



**CIEL**

**CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW  
2000 - 2001 Annual Report**



## MISSION STATEMENT

The Center for International Environmental Law (CIEL) 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 governance throughout the world. CIEL's mission is to protect the global environment and promote sustainable development. Our work is designed to promote a just and sustainable society that is based on principles of ecology and justice, that respects local communities, and that lives within the limits of the global ecosystem. CIEL recognizes that the rules of ecology place real constraints on our future choices and that the rule of law is critical for forging an appropriate balance between environmental protection, human rights, social equity, and economic growth. We also recognize that the United States, including CIEL, has a particular responsibility to build a sustainable future given its role as the world's largest economic producer, consumer, and polluter.

# A LETTER FROM THE EXECUTIVE DIRECTOR

Dear Friends:

The deterioration of the global environment continues to present new and complex challenges for international and domestic policymakers. The struggle for control over the planet's finite natural resources is intensifying as population and consumption continue to grow, fed by expanding markets and globalization. The scale of industrial production already threatens the stability of our planet's climate and life support systems. The resulting conflicts between resource use and the environment often exacerbate social inequities and lead to human rights abuses. The attacks on September 11 served as a tragic reminder of the world's interdependence and of the need to eliminate conditions that allow terrorism to fester, including social injustice and environmental degradation. Dealing with these challenges has become even more difficult in the United States, due to the very low priority accorded by the current U.S. Administration to protecting human health and the environment, and the Administration's propensity to act unilaterally rather than cooperatively, as is required to deal effectively with global environmental problems.

Public interest law is one of the best tools we have to mediate conflicts and address opportunities in ways that protect the environment, defend human rights, and promote sustainable development. Public interest law protects the concerns and rights of people and their environment, many of whom are not protected by politics or the marketplace. Our planet needs new, more forceful and effective legal advocacy, stronger legal theories appropriate for a globalizing world, and more and better-trained environmental lawyers.

CIEL seeks to bring its knowledge of international law, institutions, and processes to bear on issues important to protecting human health and the environment. As international lawyers for the global environmental community, CIEL is dedicated to using principles of justice and ecology to protect the global environment and promote sustainable development.

CIEL is uniquely positioned to strengthen international law and institutions to meet the complex demands of the 21<sup>st</sup> Century. Since 1989, CIEL has developed from a start-up organization comprised primarily of volunteer lawyers to a team of twelve lawyers and twenty-one total staff. This includes nationals of ten countries from both the global North and the South in its offices in Washington, D.C. and Geneva, Switzerland; the latter deals with the many international organizations there, including the United Nations offices and specialized agencies and the World Trade Organization. CIEL is also entering a new organizational phase: one marked by stronger program planning and coordination, more strategic use of partnerships around the world, and expanded public outreach and education, while still maintaining the dynamism and flexibility that are hallmarks of CIEL.

I had the privilege to assume the helm at CIEL on January 1, 2002. My predecessor as Executive Director, David Hunter, performed marvelously during the past few years. I am profoundly grateful for his continued assistance as I settle into my new role.

Durwood Zaelke, the co-founder of CIEL, will continue as President of CIEL, in a role that will help ensure that CIEL continues to innovate and experiment to meet the challenges ahead.

All of us at CIEL want to thank those who have supported us in the past. I look forward to working with all of you as we strive to work to make the world a healthier, safer, and more just home for our children.

Sincerely,

Daniel B. Magraw, Jr.  
Executive Director



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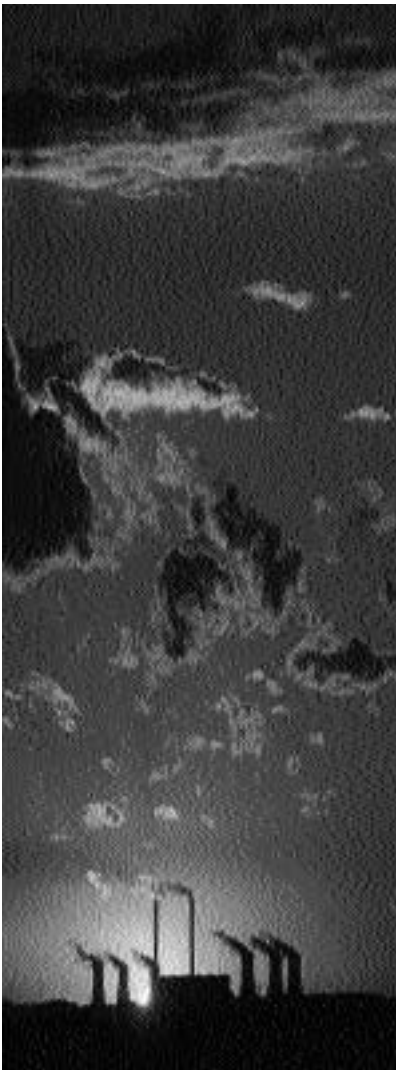




## PROGRAMS

CIEL is comprised of twelve lawyers and twenty-one total staff, with permanent offices in Washington, D.C. and Geneva, Switzerland. Our staff includes nationals of Australia, Austria, Canada, Chad, France, India, Portugal, Switzerland, Venezuela, and the United States.

CIEL is widely recognized as a leader in international and comparative environmental law, with significant accomplishments in all of our four strategic program areas: (1) protecting the global environment; (2) reforming international economic law, policy, and institutions; (3) promoting human rights and environmental justice; and (4) strengthening expertise and capacities in environmental law. These strategic areas, which reinforce each other because of common themes and related activities, are further divided into a number of programs. Each of these programs is described on the following pages. As evident from these descriptions, CIEL works with a wide range of partners, including non-governmental organizations, inter-governmental organizations, and national governments. In order to protect the environment and human health, CIEL provides a full range of international and comparative legal services, including: policy research and publications, advice and advocacy, education and training, and capacity building.



# PROTECTING THE GLOBAL ENVIRONMENT

*Over the past decade, CIEL has worked to design and strengthen international environmental law, including, for example, those treaties relating to the conservation of biological diversity, the protection of endangered species, the prevention of climate change, and the elimination and control of toxic chemicals. While we will continue our efforts to strengthen international environmental treaties, we must also move international environmental law beyond the realm of diplomatic negotiations to where it has real impact on the behavior of governments, companies, and others to promote a sustainable future. Below we discuss some recent CIEL activities aimed at curbing climate change, conserving biological diversity, and eliminating harmful chemicals.*

## CLIMATE CHANGE PROGRAM

Human activity is changing the global climate, with unpredictable and potentially devastating consequences for global weather patterns, ecosystems, and human health. Due to the burning of fossil fuels such as coal and oil, the destruction of forests, and other human activities, the atmospheric concentrations of carbon dioxide, methane, and other greenhouse gases have increased substantially since the Industrial Revolution, with most of the increases occurring in the past several decades. As a result, the earth is warming and weather patterns are becoming more extreme and unpredictable. The leading scientific body on climate change recently projected that over the next century the earth's temperature could rise as much as 10.8 degrees Fahrenheit, with a possible corresponding sea level rise of nearly three feet. Under this scenario, rising sea levels would displace millions of people in low-lying areas, droughts and floods would become more severe, and diseases such as malaria and dengue fever would expand their range. The loss of coral reefs, wetlands, and other coastal areas and the degradation of forested areas would devastate the world's biological diversity, as well as our food security and freshwater supply.

The global community has negotiated a climate change regime that includes both a Framework Convention and the Kyoto Protocol. If ratified and implemented, the Protocol will begin the necessary process of significantly curbing the amount of greenhouse gases that enter the atmosphere. Yet the current U.S. Administration has withdrawn its support for the agreement, arguing that it would hurt the U.S. economy and is unfair because it does not presently place any demands on developing countries. Meanwhile, the rest of the world community has continued to move ahead by finalizing the rules needed to ratify and implement the Protocol. Further leadership and global action are urgently needed to bring the Protocol into force promptly and to ensure that the United States takes a responsible role commensurate with its environmental impact and political and economic power.

CIEL's Climate Change Program works to catalyze global action and U.S. leadership to respond to the climate change challenge. CIEL provides objective advice and expertise to negotiators and policymakers in an effort to create alternatives to the narrow political and economic approaches that often dictate the positions of various governments. Our goal is to achieve a strong and effective international approach to reducing greenhouse gas concentrations.



Fiscal year 2000-2001 was an especially tumultuous time for climate negotiations. The period spanned the frenzied preparations for the Sixth Conference of the Parties (COP6) at The Hague, which was intended to be the final session for completing the Protocol rules; the breakdown of COP6, at which a meeting of the minds between the United States and Europe proved impossible; the fleeting attempts by governments to salvage an agreement before President-elect George W. Bush took office; the subsequent unilateral renunciation of the Protocol by President Bush; and the success of the resumed session of COP6 ("COP6bis") in July in Bonn, when the rest of the world agreed upon a framework of rules that gave renewed hope for the Protocol's success.

Throughout this time, CIEL's climate change team focused on two of the most controversial issues at the international level: how to develop a system of compliance and enforcement that will ensure that all countries honor their international commitments, and how to balance forest conservation and climate goals in the climate change regime. CIEL worked closely with other environmental groups at the international level to ensure public participation and transparency in the Kyoto mechanisms, and at the domestic level to design and promote effective U.S. climate change policy. We promoted action in the environmental community through our direct support of the Climate Action Network (which is housed at CIEL) and awareness in the legal community through our co-chairmanship of the American Bar Association (ABA) Committee on Climate Change and Sustainable Development.

## **BUILDING A STRONG COMPLIANCE AND ENFORCEMENT SYSTEM**

CIEL continued to promote creative, realistic ways to ensure that the Kyoto Protocol is implemented and enforced fairly and effectively. Through our working papers, public presentations, and dialogue (and debates) with government negotiators, CIEL has become widely known as the "compliance" non-governmental organization (NGO). We strengthened that reputation during the year by chairing the Climate Action Network (CAN) working group on compliance, thereby serving as the lead compliance experts and advocates on behalf of nearly 300 environmental and other NGOs worldwide. Several of our proposals were reflected in the Bonn Agreement's framework of rules and the subsequent Marrakesh Accords. These included a Commitment Period Reserve to help prevent overselling through international emissions trading.

CIEL's skills and reputation were brought to bear at the COP6 negotiations at The Hague. A little-understood line item in the compliance text supported by U.S. negotiators threatened to transform the core Kyoto obligation--that Parties meet their emissions targets--to one in which they need only conform to a "level of effort." Coordinating an NGO team, CIEL worked around the clock to defeat this initiative. In the end, our "Emergency Message to Ministers" convinced the European Union Commission and most European governments to oppose the line item and remove it from consideration.

After the collapse of COP6 and President Bush's rejection of the Kyoto Protocol, CIEL's focus expanded to urging other governments to continue striving to complete the Kyoto rule-making process, despite U.S. intransigence. To that end, we met with the Environment Ministers of Japan, Sweden (which held the European Union presidency at the time), and the European Commission, as

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well as with Jan Pronk, President of COP6. In part because of these efforts, negotiators agreed at the resumed COP6bis in Bonn to a compliance system that will be the strongest of any multilateral environmental agreement to date.

## **PROMOTING ENVIRONMENTALLY SOUND RULES FOR FORESTS**

CIEL also continued its efforts to ensure environmentally sound accounting rules for forest-based carbon sequestration in the climate regime. CIEL convened meetings on rules and principles for land use and forestry under the Kyoto Protocol's Clean Development Mechanism (CDM). The CDM would allow industrialized countries to meet their obligations to reduce greenhouse gas emissions by investing in pollution abatement, forest conservation, and other greenhouse gas abatement projects in developing countries. With several other environmental groups, CIEL put forward a statement of principles and criteria for CDM forest projects that has received support from several government delegations. We prepared a number of background documents and NGO sign-on statements, including an analysis of U.S. views on the land-use change and forestry rules. Subsequently, the Clinton Administration acceded to many of our points concerning accounting rules, business-as-usual credits, and lack of environmental safeguards. Additionally, a CIEL attorney was selected to help draft the Intergovernmental Panel on Climate Change Special Report on Land Use, Land-Use Change and Forestry, which has helped guide the forest management decisions under the Kyoto Protocol.

## **PUBLIC PARTICIPATION AND TRANSPARENCY**

**IF RATIFIED AND IMPLEMENTED, THE PROTOCOL WILL BEGIN THE NECESSARY PROCESS OF SIGNIFICANTLY CURBING THE AMOUNT OF GREENHOUSE GASES THAT ENTER THE ATMOSPHERE.**

In addition to our efforts on compliance and sequestration, CIEL worked with the Climate Action Network (CAN) to advocate a requirement that any projects supported under the CDM meet minimum standards for public consultation with local communities. The official negotiating text did not initially safeguard the interests of directly affected local communities or the general public. Working with CIEL, and building upon our earlier research, a team of graduate students from the University of California at Berkeley's Energy and Resources Group compiled an extensive survey of public participation practices and experiences of international financial institutions. CIEL co-hosted, with the World Resources Institute, a public participation workshop for delegates to the climate negotiations. The event brought together representatives from developing countries and the business and environmental communities. We used the survey and the workshop to convince delegates that public participation, transparency, and accountability are well-established, vital components of international treaties, organizations, and projects. This, in turn, led to improvements in the negotiating text.

## **DESIGNING AND PROMOTING EFFECTIVE U.S. POLICY**

Although CIEL's focus is primarily international, we extend our work to the domestic sphere when domestic and international policies converge. Thus, we worked with the U.S. branch of the Climate Action Network (USCAN) to design and promote effective domestic climate change policy, particularly with respect to emissions trading, compliance, and forests. We helped formulate and advocate proposals for regulating carbon dioxide emissions from electric utilities and contributed to the development of a forest carbon sequestration bill in

Congress. We also worked with progressive business organizations, such as the Business Council for Sustainable Energy, to inform corporate leaders about the threat of climate change and encourage them to take immediate action.

## PROMOTING ACTION AND AWARENESS IN THE ENVIRONMENTAL AND LEGAL COMMUNITIES

CIEL promotes the activities of the environmental community through our support of USCAN. Since 1998, CIEL has housed, administered, and staffed the office of the USCAN Coordinator. For much of the 2001 fiscal year, CIEL personnel held the job of Coordinator and served on the USCAN Steering and Development Committees. A CIEL attorney also co-chaired the Climate Change and Sustainable Development Committee of the American Bar Association, enabling CIEL to provide information and guidance to attorneys interested in developing a climate change-related practice. Through these activities, we delivered a proactive message on climate change to the business community. One of the ABA's most important activities related to climate change--a "facilitated dialogue" on greenhouse gas emissions trading--was spearheaded by CIEL's ABA Chairman. The dialogue, which included representatives from government, industry, and the legal community, produced a set of recommendations for the Kyoto Protocol, which was presented to negotiators in a side event at a Protocol negotiating session.

*Support for the Climate Change Program comes from the Rockefeller Brothers Fund, Rockefeller Financial Services, the Turner Foundation, the V. Kann Rasmussen Foundation, the W. Alton Jones Foundation, and the Wallace Global Fund.*

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## BIODIVERSITY AND WILDLIFE PROGRAM

In the three-billion-year history of life on earth, there have been only five mass extinctions. The fifth mass extinction occurred 65 million years ago, most likely caused by a meteor striking the earth. The world has now entered a sixth wave of mass extinction. By some estimates, the world is losing 27,000 species a year--that is 74 species every day, three every hour. This rate of extinction is at least a thousand times greater than the natural rate as determined through the fossil record. Unlike previous mass extinctions, the present mass extinction is the result of the day-to-day decisions of six billion human beings, one species among the 14 million or more that share the planet.

The consequences of this wholesale destruction may be far more serious than most people realize. All life on earth is part of a dynamic, interdependent eco-



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logical system. As with every other species, humanity depends for its existence on the "ecosystem services" provided by the interactions of the earth's species with each other and with natural processes. Though we often take them for granted, ecological services--such as the cycling of oxygen, carbon and nitrogen, decomposition of waste, stabilization of climate, maintenance of soil fertility, recycling of nutrients, pollination, water purification, and many others--are essential to human survival and prosperity. We lack the knowledge and ability to substitute for these services on the scales at which they operate. Nor could we afford the substitutes, even if they did exist. A 1997 article in the journal *Nature* estimated that these ecosystem services are worth between \$16 and \$54 trillion every year. For comparison, the total output of all the world's economies is \$18 trillion.

CIEL's Biodiversity and Wildlife Program uses three main strategies to promote conservation and sustainable use of living resources: (1) promoting effective implementation of international conservation agreements; (2) developing innovative legal tools to address systemic causes of biodiversity loss; and (3) reforming laws and policies in other fields that affect biological resources, such as trade, climate change, and natural resource management. As part of these strategies, CIEL is monitoring the implementation of international conservation agreements around the world.

### **PROTECTING BIG-LEAF MAHOGANY**

In 2000, CIEL led a campaign to promote the international conservation of big-leaf mahogany, a keystone species in tropical ecosystems throughout Central and South America. We submitted to the U.S. Fish & Wildlife Service a comprehensive review of the biological status and trade patterns in mahogany, with the hope of convincing the United States to support the protection of mahogany as a "threatened" species under the Convention on International Trade in Endangered Species (CITES). In the face of heavy industry pressure, the United States rejected our position, but did promote a working group on the conservation of mahogany, which we hope will lead to its protection within the next few years. Not only is this campaign important for tropical forest conservation, but it also is part of CIEL's strategy to strengthen the protection of commercially valuable species, including certain tree and fish species, under the CITES regime.

### **CURBING INVASIVE SPECIES**

After habitat destruction, invasive species are the most significant threat to native plants and animals. Draft guidelines for addressing the threat of invasive species have been developed pursuant to the Convention on Biological Diversity. CIEL, working with Defenders of Wildlife and others, has provided substantive analyses in support of the guidelines, and has simultaneously drafted recommendations for moving the international community beyond the current guidelines. Our strategy addresses accountability and liability issues, capacity building, and coordination among current international activities. The strategy paper was distributed to government representatives at the 2001 meeting of the Convention's scientific advisory body. An article describing the strategy in more detail will be published in the *Review of European Community and International Environmental Law Journal* in 2002.

In a related effort, CIEL worked with American Lands and Defenders of Wildlife to provide comments to the U.S. government on international standards related to invasive species developed under the auspices of the International Plant Protection Convention (IPPC). The IPPC's draft international standards for "Risk Analysis of Quarantine Pests" will be adopted soon. Currently, the IPPC is one of three bodies officially recognized as a standardizing body by the World Trade Organization (WTO), and thus the IPPC's standards (weak as they are) could be endorsed through the WTO process. The WTO will use the IPPC's standards to review risk analyses performed by countries hoping to regulate invasive species and other pests. Generally, the current draft standards fail to address limitations in data availability for risk assessments, as well as many broader environmental impacts caused by invasive species.

## PREVENTING ILLEGAL FISHING

CIEL is monitoring and pushing for improvement in the new international program of action on illegal, unregulated, and unreported (IUU) fishing, adopted by the U.N. Food and Agriculture Organization (FAO). The international legal regime that regulates fisheries has slowly evolved from the adoption of the U.N. Convention on the Law of the Sea in 1982 to the adoption of the FAO Compliance Agreement in 1993, the FAO Code of Conduct for Responsible Fisheries in 1995, and finally the U.N. Agreement on Straddling and Highly Migratory Fish Stocks, also in 1995. In addition to this general framework, action programs have been adopted on bycatch issues, shark fisheries management, and fishing overcapacity. This carefully crafted regime, however, is still susceptible to the actions of any State that allows vessels flying its flag to engage in illegal fishing.

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## PROTECTING MIGRATORY SONGBIRDS

This past year, CIEL filed a petition to the North American Commission for Environmental Cooperation (CEC), demonstrating that the United States systematically fails to enforce the Migratory Bird Treaty Act against logging companies. Eight other groups from Mexico, Canada, and the United States supported the petition. In response, the U.S. officially admitted it does not enforce that law as it applies to logging activities. While the CEC cannot compel any government to begin enforcing its laws, the submission can result in a public investigation into failure of U.S. enforcement and a finding of fact that would be politically difficult to ignore.

*Support for the Biodiversity and Wildlife Program comes from the John D. and Catherine T. MacArthur Foundation, the Moriah Fund, and a variety of international and non-governmental organizations.*

## PROGRAM STAFF:

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## PERSISTENT ORGANIC POLLUTANTS PROGRAM

Persistent organic pollutants (POPs) are a class of chemicals that persist in the environment, bioaccumulate in human and animal tissue, and have significant impacts on human health and the environment, even at low concentrations. They include such substances as dioxins, PCBs, and DDT. POPs released into the environment can travel throughout the globe and can concentrate in living organisms, including humans, to levels that may cause cancer, interfere with reproduction, and injure neurological systems. Because of their specific transport and bioaccumulation properties, the highest concentrations of POPs in humans have been found in the tissue of indigenous peoples living in the Arctic.

CIEL works with the International POPs Elimination Network (IPEN), a global network of NGOs, and governments to attain a strong, effective, and equitable global agreement to eliminate POPs. Now that the Stockholm Convention (described below) has been adopted, our focus is shifting toward ratification and implementation of the treaty, as well as continued development of mechanisms for listing new chemicals, trade in listed chemicals, and compliance.

In May, 2001, the United States joined over 90 other countries to sign a legally binding agreement on POPs, now known as the Stockholm Convention on Persistent Organic Pollutants. The treaty strongly supports the goal of eliminating all POPs. Despite initial opposition from some powerful governments, the treaty includes restrictions on trade in POPs. It also incorporates the precautionary principle for additions of new chemicals to the regime. Thanks in part to CIEL's efforts, a provision explicitly making the POPs treaty subservient to the World Trade Organization (WTO) rules was removed in the early morning hours of the last day of negotiations.

CIEL provides ongoing legal support to IPEN to ensure that the network functions smoothly. As IPEN's work began shifting from adoption of the treaty to ratification and implementation, it became apparent to most participating organizations that the network needed a more formalized governance structure. CIEL, working with two other IPEN members, took the lead in drafting a new IPEN governance document. We eventually arrived at compromises that have allowed IPEN to concentrate on its primary mission: implementing the Stockholm Convention and eliminating POPs from the environment.

CIEL has also focused on restricting the funding that comes from international financial institutions in support of POPs-promoting projects. In cooperation with other NGOs, CIEL persuaded the U.S.-based Overseas Private Investment Corporation (OPIC) to stop all financing of projects producing or using POPs. The International Finance Corporation (IFC) (part of the World Bank Group) also has agreed to stop funding projects that produce "pesticides subject to international phase out or ban."

*Support for the POPs Program comes from an anonymous donor.*

### PROGRAM STAFF:

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# REFORMING INTERNATIONAL ECONOMIC LAW, POLICY, AND INSTITUTIONS

*A major element of CIEL's work is seeking to ensure that progress towards sustainable development is supported and not undermined by international economic law, policies, and institutions. This includes reforming the expanding web of rules for economic liberalization that are spun by trade and finance ministries, so that instead of restricting regulation and tying the hands of society, institutions like the World Trade Organization and the Free Trade Area of the Americas commit to sustainable trade and investment. Similarly, we are challenging international financial institutions such as the World Bank Group and export credit agencies to increase transparency and accountability, and to respect the rights of local communities and the environment. Through integrated efforts across different levels--from local to global--CIEL is promoting a coherent international financial architecture that balances economic, social, and environmental goals, and that meets the needs of the present without undermining the capacity of future generations to meet their needs. Some examples of recent activities to pursue these goals through our programs on Trade and Sustainable Development and on International Financial Institutions are included below.*

## TRADE AND SUSTAINABLE DEVELOPMENT PROGRAM

While trade, foreign investment, and intensifying economic relationships can bring clear benefits, the global economic system is also leading to serious problems. Expanding trade is increasing pressure on the environment, trade rules are clashing with environmental and social standards, and the income gap between rich and poor continues to grow. These problems, although not irreversible, are inextricably linked with the way economic policy is made. Dominated by business and trade ministries in the North, trade negotiations systematically fail to realize the interests of civil society, including in developing countries, leading to deepening concern about economic globalization and the processes promoting it.

Responding to these challenges, CIEL's Trade and Sustainable Development Program seeks systemic reform of the global framework of economic law, policy, and institutions to ensure that rules for economic liberalization support environmental protection and promote sustainable development. Through our offices in Washington, D.C. and Geneva, Switzerland, CIEL defends multilateral environmental agreements (MEAs) and domestic policies from trade challenges; assists partner organizations to engage more effectively in trade policy discussions; and pursues policy reform at all levels, including in multilateral, regional, and bilateral trade agreements.

At the multilateral level, CIEL continues to push for reform of the rules and institutions of the World Trade Organization (WTO) and to prevent further inappropriate expansion of the WTO's mandate. Regionally, we are working to influence processes under the North American Free Trade Agreement (NAFTA) and the Free Trade Area of the Americas (FTAA) negotiations. We are also tracking new bilateral agreements (including agreements between the United States and Jordan, Chile and Singapore), which increasingly provide a vehicle for further liberalization. At the national level, public participation and transparency in

**EXPANDING TRADE IS INCREASING PRESSURE ON THE ENVIRONMENT, TRADE RULES ARE CLASHING WITH ENVIRONMENTAL AND SOCIAL STANDARDS, AND THE INCOME GAP BETWEEN RICH AND POOR CONTINUES TO GROW.**

U.S. trade policy-making remain important goals; CIEL is among the key organizations promoting strong guidelines to implement the U.S. Executive Order requiring environmental reviews of trade negotiations. CIEL's President is a member of the U.S. Trade and Environment Policy Advisory Committee, and was on the official U.S. delegation to the Seattle Ministerial. In all these fora, CIEL is working with partners in civil society, governments, and inter-governmental organizations to seek constructive reform of the trading system in order to integrate considerations of trade, environment, and development, with a particular focus on the issues discussed below.

## **INFLUENCING SERVICES NEGOTIATIONS**

Since Seattle, the WTO has continued its push to liberalize trade in services--including, for example, services relating to energy, transport, health, water, and education. CIEL is concerned that new WTO rules on services trade, negotiated without adequate research or consultation, will further constrain domestic regulatory choices for the protection of health, safety, the environment, and other national policy objectives. CIEL is therefore monitoring the negotiations and providing its expert analysis of emerging issues to partners in civil society and government.

CIEL's work encompasses a range of issues and partners. We have helped draft NGO submissions of formal comments on U.S. and European negotiating positions, advised European environmental ministries on the implications of services trade liberalization, and advised NGOs and developing country governments on a range of services-related issues. This advice included "rapid response" analyses of the WTO's services negotiating guidelines (which provide the blueprint for further negotiations), the Doha Ministerial Declaration's draft paragraph on services negotiations, and a range of other issues. CIEL has also supported developing countries by producing research on how sustainability perspectives could be better integrated into the WTO's services negotiations. CIEL proposed developing a formal WTO "reference paper for development" and granting developing countries credit for autonomous services liberalization (required as part of structural adjustment programs). Finally, we have partnered with World Wildlife Fund (WWF) to produce a series of background papers and policy statements on the need for a thorough and comprehensive assessment of services trade before WTO Members enter into the next phase of negotiations. This is an issue of crucial importance for both developing country WTO Members and civil society groups.

CIEL believes that assessments provide an important vehicle to change the direction of services negotiations. In the coming months, we will continue to press the WTO for a full assessment of existing and proposed services rules as a prerequisite to further negotiations. We will also continue to provide cutting-edge legal and policy analysis to civil society, individual WTO Member governments, and international government organizations to ensure that services trade liberalization is consistent with the inter-governmental community's broader efforts to achieve sustainable development.

## **RETHINKING INTELLECTUAL PROPERTY RULES AND TRADE**

As currently written, international rules on intellectual property are seriously unbalanced, consolidating into the hands of a few control over our most impor-

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KNOWLEDGE.**



tant resource: knowledge. In particular, the WTO's Trade-Related Aspects of Intellectual Property (TRIPS) Agreement places private interests above social, development, and environmental interests, such as biodiversity protection, access to essential medicines and technologies, and the rights of farmers and indigenous and other local communities.

To reform this system, CIEL has worked jointly with the South Centre in Geneva to assist negotiators from approximately twenty key developing countries in the ongoing WTO intellectual property discussions. We have also assisted the Africa Group of developing countries to draft and promote their landmark statement on the review of the WTO's "life-patenting" provisions. During the WTO Ministerial meeting at Doha we prepared quick response papers on a range of issues designed to strengthen the legal capacity of developing country negotiators. To bolster the efforts of civil society on intellectual property, CIEL recently helped to catalyze the formation of an international "TRIPS Action Network" comprised of organizations focusing on such issues as the environment, development, health, gender, food security, information technology, and farming.

CIEL's work on intellectual property also extends to other agreements and institutions. CIEL recently contributed to the U.N. Human Rights Sub-Commission statement calling for reform of intellectual property rules; assisted indigenous people from the Amazon to challenge a U.S. patent on the sacred ayahuasca vine; advised the Andean Community of Nations on intellectual property-related aspects of a Regional Biodiversity Strategy; and produced cutting-edge analyses for NGOs, including WWF International and the World Conservation Union (IUCN), on the need to reform intellectual property rules to protect the public interest and promote sustainable development. Currently CIEL is seeking to expand its activities to support developing countries and to monitor the work of the World Intellectual Property Organization.

## GREENING INVESTMENT RULES

CIEL is concerned that aggressive use of investment rules in existing agreements is undermining key national laws to protect health, safety, the environment, and other areas of the public interest. Further investment liberalization is likely to lead to greater pressure on local and national efforts to protect the environment and promote sustainable development.

CIEL has been involved in investment negotiations since the failed Organization for Economic Cooperation and Development negotiations for a Multilateral Agreement on Investment. Since that time, our activities on investment have focused primarily on negotiations in which the United States is playing a key role: the FTAA negotiations, several bilateral negotiations, and the WTO. For example, we hosted a workshop for investment negotiators of the proposed FTAA to provide them with civil society perspectives on the public interest risks of investment rules. In addition, at the Quebec People's Summit, CIEL helped prepare a "quick response" and briefed the media on the leaked draft of the investment chapter of the FTAA. CIEL has also prepared, on behalf of the environmental community, formal comments to the U.S. government on the FTAA negotiations and those with Jordan, Chile, and Singapore. CIEL advocated a more balanced approach to investment liberalization in numerous informal meetings with U.S. policy makers. Over the past year, we have supported NGO efforts to ensure that U.S. trade negotiating authority (also known



as "fast track") legislation includes provisions designed to limit the scope and improve the content of investment rules.

CIEL has also tracked and intervened in investment disputes. We monitored the development of disputes brought under existing investment rules, largely under NAFTA, and petitioned to participate as a "friend of the court" in the high profile Methanex case against the United States. While only a handful of investment disputes under NAFTA have reached conclusion, CIEL believes that they provide clear indications of the potential deregulatory sweep of such rules. Consequently, we are preparing a detailed analysis of these early decisions to help ensure that NAFTA's mistakes are not repeated elsewhere.

## STRENGTHENING ENVIRONMENTAL GOVERNANCE ON TRADE

A central element of CIEL's trade work involves strengthening the role of international environmental governance on trade issues and promoting greater coherence among trade and environment rules and institutions.

To strengthen the role of the United Nations on trade, CIEL has assisted the United Nations Environment Programme (UNEP) by drafting its cooperative agreement with the WTO and advising it on the relationship between the precautionary principle and trade rules. CIEL also seconded staff to UNEP's Economics and Trade Unit to help prepare an international meeting of the heads of UNEP, the WTO, the United Nations Conference on Trade and Development, and a number of multilateral environmental agreements (MEAs), as well as over eighty governments, to explore ways to increase synergies and reduce tensions between trade and environmental institutions. Recently, CIEL helped to draft the first joint paper of UNEP and the WTO, which examined the compliance, enforcement and dispute settlement procedures in MEAs and the WTO. CIEL continues to advise UNEP and the MEA Secretariats on their relationship with the WTO. Finally, we have also promoted strong trade-related provisions in several recent MEAs, including the Cartagena Protocol on Biosafety, which regulates trade in genetically modified organisms, and the Stockholm Convention on Persistent Organic Pollutants.

## REFORMING INTERNATIONAL DISPUTE SETTLEMENT

International dispute settlement systems provide both part of the problem and part of the solution to the challenges of economic liberalization and sustainable development. To promote openness and transparency in these systems, CIEL has led the development of new mechanisms for civil society participation in trade disputes. Since CIEL's ground-breaking *amicus* (friend of the court) brief in the WTO Shrimp-Turtle dispute, CIEL has requested leave to submit an *amicus* brief in the WTO's Asbestos case, drafted papers recommending to the WTO new procedures to guide public participation, and successfully petitioned a NAFTA tribunal to allow submission of *amicus* briefs regarding investment cases that threaten to undermine the enforcement of environmental regulations. CIEL, through advice to the Expert Panel on Trade and Sustainable Development and other bodies, has explored alternative dispute settlement systems to resolve trade disputes, and better still, to prevent trade conflicts from escalating into full-blown disputes. Building on these efforts, we are seeking to clarify the relationship between trade and environmental dispute settlement systems, including through advice to both the German government and UNEP

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on ways to promote greater coherence between dispute settlement systems in the WTO and selected MEAs, and to resolve potential conflicts that threaten to overload the WTO's dispute settlement system.

## **PROMOTING OPENNESS AND PUBLIC PARTICIPATION IN TRADE POLICY-MAKING**

Opening trade policy-making to greater public participation remains an important challenge. In addition to promoting public participation in international and regional dispute settlement, CIEL is actively advancing opportunities for public participation in other areas of trade policy-making. Since opening our Geneva office in 1995, CIEL has continued to advocate for greater public participation at the WTO. We recently established a Trade Information Project with the Institute for Agriculture and Trade Policy and Friends of the Earth to disseminate advocacy-related information on WTO negotiations to partner organizations. In the Americas, CIEL, WWF, and other groups defended citizen rights in the North American Commission for Environmental Cooperation's petition process from attacks by the NAFTA Parties. The petition process allows citizens to raise concerns about systematic failures by NAFTA countries to enforce their environmental laws. CIEL continues to advance the only pending citizen submission concerning the United States--for failure to enforce the Migratory Bird Treaty Act with respect to logging activities. At the national level, CIEL has worked with other groups to open the U.S. government's business advisory committees to broader participation, including by serving as a temporary environmental representative on the chemical sector advisory committee. CIEL's President continues to be one of the more outspoken members of the Trade and Environment Policy Advisory Committee and provides advice directly to U.S. Trade Representative Robert Zoellick and EPA Administrator Christine Todd Whitman. CIEL has filed two Freedom of Information Act lawsuits to force the U.S. government to disclose to the American public the negotiating proposals it tables to other governments in the FTAA and Chile negotiations. Finally, we have worked with other NGOs to provide the U.S. Congress with a better understanding of the environmental critique of trade rules in the context of the debate over granting the President "fast track" trade negotiating authority.

**IN ADDITION TO  
PROMOTING PUBLIC  
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PUBLIC PARTICIPATION  
IN OTHER AREAS OF  
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*Support for the Trade and Sustainable Development Program comes from the Charles Stewart Mott Foundation, the Merrill G. and Erita E. Hastings Foundation, the Rockefeller Brothers Fund, the Rockefeller Foundation, Agency for the Environment, Forests and Landscape-Government of Switzerland, and a variety of inter-governmental and non-governmental organizations.*

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## INTERNATIONAL FINANCIAL INSTITUTIONS PROGRAM

A questionable commitment to sustainable development and inadequate policies and procedures have made International Financial Institutions (IFIs) such as the World Bank Group and export credit agencies (ECAs) complicit in some of the worst environmental and developmental decisions. The investment decisions of these organizations affect the environment and local communities profoundly, yet they are often made without the participation of those communities.

CIEL promotes equitable and environmentally sustainable development by advocating for the rights of local people to participate in decision-making that affects their lives. To make this happen, CIEL works toward transparency and accountability at the IFIs, particularly through the use of citizen-based accountability mechanisms such as the World Bank Inspection Panel and the adoption of, and enhanced compliance with, social and environmental policies.

### STRENGTHENING ACCOUNTABILITY AT THE WORLD BANK GROUP

As part of our long-standing efforts to promote citizen-based accountability at the World Bank, CIEL played a leadership role in forcing the Directors of the World Bank to partially reverse their efforts to weaken the Bank's Inspection Panel. The Inspection Panel is designed to hear citizen complaints about Bank-financed projects. CIEL, along with the Bank Information Center (BIC), led the campaign to maintain the power of the Inspection Panel. As part of our strategy in that campaign, CIEL and BIC convinced the Bank to hold the first Board-level public "hearing" in its history. The hearing elicited comments from over twenty civil society organizations from around the world that have monitored or tried to use the Inspection Panel. The resulting modifications to the Panel procedures were a delicate compromise that thus far has strengthened the effectiveness of the Panel.

In 1999, the International Finance Corporation (IFC), the arm of World Bank Group whose clients are private sector companies, created a new Compliance Advisor Ombudsman (CAO) to improve compliance with IFC environmental and social policies and to address the concerns of locally affected communities. The Ombudsman can receive complaints from project-affected people and make recommendations directly to the President of the World Bank Group, James Wolfensohn. CIEL supported the creation of the Ombudsman at the IFC and participated in the selection of the first Ombudsman, Ambassador Meg Taylor from Papua New Guinea. The Ombudsman proposed procedures that were subject to a process of notice and comment. CIEL's comments led to substantial improvements in the final procedures (which can be viewed at the IFC website). CIEL is currently helping several affected communities to understand and use the Ombudsman office.

### ENHANCING COMPLIANCE AT THE WORLD BANK

CIEL and other organizations forced the World Bank to reconsider its support for the fundamentally flawed China Western Poverty Reduction Project that violated seven of ten Bank safeguard policies. This decision led the Bank to take a systematic look at reforming its process for monitoring compliance with environmental and social policies and for integrating human rights considerations.

The controversy has also sparked an institution-wide review of the Bank's compliance policies, which in turn is leading to re-centralization of compliance authority in an environmental unit that will hopefully be insulated from the pressures of the Bank's major borrowers.

## **CHAD-CAMEROON OIL EXTRACTION AND PIPELINE PROJECT**

Over the last two years, CIEL has been working with Delphine Djiraibe, a Human Rights and Environment Law Fellow from Chad, to support the demands of communities affected by a large oil development and pipeline project involving both Chad and Cameroon. The project is financed by the World Bank Group and by the U.S. and French export credit agencies, U.S. Export-Import Bank and COFACE. Because Chad and Cameroon are headed by dictators, they have demonstrated little concern for local communities and little inclination to share the benefits of oil resources equitably, the project threatens to create extensive pollution and harm the livelihoods of local communities in both countries. CIEL was part of an international campaign to pressure the World Bank and U.S. Treasury Department to add several strong safeguards to the project. These include an International Advisory Group to independently investigate the progress of the project, to what extent it fulfills its poverty alleviation mandate, and other human rights concerns. Thanks to the efforts of CIEL and others, the World Bank recognized for the first time the importance and relevance of human rights in its development activities. CIEL continues to monitor the project to ensure that the rights of local populations are respected and that the World Bank lives up to its commitments. Chadian citizens filed a complaint to the Inspection Panel in March 2001.

## **MINING IN PERU**

Increasingly, projects in which CIEL is asked to support local community concerns over policy compliance and environmental threats involve one of the extractive industries: oil, gas, or mining. Three communities affected by gold and copper mining in Peru have asked CIEL for support in raising their concerns with the IFC, an arm of the World Bank Group whose clients are private sector companies.

\* The people living near the Quellaveco Copper deposit fear that their scarce water resources will be drained or contaminated if a mine is developed there. Working with Oxfam America, CIEL visited the communities and explained the role of the IFC in the project and the rights local communities have under IFC policies. So far the IFC has been persuaded to request more information from the developer and to study the question of water rights in more detail before considering its financial appraisal of the project.

\* In Cajamarca, the situation is much bleaker. The Yanacocha Gold Mine has been in operation for the last eight years and has caused concerns over water quality, economic development, and adequate compensation. CIEL and Oxfam have been assisting the local communities in raising their concerns and filing complaints to the IFC's Ombudsman. The office of the Ombudsman has initiated a mediation process in the city.

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DECISIONS.**

## REFORMING EXPORT CREDIT AGENCIES

**INCREASINGLY, PROJECTS IN WHICH CIEL IS ASKED TO SUPPORT LOCAL COMMUNITY CONCERNS OVER POLICY COMPLIANCE AND ENVIRONMENTAL THREATS INVOLVE ONE OF THE EXTRACTIVE INDUSTRIES: OIL, GAS, OR MINING.**

Export Credit Agencies (ECAs) are publicly-mandated to provide government-backed loans, guarantees, and insurance to corporations from their home country that seek to do business overseas in developing countries. CIEL has been instrumental in coordinating an international network of NGOs to pressure ECAs around the world to adopt environmental and social standards at least equal to those already accepted by multilateral organizations like the World Bank. CIEL and other organizations persuaded the U.S. government to support the adoption of harmonized and stronger environmental standards on the part of ECAs of other countries through the U.S. government's official participation in the Group of 8 industrialized countries (G-8) and the Organization for Economic Co-operation and Development (OECD). When the standards of ECAs from different countries are not harmonized, pressure exists in each country to lower its standards to meet the lowest common denominator of the other countries. Therefore harmonized standards are critical in preventing a "race to the bottom."

Combined, ECAs now mobilize U.S. \$55 billion in project finance, an amount far larger than that controlled by multilateral organizations like the World Bank. Accordingly, it is essential that CIEL and other NGOs, as well as the general public, continue to pressure the ECAs to improve their transparency and environmental standards. Part of this effort in the last year has included sending a CIEL staff member to Paris to coordinate action around the OECD Ministerial to deter approval of a seriously flawed agreement on common environmental standards. CIEL is also working with several organizations, including Human Rights Watch, to develop a human rights policy for the U.S. Export-Import Bank. In terms of expanding the campaign, CIEL began informing partners in Latin America about the impacts and workings of ECAs by holding a successful three-day workshop in the Fall of 2001, which was attended by 44 participants from 17 countries.

## TRAINING AND WORKSHOPS

CIEL's IFIs program has developed materials and presentations to explain the Inspection Panel, IFC's Ombudsman, and ECAs. We have used these resources at such diverse events as the World Bank Protests Teachings in April 2000 and the Prague Annual Meetings. As part of this educational commitment, CIEL revised its "Citizen's Guide to the Inspection Panel" and translated it into Spanish, French and Portuguese. We also prepared a preliminary guide to the Compliance Advisor Ombudsman, and a pamphlet entitled "ECAs Explained" (available in Spanish), and with Pacific Environment, created a website on ECAs located at [www.eca-watch.org](http://www.eca-watch.org).

*Support for the International Financial Institutions Program comes from the Charles Stewart Mott Foundation, the Heinrich Boell Foundation, the John D. and Catherine T. MacArthur Foundation, and the Moriah Fund.*

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# PROMOTING HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE

*Global environmental trends continue to move in ominous directions. There is now a growing realization that one of the major causes for this is the persistent failure to address the human rights aspects of environmental issues. Large numbers of people around the world, often those most directly dependent on the natural environment for their lives and livelihoods, are ignored and isolated from decision-making processes that critically impact them. These marginalized peoples in the majority world (developing countries) often bear the greatest burden of economic growth and resource exploitation, and yet benefit the least. CIEL's programs on Human Rights and Environment and Law and Communities strive to integrate the concerns of environmental justice and sustainable development into law and policy. The ultimate aim is to guarantee justice by safeguarding the rights of all people and effectively promote conservation and sustainable development.*

## HUMAN RIGHTS AND ENVIRONMENT PROGRAM

The link between human rights and environmental protection is becoming increasingly clear. Environmental damage is often worse in countries and regions where human rights abuses are rampant. When human rights are not well protected, civil society groups are less able to raise and address environmental and social concerns effectively. Rights of association, access to justice, access to information and freedom of expression are considered particularly critical for the success of a country's environmental movements.

CIEL launched its Human Rights and Environment initiative in 1999 to identify and address the connections between environmental protection and human rights and to help coordinate and create synergies between advocacy approaches. CIEL's Human Rights and Environment Program has the following goals: to reduce specific human rights and environment abuses on the ground by investigating and pursuing "cases" in appropriate legal fora; to build the substantive basis for using human rights in protecting the environment; to promote the legal recognition of community-based property rights in natural resources on national and international levels; and to strengthen linkages between the human rights and environmental movements through training, skills sharing, developing advocacy strategies, and building strategic alliances. In addition to the activities described below, this initiative has helped to integrate human rights concerns into our other program activities.

## HELPING PARTNERS ESTABLISH PUBLIC INTEREST LAW ORGANIZATIONS

CIEL has long supported the establishment of human rights and environmental law public interest law organizations. In recent years CIEL has been able to help catalyze and support the creation of several new organizations, including the Advocates Coalition for Development and Environment in Uganda, the Centre for Environmental Law and Community Rights in Papua New Guinea, the Center for Human Rights and Environment in Argentina, and the



Zimbabwean Environmental Law Association. At the same time, CIEL has continued supporting other longstanding partners in Asia, the Pacific, Africa and Latin America. We also provided a two-year fellowship in Washington, D.C. for Delphine Djiraibe, founder of a Chadian human rights and environment organization, and a major critic of the Chad-Cameroon pipeline financed by the World Bank.

## PROTECTING ENVIRONMENTAL AND HUMAN RIGHTS AT THE WORLD BANK

CIEL has been persistent in its efforts to prevent the World Bank from backsliding on its involuntary resettlement, forestry and indigenous peoples policies. Strategies have included: circulating CIEL's comments on the draft resettlement revisions to the Operations Policy Committee inside the World Bank; raising public awareness during the World Bank/IMF demonstrations in Washington, D.C. by organizing a vigil in solidarity with all victims of forced World Bank resettlement; and advising World Bank staff on specific aspects of its existing and proposed policies.

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CIEL provided critical technical and legal support to a high profile, successful challenge of a prospective World Bank loan to China. The loan would have relocated thousands of ethnic Chinese farmers into an area traditionally used by nomadic Tibetans and Mongolians as well as raised many other issues. As CIEL demonstrated, the World Bank failed to follow its own environmental assessment and other safeguard policies. We assisted in preparing a claim to the World Bank Inspection Panel that was a key component of the campaign to oppose the project. Although the project was initially approved, the Inspection Panel's report vindicated all of CIEL's claims of policy violations. Under pressure from the World Bank's Board of Directors to cure the many defects in the loan's preparations, China withdrew its request for lending.

## PROTECTING INDIGENOUS PROPERTY RIGHTS IN THE INTER-AMERICAN SYSTEM

CIEL collaborated with the International Human Rights Law Group in the drafting and submission of an *amicus curiae* brief to the Inter-American Court of Justice in San Juan, Costa Rica. The brief asserted that the Republic of Nicaragua is constitutionally and legally obliged to recognize the community-based property rights of the Mayagna (Sumo) Community of Awas Tingni. The case arose out of a Nicaraguan concession of indigenous lands to Asian logging interests. In September 2001, the court released its decision, which declared that Nicaragua had violated the human rights of the Awas Tingni Community. It ordered the government to recognize and protect the community-based property rights of the Awas Tingni people.

In a dispute brought before the Inter-American Human Rights Commission, CIEL and the Center for Human Rights and Environment represented the Wichi indigenous communities in Argentina in their efforts to halt a transcontinental road that would have cut across their territory. The Commission subsequently pressured the Argentine government into a settlement that protected indigenous territories from the threat of a major highway.



## DEFENDING INDIGENOUS PEOPLES' RIGHTS IN BIODIVERSITY

CIEL filed the first-ever challenge at the U.S. Patent & Trademark Office (PTO) over the issuance of a patent for a plant sacred to indigenous peoples. In March 1999, CIEL filed a legal challenge to a U.S. patent claimed on the "ayahuasca" vine, *Banisteriopsis caapi*, which is native to the Amazonian rainforest. CIEL requested re-examination of the patent on behalf of the Coordinating Body of Indigenous Organizations of the Amazon Basin (COICA), and the Amazon Alliance for Indigenous and Traditional Peoples of the Amazon Basin. The patent purported to appropriate for a U.S. citizen a plant that is sacred to many indigenous peoples of the Amazon, and used by them in religious and healing ceremonies. A U.S. citizen, claiming to have "discovered" the plant, had obtained a patent and was intending to install a pharmaceutical laboratory in Ecuador to process it. This patent threatened to undermine the rights of indigenous peoples, who have been using the plant for religious and medicinal purposes since time immemorial. Arguments and analyses provided by CIEL first persuaded the Patent Office to reject the patent, but on appeal the Patent Office reversed itself and upheld the patent.

## TEACHING AND TRAINING ON HUMAN RIGHTS AND THE ENVIRONMENT

CIEL staff teach several courses at the American University's Washington College of Law and at the Johns Hopkins University School of Advanced International Studies (SAIS) relating to human rights and the environment, helping to train the next generation of leaders in this area. In April 2000, CIEL led workshops and teach-ins for activists interested in the World Bank and published a Citizens' Guide to the Inspection Panel in English, Spanish, French and Portuguese. In May 2000, CIEL helped organize a workshop in Ecuador advocating for the basic rights of indigenous and other local communities in the Climate Change Convention's Clean Development Mechanism. Additionally, CIEL held a series of workshops in Peru on Advocacy Strategies at the Public International Financial Institutions and Use of Accountability Mechanisms.

*Support for the Human Rights and Environment Program comes from the Richard and Rhoda Goldman Fund, and the Ford Foundation.*

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## LAW AND COMMUNITIES PROGRAM

Rural peoples directly dependent on natural resources comprise large majorities in most developing countries, but are frequently neglected, and often completely ignored, by national and international laws. Hundreds of millions of people in developing countries have no national or international legal protection over the natural resources they directly depend on, regardless of how long they have lived in an area.

CIEL's Law and Communities Program strives to help to amplify the voices of rural constituencies, particularly those in the majority (developing) world, and to formulate effective strategies for promoting environmental justice and sustainable development. From environmental and human rights perspectives, the fundamental challenge is to gain widespread support for the principle that every human being, by virtue of being human (not by virtue of education, wealth, ethnic background or citizenship), has a right to participate in decision-making processes that directly affect her or his life and livelihood. This is especially important for original, long-term occupants who in some countries and regions are referred to as indigenous peoples. The program's primary objective is to promote the legal recognition of community-based property rights (CBPRs) in national and international arenas, primarily by helping develop appropriate concepts and strategies and in-country legal capacities.

### FOSTERING LEGAL EXPERTISE AND COLLABORATIVE ANALYSES

CIEL, with Indonesian partners, finalized a book length report titled: *Whose Resources? Whose Common Good? Towards a New Paradigm of Environmental Justice and the National Interest in Indonesia*. The book, based partly on over thirty case studies conducted by Indonesian lawyers and recent law school graduates, examines the impact of national laws on community-based property rights. It will be published during 2002 in English and Bahasa Indonesia. CIEL is currently working with other partners in various African and Asian countries to study the linkage between local tenure security and improved natural resource management, to analyze the environmental impacts of illegal logging, and to broaden the interpretation of Article 8(j) of the Convention on Biological Diversity. We are also working to ensure the enforcement and monitoring of the Forest Stewardship Council's Social Principles and Criteria, especially recognition of tenure, indigenous peoples' rights, and benefit sharing. The program is preparing an online database for different countries that will profile and identify constitutional provisions and national laws, regulations, policies and agreements that support community-based property rights. In preparation for the United Nations 2002 International Year of the Mountains, CIEL collaborated with The Mountain Institute and The Mountain Forum to write a report titled "*Mountain Law and Peoples: Moving Towards Sustainable Development and Recognition of Community-Based Property Rights*." See [www.mtnforum.org/resources/library/mlp\\_01.htm](http://www.mtnforum.org/resources/library/mlp_01.htm).

### SPONSORING PUBLIC INTEREST LAW AND CBPR WORKSHOPS

CIEL launched its first substantial initiative in Africa by co-sponsoring the first African Public Interest Law and Community-Based Property Rights Workshop, with the Tanzanian Lawyers' Environmental Action Team (LEAT) during August

2000. The workshop brought together fifty-three participants from sixteen countries, including lawyers, social scientists, academics and policy experts from both non-governmental and governmental organizations. The focus of the three-day meeting was on legal and social aspects of property rights relationships between African governments and local communities that foster or hinder efforts to promote biodiversity conservation and sustainable development. Proceedings of the workshop will be published in early 2002. The June 2001 edition of the *Common Property Digest*, a quarterly publication of the International Association for the Study of Common Property (IASCP), was devoted to this workshop and included abridged versions of some key papers. See [www.indiana.edu/~iascp/e-cpr.html](http://www.indiana.edu/~iascp/e-cpr.html).

CIEL also hosted a roundtable discussion on "Public Interest Law and Community-Based Property Rights, including the Commons," at the eighth biennial conference of the IASCP in Bloomington, Indiana during June 2000. We are helping organize related activities at the ninth conference to be held during June 2002 in Victoria Falls, Zimbabwe. CIEL co-hosted a regional workshop in the Philippines on community-based property rights and marine and coastal resources during June 2001. The marine workshop aimed to assist in the development of new concepts and ideas for ensuring that national laws and policies provide coastal communities with fair and appropriate incentives for conservation and sustainable livelihood development.

## **SKILLS SHARING AMONG PUBLIC INTEREST LAWYERS AND LAW STUDENTS**

CIEL facilitates the exchange of information and experiences with public interest human rights and environmental law organizations around the world. This includes support for South-South skills share exchanges. Recent exchanges have involved the Philippines, Indonesia, Papua New Guinea, Kenya, Tanzania and India. In order to help grow the pool of public interest lawyers, the program conducts and organizes lectures, seminars and workshops at leading universities and law schools and other appropriate locales. The main objective is to foster awareness among law students and recent graduates about public interest law career opportunities. Over the past two years, such events have been held in India, Kenya, Tanzania, Uganda, Zimbabwe, South Africa, Mozambique, Nigeria, Burkina Faso, Indonesia, Philippines, Peru, Netherlands, and the USA. To promote greater awareness and expertise on community-based property rights and community-based natural resource management (CBNRM) issues, the program also sponsors CBPR internships at public interest environmental law NGOs in law students' home countries. Recent internships have been sponsored in Kenya, Uganda, Tanzania, South Africa, Zimbabwe, India, Philippines, and Indonesia.

## **DEFENDING THE PHILIPPINE INDIGENOUS PEOPLES' RIGHTS ACT**

In collaboration with the Legal Rights and Natural Resources Center - Kasama sa Kalikasan (LRC-KSK), a leading Philippine public interest law NGO, CIEL provided support before, during and after a Supreme Court hearing *en banc* of an expedited constitutional challenge by the mining industry to the Philippines unique Indigenous Peoples' Rights Act (IPRA). The IPRA will potentially bene-

fit an estimated ten million indigenous people in the biodiversity-rich uplands of

**RURAL PEOPLES DIRECTLY DEPENDENT ON NATURAL RESOURCES COMPRISE LARGE MAJORITIES IN MOST DEVELOPING COUNTRIES, BUT ARE FREQUENTLY NEGLECTED, AND OFTEN COMPLETELY IGNORED, BY NATIONAL AND INTERNATIONAL LAWS.**

the Philippines. CIEL's assistance included: helping draft an *amicus curiae* brief on behalf of 113 indigenous leaders and prominent Filipino supporters; helping with preparations for oral arguments by lawyers from LRC - KSK; attending and analyzing the Supreme Court hearing; assisting with preparation of a Final Memoranda for the Supreme Court; and speaking to print and air journalists. These efforts proved successful in December 2000 when the high court upheld the constitutionality of the IPRA and in October 2001 when it denied an appeal for reconsideration. Both decisions prominently cited works written by CIEL staff.

*Support for the Law and Communities Program comes from the Ford Foundation, the Richard and Rhoda Goldman Fund, USAID Indonesia through World Wildlife Fund US, the USAID Africa Bureau through the World Resources Institute, USAID Philippines, and John Street.*

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# STRENGTHENING EXPERTISE AND CAPACITIES IN ENVIRONMENTAL LAW

*The challenges facing the public interest environmental law movement are enormous, yet the pool of environmental law expertise and dedicated, public interest lawyers is still relatively small. As all of CIEL's programs demonstrate, realizing a vision of sustainable development that is guided by the principles of ecology, human rights, and environmental justice requires efforts to share skills and to build the capacity of all actors, including those in developing countries, to promote positive change. All people--especially indigenous and other local communities that are too often marginalized by legal, political, and economic forces--need the legal tools to ensure that their voices matter. CIEL answers this need by: fostering skills sharing and other interactions with its partners around the world; training students, lawyers, and other professionals in the practice of environmental law; and harnessing technology to increase access to environmental information, decision-making, and other legal processes that affect the lives and well-being of human beings.*

## LAW AND TECHNOLOGY

Advances in computer technology, satellite imagery, and the Internet have created new opportunities for enhancing protection of the global environment. CIEL's Law and Technology Program strives to improve environmental protection and rehabilitation through the development and implementation of technology-based systems for legal and earth science data. The program explores ways to employ information technologies to help educate and empower environmental lawyers, regulators, and activists.

Historically, environmental legislation has been based on conclusions drawn from *in situ* data, meaning that the data was collected from its original location and typically required a scientist to go out in person and manually retrieve the data. These data are often inadequate for the development of regional and international legal standards because the collection process is too labor-intensive. Automated data collection systems using satellites and other types of remote sensors can create efficiencies in the data gathering process, allowing for monitoring of inaccessible areas, simultaneous observations of numerous targets, and the ability to quickly access newly collected data.

CIEL's Law and Technology Program explores ways to employ these emerging technologies to strengthen the capacity of existing science for making fully-informed decisions and policies. In addition, such systems hold promise for improving environmental regulation through prospective modeling of impacts from both development projects and new laws themselves.

## DEVELOPING A WEB-BASED INFORMATION MANAGEMENT SYSTEM

Under a cooperative agreement with the National Aeronautical and Space Administration (NASA), CIEL is meeting the needs of environmental decision-makers by developing a distributed Web-based information management sys-



tem that connects remotely sensed and other data with relevant environmental laws and policies.

This program, Environmental Legal Information Systems (ELIS), will automatically link environmental laws with ecological data; supply case studies demonstrating the benefits of NASA data in the context of environmental permitting, monitoring, and enforcement; and provide tools to educate the scientific and legal communities on the value of remotely sensed data in environmental management.

CIEL also seeks to identify gaps in current law and monitoring practices and to make legislative recommendations to improve environmental law and enforcement.

## PROMOTING LINKAGES BETWEEN ENVIRONMENTAL LAW AND TECHNOLOGY

**ADVANCES IN  
COMPUTER  
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HAVE CREATED NEW  
OPPORTUNITIES  
FOR ENHANCING  
PROTECTION OF THE  
GLOBAL ENVIRONMENT.**

The Law and Technology team hosted and participated in numerous workshops and conferences identifying and promoting the use of information technology for environmental protection. For example, CIEL hosted a full-day workshop entitled *A View from Space: Digital Earth Applications in Environmental Law and Management* at the Washington College School of Law at The American University. The goals of the workshop were to: (1) inform environmental decision makers of the potential capabilities of remote sensing technologies; (2) identify the demand for remote sensing technologies and the potential hurdles for its application in the development and implementation of environmental laws and policies; and (3) evaluate legal issues, including the scientific evidentiary standards, raised by novel technologies, environmental modeling, and simulations.

The workshop brought together a select group of remote sensing, digital earth, and environmental law and policy specialists to share ideas and information. CIEL also published a comprehensive survey of international and comparative environmental law uses of satellite data and image products in the *Stetson Law Review* entitled *Moving Pictures: How Satellites, the Internet, and International Environmental Law Can Help Promote Sustainable Development*.

## ORGANIZING ENVIRONMENTAL POLICY RESEARCH THROUGH THE INTERNET

As part of the ELIS project, CIEL has established a web-library with over 1000 sources of environmental data and other information, organized by issue and data-type category. The system has advanced search capabilities of environmental laws and digital earth science and legal data sets, including satellite information. Over 750 glossarized terms are loaded into the system, also with advanced search capabilities. The ELIS website, with links to the glossaries and the resource library, can be found at <http://www.csee.umbc.edu/~elis/>.

## SCENARIOS

CIEL promoted the development of earth science scenarios to help user groups visualize and simulate the potential consequences of environmental and

resource management decisions. The scenarios are based on using data and information from satellites and other remote sensors to creatively envision future needs. CIEL created the Digital Earth Scenario Template in conjunction with the Earth Science Information Partners (ESIP) Federation's Standing Committee on Community Engagement and the ESIP Digital Earth Cluster. Using the Template, CIEL designed a demonstration scenario, the Emergency Response Decision Information System, which represented an intelligent system to assist decision makers in the planning, response, assessment, and enforcement stages associated with hazardous material and oil spill disasters. CIEL presented the scenario and the Template at the Second Annual International Digital Earth Symposium in June, 2001.

## DEVELOPING PILOT APPLICATIONS

CIEL has initiated four prototype demonstration projects involving the application of remote sensing data to issues involving wetlands, forests, coral reefs, and watershed ecosystems. As part of this effort, we have prepared dozens of documents for storage and search capabilities through the web. In this regard, CIEL has also researched and begun to develop a meaningful system of "indicators" to automate linkages between legal and earth science data and to guide decision makers through issue-specific environmental management processes from both regulatory and ecological perspectives.

*The ELIS Project is funded through a cooperative agreement with NASA, with the University of Maryland Baltimore County, the Universities Space Research Association, and the Law Library of Congress as participating partners.*

## PROGRAM STAFF:

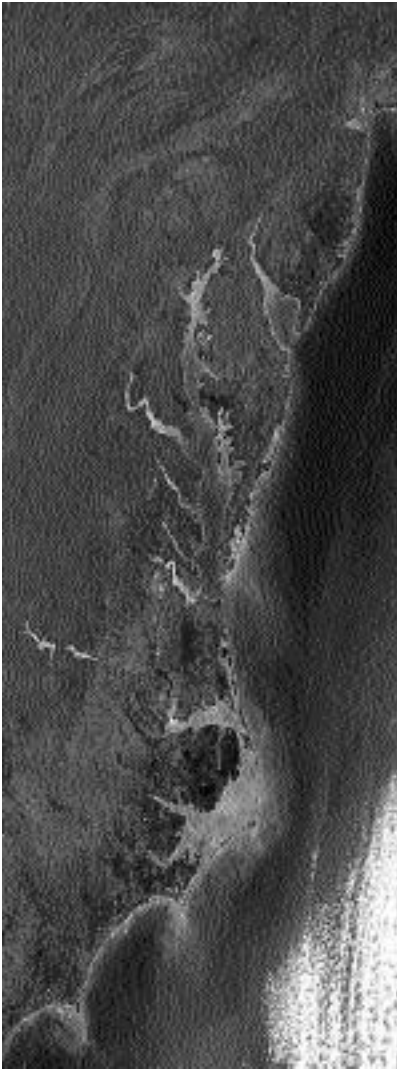
Kenneth Markowitz, *Project Attorney*  
Meredith Reeves, *Program Associate*  
Durwood Zaelke, *President*

## IMPROVING ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT

Society has under-invested in environmental enforcement and compliance, with serious consequences for the global environment. Yet, investment in enforcement and compliance not only improves environmental quality, it also enhances respect for the rule of law and strengthens the foundation for better environmental governance. In many cases, environmental compliance also provides competitive advantages to nations and firms. Given the deteriorating state of environmental quality across a broad range of indicators, and the growing body of environmental law at the national and international level designed to arrest such deterioration, further investment is needed to make enforcement and compliance a priority for the 21<sup>st</sup> Century.

Strengthening enforcement and compliance is the mission of the International Network for Environmental Compliance and Enforcement (INECE), a network of enforcement practitioners from 130 countries, principally from governments,

**CIEL'S LAW AND TECHNOLOGY PROGRAM EXPLORES WAYS TO EMPLOY EMERGING TECHNOLOGIES TO STRENGTHEN THE CAPACITY OF EXISTING SCIENCE FOR MAKING FULLY-INFORMED DECISIONS AND POLICIES.**



but also from NGOs and academia. Key INECE partners include UNEP, World Bank, the European Commission, and OECD.

INECE recently formed a formal Secretariat to coordinate its activities and to undertake more analytical work, including a project to develop indicators for environmental enforcement and compliance, graduated for countries' level of development. CIEL's President was appointed Director of the Secretariat, and CIEL serves as the network's fiscal sponsor.

Other analytical work by INECE includes an effort to better understand the benefits and costs of compliance. It is increasingly clear that the cost of environmental protection, in many cases at least, is outweighed by the economic benefits, including improvements in public health and ecosystem services. Even less appreciated is the fact that environmental compliance can be cost effective at the level of the firm. Additionally, emerging empirical evidence shows that environmental performance benefits from competitiveness in the long run, especially in developing countries.

INECE also provides capacity building, working with the World Bank Institute, UNEP, and others to deliver training programs. INECE organizes a bi-annual conference for 200 practitioners drawn from its network in 130 countries. The Sixth Conference will be held April 2002 in Costa Rica. More than 50 papers will be published in the Conference Proceedings, and a selection of the best will be published as a separate book.

INECE is also developing new web-based strategies, working with the Environmental Law Information System, a partnership among CIEL, NASA, the Library of Congress, and the University of Maryland. For further information visit [www.INECE.org](http://www.INECE.org).

*Support for INECE comes from the Dutch Ministry of Housing, Spatial Planning and the Environment (VROM), the U.S. Environmental Protection Agency, the European Commission, the World Bank Institute, the Commonwealth Secretariat, the North American Commission for Environmental Cooperation, Canada, and the United Kingdom.*

## **PROJECT STAFF:**

Kenneth Markowitz, *Project Attorney*  
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Durwood Zaelke, *President*

## **INTERN/EXTERN PROGRAM**

The CIEL intern/extern program is a critically important component of the work of our organization, not only because it provides greater operational capacity for our substantive programs but, equally important, because it gives exceptionally motivated law students and undergraduates the opportunity to experience public interest international environmental law first hand. Externs work full or part-time during the school year, usually receiving credit from their schools.



Summer interns typically work full-time during the summer months. Throughout the year, we rely on our interns and externs to assist our staff in core research, writing and advocacy. Many CIEL interns and externs arrive from U.S. law schools and, as such, reflect the diversity of their student bodies. However, we also vigorously seek and hire applicants from other countries, especially students and recent graduates from developing countries.

### **Program Staff:**

Claudia Saladin, *Senior Attorney*  
Glenn Wiser, *Staff Attorney*

## **JOINT RESEARCH PROGRAM WITH THE AMERICAN UNIVERSITY'S WASHINGTON COLLEGE OF LAW**

CIEL and the Washington College of Law (WCL) established the Joint Research Program for International and Comparative Environmental Law in 1990. The program was created to facilitate the shift toward sustainable development by providing a dynamic and interdisciplinary environment for training future leaders in environmental law. As part of the collaboration, the WCL offers a Masters in Law (L.L.M.) degree with a concentration in International and Comparative Environmental Law. CIEL has designed the curriculum for that concentration, and CIEL staff continue to teach several classes each year at the law school. David Hunter, Durwood Zaelke and WCL Professor James Salzman co-authored the leading textbook *International Environmental Law & Policy* (Foundation Press, 2<sup>nd</sup> ed., 2002), used at more than 100 law schools in the United States and abroad.

The joint program conducts environmental workshops and symposia, sponsors research on various environmental issues, and assists WCL in developing the international and comparative law curriculum. CIEL attorneys help students identify and arrange internships with environmental organizations in Washington, D.C. The result is a cooperative effort that provides students with a dynamic learning environment, scholars with a stimulating atmosphere for conducting practical research, and young lawyers with exciting opportunities for beginning their environmental law careers. CIEL "alumni" can be found in government, business, international organizations, and non-governmental organizations. These graduates often become leaders in the environmental law movement in their country, and form an important informal network for CIEL's work in other countries.

CIEL also participates in the Washington College of Law's summer study abroad program in Paris, France, and Geneva, Switzerland, which introduces students and attorneys to evolving legal concepts and structures in Europe and the international area.

**SOCIETY HAS UNDER-INVESTED IN ENVIRONMENTAL ENFORCEMENT AND COMPLIANCE, WITH SERIOUS CONSEQUENCES FOR THE GLOBAL ENVIRONMENT.**

**CIEL ATTORNEYS HELP STUDENTS IDENTIFY AND ARRANGE INTERNSHIPS WITH ENVIRONMENTAL ORGANIZATIONS IN WASHINGTON, D.C.**

# CIEL IN THE NEWS

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(CIEL/World Wildlife Fund)

Biodiversity & Intellectual Property Rights: Reviewing Intellectual Property Rights in Light of the Objectives of the Convention on Biological Diversity (March 2001) (World Wildlife Fund/CIEL) (Gonzales & Monagle)

A Citizen's Guide to the World Bank Inspection Panel, Second Edition (1999) (Clark) [Also available in French, Portuguese and Spanish.]

A Handbook on the Office of the Compliance Advisor Ombudsman of the International Finance Corporation and Multilateral Investment Guarantee Agency (September 2000) (Saladin)

Hybrid Liability Revisited: Bridging the Divide Between Seller and Buyer Liability (November 2000) (Wiser & Goldberg)

International Environmental Law and Policy, First Edition (1998) (Hunter, Salzman & Zaelke)

Mountain Laws and Peoples: Moving Towards Sustainable Development and Recognition of Community-Based Property Rights (2000) (Lynch & Maggio)

Non-Violation Complaints and the TRIPS Agreement: Some Considerations for WTO Members (May 2001) (Stilwell & Tuerk)

Preliminary Comments on Trips-Related Aspects of First Draft Ministerial Declaration and First Draft Decision on Implementation: Implications for Developing Countries (September, 2001) (Stilwell & Vivas)

Profiling Problem Projects: Making the Case for Change at the International Finance Corporation (September 2000)

Promoting Legal Recognition of Community-Based Property Rights, Including the Commons: Some Theoretical (June 1999) (Lynch)

Resettlement: The World Bank's Assault on the Poor (May 2000) (Clark; Edited by Carothers).

Restoring the Balance: Using Remedial Measures to Avoid and Cure Non-Compliance under the Kyoto Protocol (March 2000) (CIEL/World Wildlife Fund) (Wiser & Goldberg)

Review of Article 27.3(B) (June 2001) (Stilwell)

Towards a Full Review of the WTO's Trips Agreement Under Article 71.1 (April 2001) (Stilwell & Tuerk)

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*Chief Operating Officer, Office of the Mayor, Atlanta, GA  
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**Durwood Zaelke, President**

*President and founder, Center for International Environmental Law  
Director, INECE Secretariat, and Director, Joint Research Program in International & Comparative  
Environmental Law, American University's Washington College of Law*



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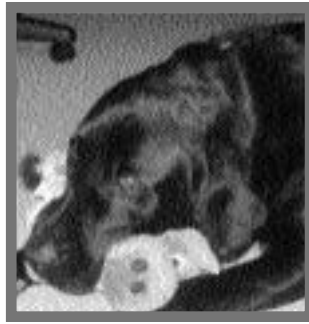
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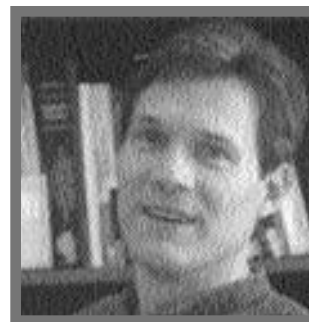
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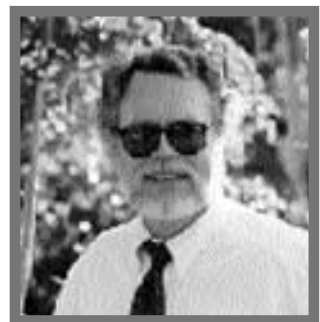
**DAVID VIVAS**



**JEFFREY WANHA**



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**DURWOOD ZAEKKE**

**CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW**  
**STATEMENT OF FINANCIAL POSITION**  
**FOR FISCAL YEAR ENDING JUNE 30, 2001**

**ASSETS:**

**CURRENT ASSETS**

CASH	\$ 784,666
FOUNDATION PLEDGES	989,424
U.S. GOVERNMENT GRANTS AND CONTRACTS RECEIVABLE	60,070
INTERNATIONAL GOVERNMENT GRANTS AND CONTRACTS RECEIVABLE	87,571
OTHER GRANTS AND CONTRACTS RECEIVABLE	32,600
MISCELLANEOUS RECEIVABLES	10,483
PREPAID EXPENSES AND DEPOSITS	27,509
<b>TOTAL CURRENT ASSETS</b>	<b>\$ 1,992,323</b>

**OTHER ASSETS**

FOUNDATION PLEDGES	\$ 330,000
OFFICE EQUIPMENTS AND FURNITURE	158,903
LESS: ACCUMULATED DEPRECIATION	(116,702)
<b>TOTAL ASSETS</b>	<b>\$ 2,364,524</b>

**LIABILITIES AND NET ASSETS**

**CURRENT LIABILITIES**

ACCOUNTS PAYABLE	\$ 78,542
EUROPEAN OFFICE PAYABLES	33,852
ACCRUED EMPLOYEE BENEFITS	21,591
DEFERRED CONTRACT REVENUE	566
<b>TOTAL LIABILITIES</b>	<b>\$ 134,551</b>

**NET ASSETS**

UNRESTRICTED NET ASSETS	\$ 938,004
TEMPORARILY RESTRICTED NET ASSETS	1,291,969
<b>TOTAL NET ASSETS</b>	<b>\$ 2,229,973</b>

<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ 2,364,524</b>
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**CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW**  
**COMPARATIVE STATEMENT OF ACTIVITIES**  
**AND CHANGE IN NET ASSETS**  
**FOR FISCAL YEAR ENDING JUNE 30, 2001**

**REVENUE:**

FOUNDATION GRANTS AND CONTRACTS	\$ 1,714,350
U.S. GOVERNMENT GRANTS AND CONTRACTS	403,492
INTERNATIONAL GOVERNMENT GRANTS AND CONTRACTS	368,308
OTHER GRANTS AND CONTRACTS	140,705
CONTRIBUTIONS	114,983
INTEREST INCOME	53,883
MISCELLANEOUS INCOME	33,305
<b>TOTAL REVENUE</b>	<b>\$ 2,829,026</b>

**EXPENSES:**

**PROGRAM SERVICES**

CLIMATE CHANGE PROGRAM	\$ 353,961
HUMAN RIGHTS PROGRAM	238,912
LAW AND TECHNOLOGY PROGRAM	173,287
BIODIVERSITY AND WILDLIFE PROGRAM	91,578
LAW AND COMMUNITIES PROGRAM	345,019
TRADE PROGRAM	555,534
INTERNATIONAL FINANCIAL INSTITUTIONS PROGRAM	171,444
OTHER MISCELLANEOUS PROJECTS	554,423
<b>TOTAL PROGRAM SERVICES</b>	<b>\$ 2,484,158</b>

**SUPPORTING SERVICES**

GENERAL AND ADMINISTRATIVE	\$ 76,992
FUNDRAISING	67,257
<b>TOTAL EXPENSES</b>	<b>\$ 2,628,407</b>

**CHANGE OF NET ASSETS** **\$ 200,619**

BEGINNING NET ASSETS	\$ 2,029,354
<b>ENDING NET ASSETS</b>	<b>\$ 2,229,973</b>

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