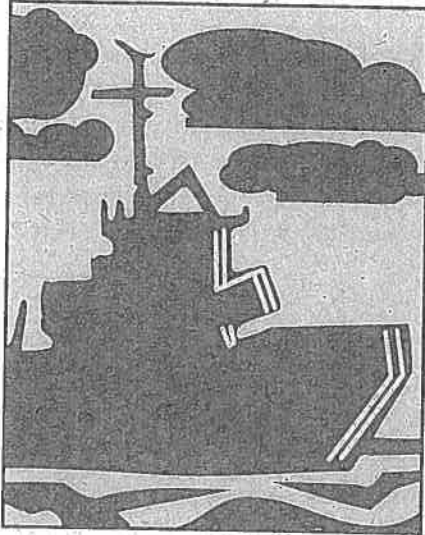
Biodiversity at the National Level

United States. In the United States, CIEL continues to play a lead role in the Biodiversity Action Network (BIONET), an NGO that CIEL launched in 1993 in cooperation with the Sierra Club and other U.S. environmental groups. CIEL provides legal advice and administrative guidance and serves on BIONET's steering committee. In 1995, BIONET members successfully used the Biodiversity Convention to encourage Convention governments to commit to increased protection of marine and coastal biodiversity.

Ukraine. CIEL joined a U.S. government team working to help build long-term capacity for the conservation of biodiversity in Ukraine. The task was to assess the potential for a national biodiversity conservation planning process and evaluate compliance with international environmental laws.

Bulgaria. CIEL provided legal and policy assistance to Bulgarian lawyers and officials seeking to comply with international legal norms and improve their legal system's protection of biodiversity.

Support for the Biodiversity & Wildlife Program has been provided by the John D. and Catherine T. MacArthur Foundation and The Moriah Fund. Support for specific activities within the program has been provided by the Jenifer Altman Foundation, the United Nations Environment Programme, the Weeden Foundation, the Ahimsa Foundation, the Summerlee Foundation, the Humane Society of the United States, the U.S. Environmental Protection Agency, the U.S. Agency for International Development, and the Biodiversity Support Program (a U.S. AID-funded consortium of the World Wildlife Fund, the Nature Conservancy and the World Resources Institute).



Trade & Environment Program

Trade policies are made by government representatives behind closed doors. Consistent with its goal to "incorporate fundamental principles of ecology and democracy into international law," CIEL is working to advance public participation and transparency in trade institutions, particularly the World Trade Organization (the successor to the General Agreement on Tariffs and Trade, or GATT), the Organization for Economic Cooperation and Development (OECD), and institutions established under the North American Free Trade Agreement (NAFTA). This work includes developing a framework for public participation in the trade arena, participating in trade disputes, ensuring the effectiveness of multilateral environmental agreements, and advancing the role of NGOs in trade policy-making through publications, seminars, and legal advice.

CIEL in Geneva

CIEL opened an office in Geneva in the fall of 1995 to focus on the World Trade Organization (WTO) Trade and Environment Committee. Staff will be examining various trade and environment links, including public participation within the WTO, the relationship between the WTO and multilateral environmental agreements, and the trade impacts of packaging and ecolabelling laws. CIEL-Geneva will also support CIEL's biodiversity and climate change work.

A Framework for Public Participation

Public participation—by NGOs, businesses, and citizens—has been increasingly accepted in international environmental organizations. However, the WTO is lagging in opening its doors to the public.

After reviewing the public participation practices and procedures of various international institutions, CIEL developed a framework of alternative procedures for the WTO. The proposal is in line with the international norm for public participation and would give the public specific procedures for participating in trade dispute resolution and policy formulation without compromising the elements of confidentiality necessary for the effective functioning of the WTO. CIEL circulated the framework among governments, NGOs, and other organizations in 1995.

Participating in Trade Dispute Resolution

The WTO and the NAFTA are in place, and their rules are now being applied. As a result, and because of the general maturing of the trade and environment debate, policy-making is shifting away from broad legislative arenas to specific trade disputes, where concrete rules are applied to concrete facts.

CIEL assisted with a number of trade-related disputes during the past two years, including efforts to preserve the cleaner fuels protection of the U.S. Clean Air Act Amendments of 1990 from a challenge by Venezuela and Brazil. The WTO announced in January 1996 that the U.S. Clean Air Act rules for imported reformulated gasoline violated trade rules and did not qualify under the WTO exceptions for health, conservation, and enforcement measures. The United States can still appeal.

Multilateral Environmental Agreements

A critical issue in the trade and environment debate is the relationship between the rules of trade agreements and multilateral environmental agreements, such as the Montreal Protocol on ozone depletion, the Basel Convention on transboundary movements of wastes, the Biodiversity Convention, and the Convention on Trade in Endangered Species. The potential exists for trade rules to undermine the protections in environmental agreements.

In 1994, UNEP commissioned CIEL to develop a comprehensive report on the difficult and politically charged nexus between trade rules and environmental agreements. UNEP published the resulting book, *The Use of Trade Measures in Select Multilateral Environmental Agreements*, in 1995. CIEL anticipates using the report for a series of briefings and workshops, leading to the December 1996 Ministerial Meeting of the WTO's Committee on Trade and Environment.

ISO 14000 Environmental Management Standards

The International Organization for Standardization (ISO) is developing international environmental standards that will apply to all businesses participating in international trade. The standards will cover areas such as environmental management procedures, ecolabelling, and environmental auditing.

CIEL is participating in the ISO 14000 negotiations, focusing on management and labelling standards. CIEL also has been providing legal advice to other environmental groups, governments, and academicians, as well as a range of proactive industrial players interested in how the ISO environmental process can be used to improve environmental performance.

NAFTA

CIEL's ongoing work to implement and use NAFTA includes creating an environmental law database for the North American Commission on Environmental Cooperation, participating in and hosting workshops and writing policy and advocacy papers. CIEL assisted with the first citizen submission under Article 13 of the NAFTA environmental agreement, which focused on one of the largest bird kills in history—40,000 dead birds were found along an international migratory flyway at the Silva Reservoir in central Mexico. The Mexican Center for Environmental Law (CEMDA), the National Audubon Society, and the Grupo de los Cien were co-petitioners, represented *pro bono* by the law firm of Kilpatrick & Cody. The Commission's panel report recommended strong actions to clean up the reservoir.

The Western Hemisphere and NAFTA Accession

Broader discussions about a Western Hemisphere trade agreement have raised the divisive issue of whether trade liberalization in the hemisphere should include the NAFTA environmental protection provisions, eliminate the links between trade and environment, or build upon those links. The issue is part of the debate over the extension of fast-track authority for the U.S. President to negotiate trade agreements.

Given the threats from any hemispheric trade process that decouples trade and environment, CIEL has created a framework for including environmental protection in the trade agreement negotiation process. The framework endorses certain "readiness criteria" and adopts a phased-in approach to meeting the environmental needs of accession. This framework, as well as other issues relating to Chilean accession to the NAFTA, has been discussed in workshops and seminars in Santiago and Washington, D.C. and in briefings for Chilean legislators, NGOs, and government officials.

Finally, CIEL published two Spanish editions of *Trade and the Environment: Law, Economics, and Policy* in both Buenos Aires and Mexico City (see CIEL Publications, page 19).

Given the threats from any hemispheric trade process that decouples trade and environment, CIEL has created a framework for including environmental protection in the trade agreement negotiation process.

Funding for the Trade & Environment Program has been provided by the Charles Stewart Mott Foundation, the Jessie Smith Noyes Foundation, The Pew Charitable Trusts, the United Nations Environment Programme, the U.S. Environmental Protection Agency, and the North American Commission on Environmental Cooperation.



International Financial Institutions Program

Misguided policies and procedures, along with a lack of commitment to sustainable development, have made international financial institutions (IFIs) co-conspirators in some of the worst environmental and development decisions in history. CIEL formed its International Financial Institutions Program to improve the environmental and social record of IFIs by creating and using mechanisms and policies that increase transparency, public accountability, and sensitivity to the environment. These include the unprecedented creation of inspection panels at the World Bank in 1993 and the InterAmerican Development Bank in 1994 and oversight of European Bank for Reconstruction and Development (EBRD) projects to ensure compliance with sustainable development policies. Such accountability mechanisms represent major steps forward in achieving sustainable development and incorporating fundamental principles of democracy and ecology into the policies of international institutions.

Inspection Panel

CIEL has played a leading role in the development and use of the World Bank Inspection Panel, a three-member board created in 1993 to review complaints from affected parties in borrowing countries regarding alleged violations of the Bank's operating policies. The Inspection Panel provides the first opportunity for citizens to challenge World Bank activities. In addition to regular monitoring and oversight of the panel's activities, CIEL provides direct financial and technical support to citizen groups in developing countries to assist them in bringing claims.

In 1995, CIEL worked with citizens of Bangladesh, Ecuador, India, and Slovakia to investigate potential claims. CIEL also helped with three claims filed on behalf of affected people in Brazil, Chile, and Nepal. Two of these claims were brought by graduates of The American University (AU) Washington College of Law, where CIEL has its Joint Research Program (page 14).

The first claim was brought by Gopal Siwakoti (AU LL.M. 1994) in Nepal on behalf of the Arun Concerned Group of Citizens and two individuals from the Arun River Valley. The claim opposed a \$746 million hydroelectric dam on the Arun River and the dam's 122 kilometer access road. Claimants suggested a more environmentally appropriate strategy, one that incorporated small hydro and energy conservation. In August 1995, the World Bank announced that it would not approve funds for the dam and would instead study energy conservation and small-scale hydro power, an incredible victory for citizens of the Arun River Valley.

The second major claim was filed with the assistance of Rachel Bijderman (AU LL.M. 1992) in Brazil on behalf of 25 organizations representing indigenous peoples, traditional forest users, and environmental NGOs in the Western

CIEL assisted twenty-five organizations representing indigenous peoples, traditional forest users, and environmentalists in Brazil in their claim challenging the \$167 million World Bank-funded Planaflo project. The claim led to tighter Bank supervision of the project and, most importantly, to the protection of more than one million hectares of Amazonian rainforest for use by traditional rubber tappers.

Brazilian Amazon. The claim challenged the \$167 million Planaflo project, alleging that the Bank failed to enforce its policies and loan conditions in its agreement with Brazil and the state of Rondonia. As a result, critical elements of the Planaflo project were being neglected—most significantly, the demarcation and protection of lands for indigenous peoples and rubber tappers. The claim was ultimately rejected by the Bank's executive directors, but it led to increased Bank supervision of the project and a commitment to allow the Panel to review project implementation in six months. More importantly, the project is getting back on track; more than one million hectares of Amazonian rainforest have been protected as rubber tapper reserves since the claim was filed.

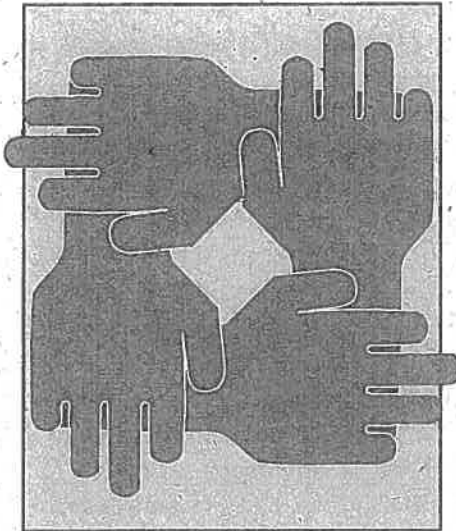
The third major claim was filed by environmentalists and indigenous peoples concerned about construction of the Pangué/Ralco hydroelectric dams on the BioBio River in Chile. The claimants alleged that the International Finance Corporation (IFC), a member of the World Bank group, had violated relevant policies regarding indigenous peoples and environmental assessment and failed to supervise properly the implementation of the project. The claimants recognized that the Panel did not have jurisdiction over IFC-financed projects, but requested that the IFC president authorize the Bank's Inspection Panel to investigate the claim and that the IFC executive directors adopt the inspection panel mechanism. The directors subsequently agreed to launch an internal investigation of the claim and to consider extending the Bank Panel's jurisdiction to the IFC.

CIEL is also promoting investigation panels at the regional development banks, including the Inter-American Development Bank (which created an inspection mechanism in 1994), the Asian Development Bank (which initiated a mechanism in 1995), and the EBRD (which has yet to act).

Oversight of the EBRD

The principal financial institution serving Central and Eastern Europe and the Newly Independent States is the European Bank for Reconstruction and Development (EBRD)—the first multilateral development bank to have an explicit environmental mandate in its charter. CIEL has assisted NGOs in Central and Eastern Europe in monitoring and lobbying the EBRD and has conducted an ongoing analysis of specific projects. The resulting report, *The European Bank for Reconstruction and Development: An Environmental Progress Report*, was published in 1995. It documents serious shortcomings in the EBRD's environmental policies, procedures, and practices and demonstrates the Bank's failure to meet its mandate to promote environmentally sustainable development and democracy.

Support for the International Financial Institutions Program has been provided by the Charles Stewart Mott Foundation, the German Marshall Fund, the Wallace Genetic Foundation, and The American University Washington College of Law.



Policy Analysis & Capacity Building Program

The Policy Analysis and Capacity Building Program is designed to strengthen and develop international and comparative national law, policy, and management throughout the world. Within this program, CIEL contributes to the development of international environmental law, assists NGOs and governments in strengthening national environmental laws, policies, and enforcement mechanisms; trains environmental lawyers worldwide; and distributes environmental law information.

International Environmental Law

CIEL, in cooperation with the Environmental Law and Institutions Programme Activity Center of UNEP, has organized a series of workshops to develop a position paper on international environmental law aiming at sustainable development.

The position paper will:

- provide practical guidelines for the further development of international environmental law;
- prioritize areas of activity relating to international environmental law; and
- identify the need for and feasibility of new legal instruments to address future environmental challenges.

During 1995, CIEL wrote the background paper for the initial meeting of leading international environmental law scholars and representatives from both developing and developed countries. CIEL will prepare the initial draft of the position paper for review at additional workshops in 1996.

Environmental Law and Policy Assistance

Russia. In 1995, CIEL organized the Russia-U.S. Environmental Law Task Force, a group of Russian and U.S. environmental lawyers and other environmental professionals. The task force is an advisory body for two demonstration projects in Russia: the Russian Air Management Project in Volgograd and the Moscow Drinking Water Program. The group analyzes gaps or inconsistencies in Russian law found during implementation of the demonstration projects. The ultimate goal is to memorialize lessons drawn from the projects through reforms in law and policy.

Peru. CIEL assisted in designing an \$11 million environmental law and policy assistance project in Peru during 1995. The project will support Peru's newly formed National Environmental Commission, which is charged with coordinating and streamlining Peru's environmental laws.

Paraguay. CIEL is also providing technical assistance to Paraguay's Environmental Commission. The Commission, created by the Paraguayan Congress and

composed of members from the executive branch and NGOs, is one of the first institutions in that country dedicated to the protection of the environment.

Haiti. CIEL organized a conference of bilateral and multilateral development agencies to address the challenges and opportunities for development assistance in Haiti. Although it is widely known that Haiti's environmental devastation is both a cause and an effect of Haiti's pervasive poverty, the conference provided an opportunity to highlight Haiti's rich environmental resources and explore potential new approaches for long-term development in that country.

Global. CIEL has begun working with U.S. AID to establish an Environmental Law Program to support the development and coordination of the agency's legal and regulatory policy initiatives. The program currently emphasizes environmental law issues relating to free trade expansion and biodiversity conservation in Latin America and the Caribbean and will expand to include other issues in Eastern Europe and the Newly Independent States and Asia and the Pacific Rim.

Asia-Pacific. In 1995, CIEL began preparations for the Hong Kong Asian Region Workshop on Creating a Workable Environmental Law Regime, scheduled for March 1996 in Hong Kong. CIEL is cosponsoring the event with the University of Hong Kong Faculty of Law, the University of Hong Kong Centre of Urban Planning and Environmental Management, and the Office of the Honorable Christine Loh. Environmental law drafters, practitioners, scholars, and other specialists from China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, the Philippines, Singapore, Taiwan, Thailand, and Viet Nam will attend the event.

In November 1994, CIEL completed a feasibility study on the state of environmental law in the Asia-Pacific region. The study included reports on Hong Kong, India, Korea, Malaysia, the Philippines, Singapore, Taiwan, Thailand, Mongolia, Papua New Guinea, Nepal, Sri Lanka, Bangladesh, and Indonesia. Each report contains a discussion of major environmental laws, including an index of the country's or territory's environmental laws and a bibliography of secondary materials.

Training

The American University Washington College of Law Joint Research Program. Because of the long-term importance of training new environmental lawyers, particularly in developing countries, CIEL and The American University Washington College of Law joined to establish an innovative research program on international and comparative environmental law. Through this program, CIEL attorneys offer a full range of environmental law courses within a specialization in international and comparative environmental law. One hundred and fifty lawyers from more than 50 countries enroll annually in the year-long LL.M. program.

Developing country graduates of the program have gone on to teach environmental law, launch new environmental organizations, head environmental agencies, and represent citizens or other clients on environmental issues.

"From a professional standpoint, and putting aside the wonderful personal experience, applying for AU's LL.M. in International Environmental Law was the best decision I took regarding my career."

R. Eugenia Bec
Environmental Lawyer
Argentina

EIA Training Workshops. During 1994 and 1995, CIEL held environmental impact assessment training workshops for participants from municipal, regional, and national governments; private and state-owned businesses; academic institutions; and NGOs in Bulgaria and Romania. The four-day workshops, titled *Environmental Impact Assessment: Improving Development Decisions with Environmental Information*, mixed lectures, plenary discussions, and small-group activities. The objective was to elucidate the goals, principles, and methods of environmental impact assessment and to provide a forum for discussing and understanding Bulgaria's and Romania's existing and proposed environmental impact assessment laws and procedures.

Exchange Program. During 1994 and 1995, CIEL hosted visiting lawyers and activists from Argentina, Brazil, Chile, the Czech Republic, France, Germany, Indonesia, Japan, Jordan, Pakistan, and South Korea. The exchanges last from three weeks to six months. Visiting lawyers are given the opportunity to pursue their own selected research, or they are integrated into the work of CIEL.

Environmental Law Information Online. In 1995, CIEL, the Mexican Center for Environmental Law (CEMDA) (founded by Gustavo Alanis, AU LL.M. 1992) in Mexico City, the West Coast Environmental Law Center in Vancouver, British Columbia, and the Quebec Environmental Law Center created a comparative environmental law database for the North American Commission on Environmental Cooperation.

The database covers U.S., Canadian, and Mexican environmental law, and can be found on the World Wide Web at www.cec.org. CIEL prepared the template (organizational structure) for the database, as well as the U.S. summary and the hyperlinks from the summary to other sites on the Internet, including the full text of all U.S. statutes and regulations.

CIEL anticipates updating and expanding the database to other countries in the Western Hemisphere during 1996.

Support for the Policy Analysis & Capacity Building Program has been provided by the United Nations Environment Programme, the U.S. Agency for International Development, the U.S.-Asia Environmental Partnership, the U.S. Environmental Protection Agency, the North American Commission on Environmental Cooperation, the University of Hong Kong, the Office of the Honorable Christine Loh, Beveridge and Diamond, and The American University Washington College of Law.

STAFF



*Clockwise from top: Barbara Shaw, David Hunter, Dana Clark,
Jennifer Arnold, Eric Dannenmaier, Robert Housman*

STAFF



Clockwise from top: Gary Cook, David Downes, Junko Funahashi, Allison Robertshaw, Claudia Saladin, Brennan Van Dyke and Peanut, Donald Goldberg

CIEL Publications

Global Commons

- FREEDOM FOR THE SEAS IN THE TWENTY-FIRST CENTURY: OCEAN GOVERNANCE AND ENVIRONMENTAL HARMONY (Island Press, 1993) (Eds. Van Dyke, Zaelke & Hewison) (Co-Winner of the 1994 Sprout Award for best book on international environmental affairs)
- Joint Implementation: The NGO Perspective* (Prepared for the International Conference on Climate Change) (July 1994) (Goldberg)
- Joint Implementation Under the Climate Convention: Promises and Problems* (Prepared for the White House Conference on Global Climate Change) (Summer 1993) (Goldberg)
- The Montreal Protocol Multilateral Fund: A Model for the Framework Convention on Climate Change*, 16 INT'L ENVTL. REP. (BNA), 6 (1993) (Goldberg) (available from the Bureau of National Affairs)
- As the World Burns: Negotiating the Framework Convention on Climate Change*, 5 GEO. INT'L ENVTL L. REV. 2 (1993) (Goldberg)
- Negotiating the Framework Convention on Climate Change*, 4 TOURO J. TRANSNAT'L L. 149 (1993) (Goldberg) (includes Climate Convention)
- Reducing Greenhouse Gas Emissions: A Combined Strategy Using Fees, Permits, and Country Commitments*, 3 DUKE ENVTL L. & POL'Y FORUM (1993) (Goldberg)

Biodiversity & Wildlife

- Global Trade, Local Economies and the Convention on Biological Diversity*, in William J. Snape, ed., BIODIVERSITY AND THE LAW: CHALLENGES AND OPPORTUNITIES (Island Press, 1996) (Downes)
- Agreements for Pharmaceutical Research on Biodiversity: a Checklist of Issues and Basic Principles*, in Steven Brush, ed., INDIGENOUS PEOPLES AND INTELLECTUAL PROPERTY RIGHTS (Island Press, 1996) (Grifo & Downes)
- The Relationship of CITES to the ITTA (International Tropical Timber Agreement) and ICCAT (International Convention for the Conservation of Atlantic Tuna)*, (Humane Society of the United States, 1995) (Wold) (available from the Humane Society of the United States)
- The Relationship Between the Trade Measures of CITES and the Provisions of GATT*, (Humane Society of the United States, 1995) (Wold) (available from the Humane Society of the United States)
- CITES and The Precautionary Principle: The Burden to Show that a Use is Sustainable*, (Humane Society of the United States, 1995) (Wold) (available from the Humane Society of the United States)
- The New Listing Criteria Proposed by the Standing Committee Violate CITES and are Inconsistent with the Theory of Sustainable Use*, (Humane Society of the United States, 1995) (Wold) (available from the Humane Society of the United States)
- What Price Biodiversity? Economics and Biodiversity Conservation in the United States* (1995) (Clark & Downes)
- The Convention on Biological Diversity: Seeds of Greener Trade?* 8 TULANE ENVIRONMENTAL LAW JOURNAL 163 (1995) (Downes)
- Biodiversity Prospecting: Rules of the Game*, 44 BIOSCIENCE 381 (1994) (Wold & Downes)
- Opinion: Proposed Listing Criteria for CITES Will Threaten Species*, 2 WILDLIFE LAW QUARTERLY 2 (Summer 1994) (Wold)
- New Diplomacy for the Biodiversity Trade: Biodiversity, Biotechnology, and Intellectual Property in the Convention on Biological Diversity*, 4 TOURO J. TRANSNAT'L L. 1 (1993) (Downes)
- Biodiversity Prospecting Contract*, in Walter V. Reid, et. al., BIODIVERSITY PROSPECTING (1993) (available from World Resources Institute) (Downes)

Trade & Environment

- THE USE OF TRADE MEASURES IN SELECT MULTILATERAL ENVIRONMENTAL AGREEMENTS (United Nations Environment Programme, 1995) (Eds. Housman, Goldberg, Van Dyke, & Zaelke)
- COMERCIO Y MEDIO AMBIENTE: DERECHO, ECONOMÍA Y POLÍTICAS (Editorial: Buenos Aires, 1995) (Eds. Zaelke, Orbuch, & Housman) (Translation by E. Bec)
- COMÉRCIO INTERNACIONAL Y MEDIO AMBIENTE: DERECHO, ECONOMÍA Y POLÍTICAS (Instituto Nacional de Ecología: Mexico City, 1995) (Eds. Zaelke, Orbuch, Housman, & Alanis) (Translation by E. Bec)
- TRADÉ AND THE ENVIRONMENT: LAW, ECONOMICS AND POLICY (Island Press, 1993) (Eds. Zaelke, Orbuch, & Housman)
- Democratizing International Trade Decisionmaking*, 27 CORNELL LAW JOURNAL 699 (1995) (Housman)
- The North American Free Trade Agreement's Lessons for Reconciling Trade and the Environment*, 30 STANFORD JOURNAL OF INTERNATIONAL LAW 379 (1994) (Housman)
- Promoting Environmental Standards Through Trade and Other Legal Mechanisms*, Testimony of Durwood Zaelke Before the Subcommittee on International Development, Finance, Trade and Monetary Policy (Mar. 23, 1994) (Zaelke)
- GATT Tuna-Dolphin II: Environmental Protection Continues to Clash with Free Trade*, CIEL Brief No. 2, (June 1994) (Goldberg)
- Interbasin Water Transfers After NAFTA* (1993) (Hunter & Orbuch)
- The Application of the National Environmental Policy Act to the North American Free Trade Agreement*, Testimony of the Center for International Environmental Law and the National Audubon Society Before the Senate Committee on Environment and Public Works (Aug. 9, 1993) (Housman & Orbuch)
- Trade, Environment, and Sustainable Development: A Primer*, 15 HASTINGS INT'L & COMP. L. REV. 535 (1992) (Housman & Zaelke)
- The Collision of the Environment and Trade: The GATT Tuna/Dolphin Decision*, 22 E.L.R. 10268 (1992) (Housman & Zaelke)

International Financial Institutions

- International Financial Institutions*, in G. Handl, ed., YEARBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (1995) (Hunter & McCrae)
- The European Bank for Reconstruction and Development: An Environmental Progress Report* (1995) (Goldberg et al.)
- The World Bank's New Inspection Panel: Will It Increase the Bank's Accountability?*, CIEL Brief No. 1, (Apr. 1994) (Hunter & Udall)
- The World Bank's New Inspection Panel*, ENVIRONMENT, Vol. 36, No. 9 (1994) (Hunter & Udall)
- The World Bank Inspection Panel and the Need to Create an International Framework Agreement for Administrative Procedures*, Testimony of Durwood Zaelke and David Hunter Before the Subcommittee on International Development, Finance, Trade and Monetary Policy (June 21, 1994) (Zaelke & Hunter)
- EBRD's Environmental Promise: A Bounced Check?*, CIEL BRIEF No. 3, (Dec. 1994) (Goldberg & Hunter)
- Establishing an Independent Review Board at the European Bank for Reconstruction and Development: A Model for Improving MDB Decisionmaking*, 2 DUKE ENVTL. L. & POL'Y FORUM 59 (1992) (Wold & Zaelke)

Policy Analysis & Capacity Building

- International Environmental Law Aiming at Sustainable Development* (UNEP Background Paper, 1995) (Hunter)
- A Comparison of Eight Environmental Impact Assessment Regimes: The United States, Romania, Bulgaria, The Czech Republic, Slovakia, and the European Community, The World Bank, The European Bank for Reconstruction and Development* (1995) (Goldberg)
- A Proposal to Introduce the Right to a Healthy Environment into the European Convention Regime*, 13 VA. ENVTL L. J. 101 (1994) (Van Dyke)
- Open Borders, Broken Promises, Privatization and Foreign Investment: Protecting the Environment Through Contractual Clauses* (Greenpeace, 1993) (Hunter & Downes)
- Concepts and Principles of International Environmental Law: An Introduction* (UNEP 1993) (Hunter, Sommer, & Vaughan)
- An Earth Parliament for Indigenous People: Investigating Alternative World Governance*, 4 COL. J. INT'L ENVTL. LAW & POL'Y 197 (1993) (Wold)
- Promoting Sustainable Development and Democracy in Central and Eastern Europe: The Role of the European Bank for Reconstruction and Development*, 7 AM. U. J. INT'L L. & POL'Y 559 (1992) (Wold & Zaelke)
- Toward Global Citizenship in International Environmental Law*, 28 WILLAMETTE LAW REVIEW 3 (1992) (Hunter)

State of Environmental Law Series

- Environmental Law Database for Canada, Mexico and the United States*, Commission on Environmental Cooperation, available at <http://www.cec.org>. (September 1995) (Hunter & Saladin)
- State of Environmental Law: Asia* (Philippines, Malaysia, Thailand, Singapore, Taiwan, Hong Kong, Indonesia, South Korea, Nepal, Bangladesh, Sri Lanka, India, Papua New Guinea) (1994) (Saladin, Ferris, & Funahashi)
- Aspiration and Reality in Taiwan, Hong Kong, South Korea, and Singapore: An Introduction to the Environmental Regulatory Systems of Asia's Four New Dragons*, 4 DUKE J. COMP. & INT'L L. 125 (1993) (Ferris)
- State of Environmental Law: Argentina* (1993) (Bec; Hunter, ed.)
- Environmental Reforms in Post-Communist Central Europe: From High Hopes to Hard Reality*, 13 MICH. J. INT'L L. 921 (1992) (Hunter & Bowman)
- State of Environmental Law: Bulgaria* (1992) (Moudrova; Hunter & Pershkov, ed.)
- State of Environmental Law: Hungary* (1992) (Bandi; Hunter & Wold, ed.)
- State of Environmental Law: Poland* (1992) (Jendroska; Hunter & Weinhouse, ed.)

CIEL Supporters

CIEL thanks the following foundations and government agencies for their support:

Ahimsa Foundation • The Jenifer Altman Foundation • The German Marshall Fund of the United States • W. Alton Jones Foundation • The John D. and Catherine T. MacArthur Foundation • The Moriah Fund • Charles Stewart Mott Foundation • North American Commission on Environmental Cooperation • The Jessie Smith Noyes Foundation • Office of the Honorable Christine Loh • Organization for Economic Cooperation and Development • The Pew Charitable Trusts • Summerlee Foundation • Trust for Mutual Understanding • Turner Foundation • United Nations Environment Programme • United States Agency for International Development • United States-Asia Environmental Partnership • United States Environmental Protection Agency • University of Hong Kong • Wallace Genetic Foundation • Washington College of Law, The American University • Weeden Foundation

Individual Contributors

CIEL also recognizes the following individuals for their generous donations:

Frederick R. Anderson • Stuart and Susan C. Auchincloss • Harry G. Barnes, Jr. • Carolyn M. Beckett • Kenneth and Sue Ann Berlin • Margaret Bowman • Daniel O. Bradlow • Sherry Broder • William A. and Helga B. Butler • Clifford D. Clark • Peter D. Coppelman • Dennis C. Cory • John C. Dernbach • Virginia C. Downes • Richard J. Ferris, Jr. • Frederick P. Furth • Junko Funahashi • J. William Futrell • Lewis F. Gordon • Paul E. Hagen • Karen J. Hofman • David B. Hunter • Richard A. Liroff • Daniel B. Magraw, Jr. • Martha L. Noble • Carol Annette Petsonk • Edward M. Prince, Jr. • Kenneth I. Schaner • John Scagnelli • Barbara L. Shaw • Margaret F. Spring • Peter Thieman • Jon Van Dyke • Richard D. Williams • Julia Wright • Durwood J. Zaelke

Contributing Law Firms

Beveridge and Diamond • Kilpatrick & Cody • Lyon and McManus • Sutherland, Asbill and Brennan

CIEL is a tax-exempt, charitable organization under section 501(c)(3) of the Internal Revenue Code, and contributions to the organization are deductible to the maximum extent permitted by law.

CIEL is an approved member of the Combined Federal Campaign under International Unaffiliated Organizations.

Board of Trustees

- Frederick R. Anderson, Chairman
Partner, Cadwalader, Wickersham and Taft
- J. Vance Hughes, Vice Chairman
*Managing Partner, Environmental Practice Group,
Kilpatrick & Cody*
- Harry G. Barnes, Jr.
*Director, Conflict Resolution Program,
The Carter Center, Emory University*
- Christopher D. Stone
*Roy P. Crocker Professor of Law,
University of Southern California*
- W. Lawrence Wallace, Sr.
Partner, Hazel & Thomas, P.C.
- Durwood J. Zaelke
*President, Center for International
Environmental Law*

Staff

- Durwood J. Zaelke, *President*
- Barbara L. Shaw, *Vice President, Finance and
Administration, and Secretary*
- Jennifer A. Arnold, *Staff Accountant*
- Dana L. Clark, *Staff Attorney*
- Gary A. Cook, *Law Associate*
- Eric R. Dannenmaier, *Senior Attorney*
- David R. Downes, *Senior Attorney*
- Junko Funahashi, *Law Associate*
- Donald S. Goldberg, *Senior Attorney*
- Robert F. Housman, *Senior Attorney*
- David B. Hunter, *Senior Attorney*
- Jennifer A. Lewis, *Researcher*
- Allison Robertshaw, *Assistant Administrator*
- Claudia L. Saladin, *Law Associate*
- L. Brennan Van Dyke, *Staff Attorney*

Of Counsel

- Eric A. Eslér, *Asia & Pacific Rim Counsel*
- Richard J. Ferris, Jr., *China Counsel*
- Barbara A. Finamore, *Russia Counsel*
- Chris A. Wold, *Wildlife Counsel*

Annual Report

- Deanne Kloepfer, *Editor*
- Ani Rucki, *Graphic Arts*

© March 1996

Printed by Weadon Progressive, Alexandria, VA (soy-based ink on 100% recycled paper, 25% post-consumer waste).

Board of Advisors

- John Adams, *Executive Director,
Natural Resources Defense Council*
- Claudio Grossman, *Dean, Washington College of
Law, The American University and Member,
Inter-American Human Rights Commission*
- Calestous Juma, Ph.D., *Executive Director,
Convention of Biodiversity*
- Jonathan Lash, *President, World Resources
Institute*
- Ambassador Ambler Moss, *Dean, University of
Miami Graduate School of International Studies
and former ambassador to Panama*
- Rt. Honorable Professor Sir Geoffrey Palmer
*Professor of Law, Victoria University of
Wellington and University of Iowa, formerly
Prime Minister of New Zealand and Minister for
the Environment*
- Ambassador Mike Smith, *President, SJS Strategies,
former ambassador to GATT and Senior Deputy
U.S. Trade Representative*
- James Gustave Speth, *Administrator, United
Nations Development Programme*
- Jon Van Dyke, *Professor of Law, W.S. Richardson,
University of Hawaii Law School*
- Perry Wallace, *Professor of Law, Washington
College of Law, The American University*

Board of Advisors: Trade & Environment Program

- Kenneth Berlin, *Partner, Skadden, Arps, Slade,
Meagher & Flom*
- Steve Charnowitz, *Director, Global Environment
and Trade Study*
- Daniel C. Esty, *Director, Yale Center for
Environmental Law and Policy*
- Gary Horlick, *Partner, O'Melveny & Myers*
- Professor John Jackson, *Hessel E. Yntema
Professor of Law, University of Michigan Law
School*
- Ambassador Michael Smith, *Senior Principal,
Capitoline*
- David A. Wirth, *Professor of Law, Washington &
Lee Law School*



1621 Connecticut Avenue, NW

Suite 200

Washington, D.C.

20009-1052

Phone 202-332-4840

Fax 202-332-4865



BP 21

160 a Rue de Florissant

CH-1231 Conches

Geneva

Phone/Fax 41-22-789-0738



E-mail ciclus@igc.apc.org

Worldwide Web:

<http://www.econet.apc.org/ciel/>