

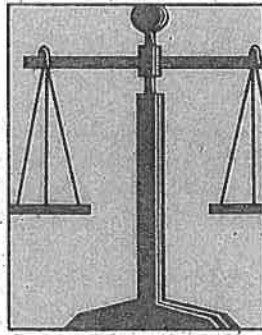
CIEL

Center for International Environmental Law

1996-1997

Annual Report

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THE GLOBAL COMMONS PROGRAM

The global commons includes the oceans, the continent of 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 pollute already overburdened marine environments and the 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.

1997: A HOT YEAR FOR CLIMATE CHANGE

As the Earth endured a year of record-breaking temperatures, the climate change debate brought domestic and international politics to the boiling point. An already fierce battle between environmental groups and fossil fuel lobbies intensified as efforts to influence national decisionmakers increased in anticipation of the December climate negotiations in Kyoto.

CIEL was an integral part of the climate change treaty process, participating in all negotiation sessions leading up to Kyoto, as well as the Kyoto Conference itself. CIEL organized and participated in several workshops on climate change, and provided legal advice and assistance to the Climate Action Network (CAN) throughout the negotiation process. As a CAN member, CIEL joined the Network's effort to push country delegations towards a commitment to an ambitious protocol with legally binding emissions reductions. In addition, CIEL's legal expertise was used by CAN in drafting correspondence and position papers for the Network and its members.

CIEL also organized and co-sponsored workshops, specifically focusing on forest projects and the joint implementation (JI) mechanism. JI was originally introduced into the Climate Change Convention to give industrialized countries the opportunity to gain emissions reductions credits for energy-efficiency and forestry projects in developing countries, thereby also transferring clean technology and technical skills to these countries. At the 7th meeting of the Ad Hoc Group on the Berlin Mandate in August, CIEL hosted a briefing on independent evaluation of JI, as well as a critical analysis of the Australian position on emissions reduction. At the UN Framework Convention on Climate Change negotiations, CIEL co-sponsored a day-long workshop entitled *Climate Change and Biodiversity: Forging the Links*. This forum provided CIEL the opportunity to promote independent evaluation of the JI pilot phase, and to re-emphasize the need for a legal and institutional framework to guide JI and ensure that mitigation, biodiversity protection, and socio-economic benefits for local communities are attained.

These points were addressed in three papers published by CIEL in 1997: *Comments on the US Initiative on Joint Implementation; The AIJ Pilot Phase: A Call for Independent Evaluation*; and *12 Principles to Guide Joint Implementation*. CIEL is developing a set of legal principles and an institutional framework for JI. With our Costa Rican partner, Centro de Derecho Ambiental y de los Recursos Naturales (CEDARENA), we reviewed JI project documents, visited project sites, and interviewed project sponsors and government officials to assess the strengths and identify weaknesses of current forest projects. This extensive review provides the foundation for a forthcoming CIEL/CEDARENA report that will address the conservation and climate mitigation co-benefits that are possible through forest projects guided by a well-structured legal and institutional framework. The report will also incorporate the Clean Development Mechanism (CDM)—introduced into the text of the Kyoto Protocol at the December



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, sensitivity to the environment, and respect for local project-affected people. Among other things, CIEL's work focuses on the unprecedented creation and use of independent inspection panels at the World Bank in 1993, the Inter-American Development Bank (IDB) in 1994, and the Asian Development Bank in 1995. These 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

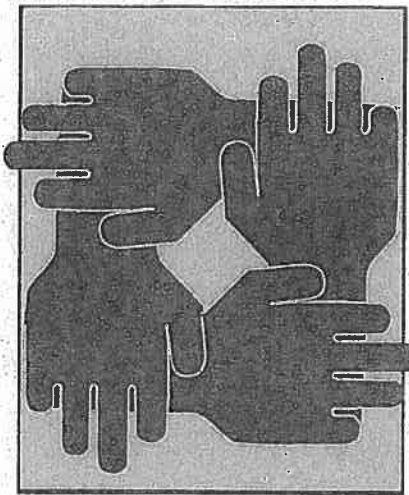
CIEL is recognized as one of the leading NGOs working to ensure that the world's international financial institutions are transparent and held accountable to the citizens they most directly affect. CIEL played a leading role in the development of the World Bank Inspection Panel, a three-member body created in 1993 to review complaints from affected parties in borrowing countries regarding alleged violations of the Bank's operating policies. The creation of the Inspection Panel provides the first opportunity for citizens to challenge World Bank activities. In addition to regular monitoring and oversight of the World Bank, IDB, and ADB panels' activities, CIEL provides advice and assistance to citizen groups in developing countries who are considering filing a claim or who have actually filed claims to the panels. CIEL also provides critical analysis of the social and environmental policies of the IFIs.

In 1997, CIEL assisted citizens in Paraguay, Brazil, and India to bring their claims to the World Bank's Inspection Panel and, in one case, to the Inter-American Development Bank's Investigation Mechanism. CIEL has provided advice and information to NGOs from Brazil, Chile, India, Lesotho, Pakistan, Paraguay, Peru, South Africa and Tanzania who are actively monitoring IFI projects. Two recent examples, in Singrauli and Yacyreta, illustrate the complex issues involved in attempts to utilize the claims process.

SINGRAULI. Indian activist Madhu Kohli filed a claim in May 1997 on behalf of affected villagers who are challenging the Bank's violation of policies, including a failure to supervise and monitor the often-repressive activities of its largest borrower, the National Thermal Power Corporation (NTPC). The Bank is helping to finance the industrialization of the Singrauli area, which now has six coal-fired power plants, eleven open pit coal mines, and hundreds of associated industries. The people registered their claim anonymously because they feared repression on the part of NTPC.

In the fall of 1997, the Board of Executive Directors reviewed the Panel's preliminary report and recommendation for a full investigation, but due to political opposition at the Board level, the Board decided to allow only a "desk review" of the project by the Panel. The Panel released its final desk review in late December, which, despite its limited mandate, contained a scathing critique of the Bank's operations.

Increased national and international attention is finally being focused on the Singrauli situation. The *Financial Times* wrote a major story about the Panel's findings, and the British Broadcasting Corporation is planning a documentary on Singrauli. Representatives of peoples' movements had meetings with the Minister of Power and Minister of the Environment and demanded that the NTPC be responsive to the concerns of locally-affected people. The National Human Rights Commission in Delhi has agreed to re-open an investigation into human rights



LAW & COMMUNITIES PROGRAM

In many nations rural resource users still comprise a majority of the citizenry, yet in most developing countries, national laws and policies fail to support local incentives for sustainable natural resource management. As a result, the conditions required for sustainable development and good environmental governance are still not in place, and hundreds of millions of people directly dependent on threatened natural resources have no legal incentives for sustainably managing those resources. Perhaps most troubling is that few efforts are currently underway to address this fundamental policy failure.

The tendency of national laws to override the interests of rural people is historically rooted, and continues to frustrate sustainable development and sound environmental governance. The transition from colonies to nation-states in Asia, Africa, and Latin America resulted in little change in laws, policies and practices for allocating power and wealth among the national citizenries. Instead, most developing countries continue to mirror the biases of former colonial governments, especially concerning natural resources. National laws concerning forest resources in many Asian countries have actually become more hostile toward forest-dependent people and other rural resource users than was the case during the colonial era.

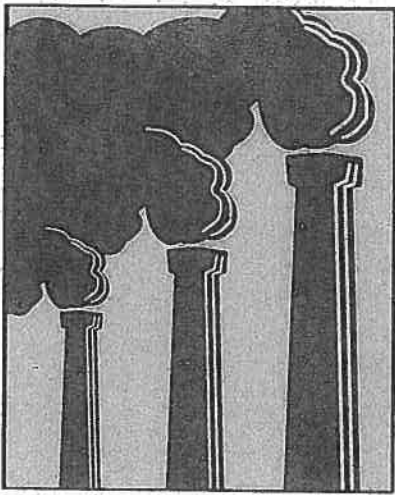
The Law & Communities Program focuses on assistance for rural constituencies in developing countries, particularly on issues related to community-based property rights. The Program fosters partnerships with public interest environmental law institutions to address the impacts of national and international laws, and the private sector and markets, on local incentives and disincentives for sustainable community-based natural resource management.

COMMUNITY-BASED NATURAL RESOURCE MANAGEMENT AND LOCAL CAPACITY BUILDING

The Law & Communities Program has two major components. First, it assists with the formation and strengthening of public interest environmental law organizations in countries where such institutions do not yet exist or are relatively weak, and where CIEL has in-country partners. CIEL staff participate in skills-sharing exercises to facilitate internal organizational enhancement and to develop legal strategies for promoting sustainable community-based resource management. This includes sharing information on international, regional, and national legal issues that impact local communities and interrelate with human rights, environmental, and economic development considerations. Second, the Program assists with collaborative, in-country research and analysis on issues related to legal, regulatory, and economic interactions between local communities and formal governmental institutions on local, state, national, and international levels. The specific goal is to determine whether existing legal relationships are conducive to sustainable community-based management of natural resources and, if not, to assess how they might support such goals. Occasionally on request, CIEL provides technical assistance drafting laws and regulations. CIEL also undertakes collaborative efforts to establish and/or monitor pilot, field-based initiatives.

PROGRAM ACTIVITIES

During its inaugural year in 1997, the Program was active in the biodiversity triangle comprised of the Philippines, Indonesia, and Papua New Guinea, and maintained and developed contacts for future activities in South Asia and Africa. In the Philippines, the Program receives support from USAID/Manila for three discrete activities. First, it works with the Department of Environment and Natural Resources (DENR) to strengthen and develop the newly established Community-Based Forest Management Office. Second, it advises the DENR on legal and regulatory matters, including interpretation and implementation of the Indigenous Peoples Rights Act of 1997.



TRADE & ENVIRONMENT PROGRAM

Consistent with CIEL's goal to incorporate fundamental principles of ecology and democracy into international law, CIEL's Trade & Environment Program is working to integrate principles of sustainable development into international trade and investment laws and policies to ensure that globalization regimes fully address noneconomic values. The Program focuses in particular on the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), and those organizations established under the Inter-American economic integration process, including the NAFTA. The Program's work includes promoting a framework for civil society participation in the WTO, ensuring the effectiveness of multilateral environmental agreements, facilitating ecolabeling as a market-based tool for sustainable development, assisting NGOs through publications and seminars to actively engage in trade policymaking, and providing legal advice to governments and NGO partners throughout the world. In addition, CIEL advocates interpretations and modifications of trade rules that support conservation of biodiversity and educates conservationists about the potential impact of trade and investment rules, as described under the Biodiversity & Wildlife Program.

The WTO and other economic integration regimes remain opaque and unaccountable to the public preventing the development of durable, balanced policy.

CIEL IN GENEVA

CIEL opened an office in Geneva in 1995 to focus on the WTO, where international trade rules are negotiated, monitored, and enforced. CIEL's presence in Geneva and Washington, D.C. permits a coordinated effort to shape trade policy at the WTO and in the world's two most powerful trading blocks—the NAFTA and the European Community. Also, CIEL helps its NGO partners worldwide by providing them with otherwise inaccessible information from Geneva, and by helping them understand and participate in their governments' positions on trade and environment issues of national and global significance.

FACILITATING CIVIL SOCIETY PARTICIPATION

NGO, business, and citizen participation is playing an increasingly important role in the policy development of key international institutions. Yet the WTO and other economic integration regimes remain opaque and unaccountable to the public, preventing the development of balanced policy that would promote long-term prosperity through sustainable development. CIEL is facilitating greater civil society participation in these institutions in a number of ways. For example, during the 1996 WTO Ministerial in Singapore, CIEL worked with other organizations to develop an NGO declaration recommending greater civil society involvement in WTO meetings, access to documents and participation in the WTO dispute settlement system. CIEL also is promoting participation through lectures, seminars and publications such as the *Handbook for Obtaining Documents from the World Trade Organization* and *A Proposed Agreement on Public Participation and Transparency Within the WTO*.

Internationally recognized as an expert on complex trade and environment issues, CIEL promotes civil society's participation in trade policymaking by providing legal analysis, information, and advice to environmental groups, thereby helping them to understand and address the threats to environmental regulation posed by the emerging global economy.

PARTICIPATING IN TRADE DISPUTE RESOLUTION

CIEL is using the WTO dispute settlement system to integrate principles of sustainable development into international trade law and policymaking. Because the WTO's Committee on Trade and Environment has failed to resolve key issues, attention has shifted to the dispute resolution system for policy development.

organizations throughout the hemisphere to organize a People's Forum for the 1998 Summit of the Americas. The Forum will focus on issues such as public participation, trade and environment, and investment issues. Its purpose is to educate civil society and create networks for effective participation in the Inter-American economic integration process. CIEL also participated in the fast-track debate, in part to educate policymakers on the environmental challenges associated with expanding NAFTA to the entire hemisphere. In Chile, CIEL worked to strengthen the capacities of Chilean NGOs working on environmental issues related to hemispheric integration through small grants and direct technical assistance. These efforts are ongoing.

INVESTMENT

International investment is eclipsing trade as an engine of growth and is having equally dramatic effects on progress towards sustainable development. International agreements liberalizing investment are proliferating. CIEL has already advised governments and NGOs of the OECD's investment agreement, which may have potentially disastrous impacts on the environment and local communities. The WTO is expected to produce a new investment agreement in the coming millennial round of negotiations and the negotiations for a Western hemispheric free trade area. CIEL is ideally positioned to use its legal expertise to ensure that international investment promotes sustainable development.

Support for the Trade & Environment Program during 1996-1997 was provided by the Charles Stewart Mott Foundation, the Consumer's Choice Council, the Geneva Canton, Greenpeace, the International Federation of Organic Agricultural Movements, the Merrill G. and Erita E. Hastings Foundation, the North American Commission on Environmental Cooperation, The Pew Charitable Trusts, the Swiss Government, the United Nations Environment Programme, the W. Alton Jones Foundation, the World Business Council for Sustainable Development, the World Resources Institute, and the World Wide Fund for Nature (WWF-International).

PROGRAM STAFF

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Liberalization of trade may increase exploitation of natural resources and lead to negative impacts on biodiversity.

recommendations for marine conservation in the Jakarta Mandate, based heavily on NGO proposals involving extensive CIEL input. In partnership with IUCN and WWF, CIEL followed up on this campaign in 1996 with the report *Biodiversity in the Seas: Implementing the Convention on Biological Diversity in Marine and Coastal Habitats*, which proposes legal and policy reforms needed to conserve and sustainably use marine and coastal biodiversity. CIEL also published a summary of its findings in an October 1996 CIEL Brief, *Biodiversity in the Seas*, that was also translated into Spanish to facilitate wider circulation.

CITES AND WILDLIFE PROTECTION

Trade in rare wildlife species is thought to be the second or third most lucrative illegal trade in the world. Since 1992, CIEL has advocated strong and realistic implementation of the Convention on International Trade in Endangered Species (CITES). CITES limits international trade in products taken from plants or animals that are currently or may become threatened by trade. Examples include elephant ivory, rhinoceros horns, and sea turtle shells.

CIEL has played a key role at past CITES Conferences of the Parties in working to protect CITES' integrity against challenges from wildlife trade interests. In 1997, CIEL attended the tenth Conference of the Parties of CITES in Zimbabwe, where staff advised environmental groups and governments on criteria for annotations (special listings of threatened species aimed at allowing limited sustainable trade) and the synergies between CITES and the CBD. CIEL also works on legal issues concerning the protection of species such as polar bears and sea turtles.

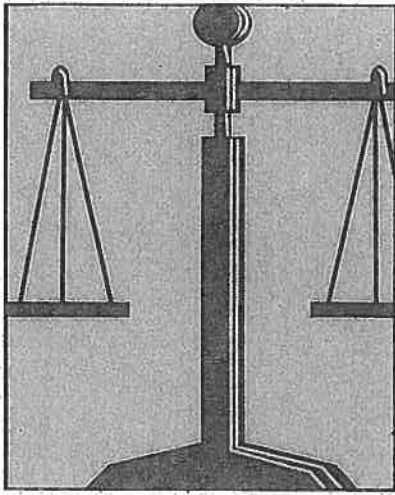
THE ECONOMICS OF BIODIVERSITY

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 requires parties to examine the impact of economic incentives on the conservation and sustainable use of biodiversity. CIEL has produced several publications on the impact of current economic policies on private-sector decisions affecting biodiversity, proposing policy reforms that will remove incentives for destroying habitat and will expand the use of economic incentives for conservation. On the basis of this work, CIEL was 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 report, which was published in 1996. CIEL has also organized workshops and roundtables on economic incentives for conserving biodiversity.

BIODIVERSITY AND INTERNATIONAL TRADE

International trade policies have a major impact on the Earth's biodiversity. Liberalization of trade, for example, may increase exploitation of natural resources and the associated negative impacts on biodiversity. International trade policy may also interfere with national and international conservation laws and policies. CIEL promotes law and policy measures that would ensure that trade law and policy support the goals of conservation and sustainable use. CIEL advises environmental NGOs and international agencies on the relationships of trade rules with both the Biodiversity Convention and CITES. More specifically, CIEL has researched the relationships between the WTO's requirements for intellectual property and the Biodiversity Convention's provisions on sharing benefits from traditional knowledge and genetic resources.

Recently, CIEL produced a report on how to harmonize trade rules with sustainable use and conservation of fisheries (to be published with Greenpeace in 1998) and a study on the potential impact of trade policy on the use of ecolabeling of



CAPACITY BUILDING & POLICY ANALYSIS

CIEL's policy analysis and capacity-building activities are designed to strengthen and develop international and national law, policy, and management throughout the world. Within this program, CIEL contributes to the development of international law, assists NGOs and governments in strengthening, regional, national, and local environmental laws, policies, and enforcement mechanisms; trains environmental lawyers worldwide; and distributes environmental law information.

THE ENVIRONMENTAL LAW PROGRAM

CIEL, with the support and assistance of the United States Agency for International Development (USAID), has continued to develop the Environmental Law Program (ELP) as a means for capacity building and legal policy support to developing countries. Through ELP, CIEL cooperates with national and local governments, NGOs, and private-sector partners in strengthening national environmental laws, policies, and regulatory compliance and enforcement; trains environmental lawyers worldwide; distributes environmental law information; and contributes to the development of international environmental law. In 1997, the Environmental Law Program continued its work on trade and environment issues, public participation in environmental decisionmaking, biodiversity law reform, and legal and policy frameworks for sustainable urban development. ELP works at the regional, national, and local levels to promote environmental policy reform focusing on policy priorities that will assure the sustainability of activities promoting economic growth. CIEL promotes a process for reform that maximizes public participation in the design, implementation, and enforcement of environmental and other sustainable development norms.

Specifically, ELP designed and executed a national conference on Environmental Competitiveness and International Trade in Asuncion, Paraguay in November 1996 under the auspices of the Ministry of Industry and Commerce, the Ministry of Livestock and Agriculture, and the Ministry of Integration. The conference, co-sponsored by the Inter-American Development Bank, promoted environmental policy reform dialogue relating to clean production, ISO 14000, ecolabeling, and public participation in compliance. The conference resulted in increased public interest in environmental competitiveness as a key to increasing international trade.

In addition, ELP helped design and facilitate a Bolivia Summit Follow-up Consultation on Public Participation in Sustainable Development in Miami, Florida in February 1997, co-sponsored by the Organization of American States and the North-South Center, and co-financed by USAID and the Global Environment Facility (GEF). The meeting led to specific recommendations for the formulation of an "Inter-American Strategy for Participation," (ISP) that is being implemented by the OAS with the support of USAID and the GEF. The ISP is identifying policy reform priorities for integrating the public into environmentally sustainable development decisionmaking, which are to be reported for consideration at the national and regional levels. ELP's principal contribution will be overall technical guidance and a Legal Inventory of public participation provisions in environment and natural resource laws in Latin American and Caribbean countries for comparative study of best practices.

ELP also supported the design of a regional Cleaner Production Policy Support Initiative, in conjunction with the USAID Environmental Pollution Prevention Project (EP3), to promote the formulation and implementation of legal and regulatory policies that support industrial clean production and waste minimization practices. The policy program began with initial scoping activities in Bolivia and Ecuador, and will continue with policy dialogue among interested stakeholders and the design of clean production policies based on local needs and priorities.

American University's Washington College of Law program supports a dynamic and interdisciplinary approach for training future leaders in environmental law.

materials were then used by an NGO member of the Task force to hold a roundtable meeting on public participation in environmental decisionmaking that included representatives from the State Committee for Environmental Protection and the State Duma (the lower house of Parliament).

In addition to the conference materials, CIEL produced two other major publications in Russian, *Water Protection Zones of the Istra Region* and *Introduction of Method 9 in Russia: An Experiment in Establishing a New Environmental Standard* that summarized the major work of the Task Force over the course of the project in the fields of water and air protection. To develop the publication on water protection zones, Task Force members worked with the local administration of the Istra region and the Istra Citizen's Council to identify their problems and needs. The organization and contents of the publication were then tailored to those needs through a process of close consultation between the parties involved. It was designed to be a practical "citizen's guide" to water protection zones (riparian buffer zones), and was distributed to local citizens, NGOs, and schools. Excerpts were also disseminated through the local press. The goal was to help farmers, dacha owners, and others in the Istra region understand the importance of water protection zones to the environment and the rules governing their use and protection. The publication is significant because it is one of the few publications in Russia designed to help citizens comply with and enforce the law and thus promotes environmental protection and the rule of law.

In 1996, CIEL coordinated an expert review panel analysis of the draft forest code for the Khabarovskii-Krai. CIEL produced written comments in both English and Russian for the drafting committee to consider in finalizing the code.

OTHER CIEL CAPACITY BUILDING & POLICY ANALYSIS ACTIVITIES

ENVIRONMENTAL LAW ONLINE (E-LINE). Building on the comparative environmental law database CIEL helped construct for the North American Commission on Environmental Cooperation (www.cec.org), CIEL commissioned the preparation of environmental law summaries for Ecuador, Bolivia, Peru, and Paraguay. In addition to these summaries, the comparative law database provides hyperlinks to relevant statutes and regulations.

ENVIRONMENTAL LAW PROFILES. Working with partners in Asia, CIEL is preparing ten environmental law country profiles for the Asian Development Bank (ADB). The 300-page compilation focuses on Bangladesh, China, India, Indonesia, Malaysia, Thailand, Pakistan, Philippines, Sri Lanka, and Vietnam. This project expanded CIEL's continuing relationship with partners who participated in CIEL's Regional Workshop "Making Environmental Law in Asia More Effective," held in Hong Kong during March 1996.

AMERICAN UNIVERSITY'S WASHINGTON COLLEGE OF LAW JOINT RESEARCH PROGRAM. Because of the long-term importance of training new environmental lawyers, particularly lawyers from developing countries, CIEL and the American University's 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. The program supports a dynamic and interdisciplinary approach for training future leaders in environmental law, conducts workshops and symposia, sponsors research on various environmental issues, advises the development of WCL's international and comparative law curriculum, and offers opportunities for study abroad. The program annually attracts 180 lawyers from over sixty countries.

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INTERNATIONAL FINANCIAL INSTITUTIONS

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For the Years Ended June 30, 1997 and 1996

REVENUE	1997	1996
Direct public support and grants	\$ 1,598,305	\$ 964,637
Fees and Contracts	183,155	285,953
Other	12,411	8,152
TOTAL SUPPORT AND REVENUE	1,793,871	1,258,742
EXPENSES		
Program services		
Biodiversity & Wildlife	\$ 166,637	\$ 165,572
Capacity Building & Policy Analysis	251,937	235,184
Global Commons	92,821	76,265
International Financial Institutions	134,289	124,958
Trade & Environment	509,963	286,855
Consumer's Choice Council		
Law & Communities	116,617	24,963
Central & Eastern Europe & the NIS	351,557	208,585
Other programs	22,706	1,297
	1,646,527	1,123,679
Supporting services		
General and administrative	25,168	17,474
Fundraising	44,089	1,297
TOTAL EXPENSES	1,715,784	1,142,450
CHANGES IN NET ASSETS	78,087	116,292
NET ASSETS AT BEGINING OF YEAR	826,038	709,746
NET ASSETS AT END OF YEAR	904,125	826,038

Audited financial statements are available upon request.