



**THE CENTER
FOR INTERNATIONAL
ENVIRONMENTAL LAW**

2002 — 2003 ANNUAL REPORT

ABOUT CIEL

The Center for International Environmental Law (CIEL) is a nonprofit organization working to protect the environment, promote human health, and ensure a just and sustainable society. CIEL was founded in 1989 by a few dedicated attorneys and has grown into one of the most respected public interest law firms in the world.

We provide a wide range of services to our clients and partners including legal counsel, policy research, analysis, advocacy, education, training, and capacity building. Partners include non-governmental organizations, inter-governmental organizations, and national governments.

Our 22-person staff, including 14 lawyers, is based in Washington, D.C. and Geneva, Switzerland. CIEL's staff, law fellows and interns during the period covered by this report have included nationals of Argentina, Australia, Austria, Belgium, Canada, Chile, France, Germany, India, Pakistan, Sweden, Switzerland, Thailand, Turkey, Ukraine, and the United States.

CIEL program work falls in four strategic areas:

- (1) protecting the global environment and human health;
- (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 reinforce each other with common themes and related activities and are further divided into a number of programs. Please see pages 3-17 for more information on CIEL activities and accomplishments in these four areas.

CIEL believes that the rule of law is critical for forging an appropriate balance between environmental protection, human rights, social equity and economic growth. We are strong advocates for transparency and public participation in decision-making and are committed to equity and diversity in all aspects of our work. We strive to identify and eliminate injustices of all types in carrying out our mission. As lawyers for the global environmental community, we work to create a just and sustainable society for ourselves and future generations. We invite you to join us!

LETTER FROM THE PRESIDENT

Dear Friends,

I am pleased to report that CIEL's superb team has been very active and successful this past year, making important contributions both in the United States and around the world. Despite significant challenges in many key areas of our work, CIEL has forged ahead with the creative strategies and determination needed to advance our mission of protecting the environment and public health through international law and institutions.

The United States' enforcement of environmental laws and participation in international environmental protection efforts have decreased dramatically under the current administration. The easing of restrictions on carbon dioxide emissions from power plants boosts the already disproportionately high contribution by the United States to climate change. Logging and mining in national forests destroys habitat for migratory birds, marine mammals, and other species, reducing biodiversity from north to south. The United States has removed itself from the Kyoto Protocol process and refuses to ratify the Convention on Biological Diversity. This spring, when the Stockholm Convention on Persistent Organic Pollutants enters into force, the United States will not be on the list of parties.

In the face of this situation, CIEL has intensified our efforts to protect and strengthen key international and domestic environmental laws and educate the American public about the impact that these laws have on their health and communities. We have also worked to empower our international partners to stand up for strong environmental protections in their countries and provided them with the legal advice and technical assistance needed to make that happen. This annual report describes examples of CIEL's work.

We believe that public interest law is one of the best tools to mediate conflicts, protect the environment and human health, defend human rights, and promote sustainable development. It is critical that civil society participate if environmental concerns and rights of people are to be respected. Our planet needs new and more effective legal advocacy, stronger legal theories appropriate for today's globalizing world, and more and better-trained environmental lawyers. CIEL continues to be uniquely positioned to do this.



It is a privilege to work with the talented and dedicated people on CIEL's staff and with our courageous and visionary partners around the world. I especially look forward to celebrating CIEL's 15-year anniversary in 2004! As we honor the vision of those who created CIEL and the hard work of all those

who have worked at CIEL over the years, we are keenly aware of the urgent and vital need for CIEL's ongoing work. Together with everyone at CIEL, I want to extend my sincere thanks to everyone who has supported us in the past and invite your support in helping us meet the challenges that still lie ahead. We look forward to working with you to achieve a healthy environment and to make our world a safer and more just home for ourselves and future generations.

Sincerely,

Daniel Magraw, J.D.
President
December 2003

ENVIRONMENT AND HUMAN HEALTH

Over the past decade, CIEL has worked to design and strengthen international environmental law and institutions, including treaties relating to the conservation of biological diversity, prevention of climate change, and elimination and control of toxic chemicals. We have also worked in the areas of biotechnology, marine protection, children's health, and tobacco control.

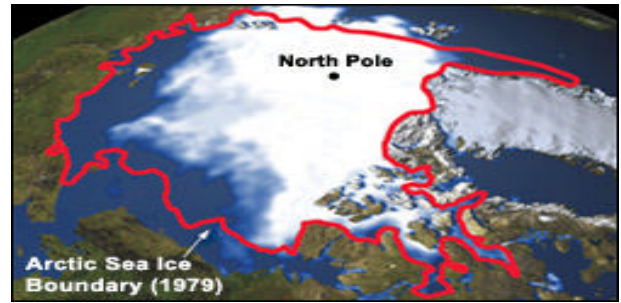
Climate Change Program

CIEL works to catalyze global action and encourage U.S. leadership to respond to the challenge of human-induced global warming. Our goal is to achieve strong and effective international and domestic approaches to reducing greenhouse gases. We provide legal counsel and other expertise to policymakers, environmental organizations, indigenous communities and other stakeholders to enhance their effectiveness in advocating for strong environmental protections. We are working to establish clear, effective, and equitable rules for the Kyoto Protocol and are an active member of the Climate Action Network, a worldwide coalition of non-governmental organizations.

Using Human Rights Law to Protect the People of the Arctic

Problem: During the past several decades, the Arctic has showed a steady rise in temperature and scientists predict that it could warm as much as 10 degrees by the year 2100. This rise in temperature is already impacting Arctic ecosystems and the infrastructure upon which native communities depend. For some communities the threat is so great that they must relocate inland, abandoning their ancestral homeland and much of their culture and way of life. These problems will only intensify in the coming years.

CIEL Response: CIEL is providing legal assistance to the Inuit Circumpolar Conference (ICC), a



Minimum Arctic sea ice concentration in 2003. The (red) outline shows sea ice concentration in 1979 (Photo courtesy of Natural Resources Defense Council).

group representing the interests of 155,000 Inuit in four countries. The ICC is in the process of preparing a petition to the Inter-American Commission on Human Rights asserting that the United States has violated their human rights by failing to curtail its greenhouse gas emissions. The petition seeks a reduction in greenhouse gases and financial compensation for harm caused by global warming. It will also serve to raise public awareness of the threat to the Arctic and make governments and corporations aware of their responsibility — and potential liability — for causing global warming.

Developing Creative Solutions to Revitalize the Kyoto Protocol

Problem: Early in his administration, President Bush rejected the Kyoto Protocol in part because it did not require developing countries to reduce their greenhouse gas emissions. Without the participation of the United States, which emits approximately 25 percent of the world's greenhouse gases, the Kyoto Protocol cannot succeed.

CIEL Response: To draw the United States back into constructive participation, CIEL has worked to develop a new approach that might assuage U.S. fears that developing countries would not play an active role in the Kyoto Protocol. Staff members have conducted research and held numerous informal meetings with climate experts and environmental groups to come up with a creative alternative to the "cap-and-trade" system upon which Kyoto commitments are based. Small commitments by developing countries are not feasible under cap-and-trade, because future emissions in developing countries are too unpredictable. CIEL's approach, called "cut-and-trade," would allow

developing countries to make modest commitments by eliminating the need to guess about future emissions and allowing them to operate instead on a "pay-as-you-go" basis. Because it does not involve an allocation of allowances, cut-and-trade has the added virtue of eliminating "hot air" (the allocation of excess allowances), which has given rise to problems with the Protocol in its current form. CIEL will be working in the coming months to disseminate this new strategy through publications, presentations and other communication channels.

Biodiversity & Wildlife Program

Through its Biodiversity and Wildlife Program, CIEL promotes the development and enforcement of an international framework of law and policy that supports conservation and sustainable use of living resources, including biodiversity, wildlife, forests and fisheries.

Ensuring Access to Natural Resources

Problem: Foreign companies often exploit the natural resources of a country without recognizing indigenous and local community rights to participate in the management and use of traditional knowledge and biological resources.

CIEL Response: CIEL is working with various partners to identify shortcomings and recommend reforms to the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) and the World Intellectual Property Organization (WIPO) to examine the relationship of these agreements to provisions of the Convention on Biological Diversity.

CIEL has presented the results of these analyses at various national and international meetings. CIEL is also working to promote recognition of the rights of local communities to prior informed consent for use of their biological resources and held a conference on this topic in 2004 that was co-sponsored with American University.

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Examining the Relationship Between Trade and Invasive Species

Problem: Trade is one of the primary pathways of invasive alien species — foreign species that are introduced into a new environment and establish, spread, and displace native plants and other organisms. Measures to respond to invasive alien species that have been introduced as a result of increased trade are inadequate.

CIEL Response: During 2003, CIEL continued to lead efforts to examine and address the relationship between trade and invasive species. CIEL prepared analyses describing the extent to which trade facilitates introductions of invasive species, measures that could be employed to prevent these introductions,

and the relationship of proposed measures to trade agreements. We worked with Defenders of Wildlife to prepare and present the paper, "Invasive Species and Trade under NAFTA" at the second North American Symposium on Assessing the Environmental Effects of Trade in Mexico City. CIEL used these analyses to support efforts nationally, regionally, and internationally, participating in discussions of these issues in meetings of the U.S. National Advisory Committee to the Commission for Environmental Cooperation under NAFTA, the Global Biodiversity Forum, and the National Environmental Coalition on Invasive Species, among others.

Protecting Migratory Songbirds

Problem: The U.S. government systematically fails to enforce the Migratory Bird Treaty Act against



logging companies, which destroy nests, eggs, and habitats of migratory birds.

CIEL Response: In 2000, CIEL filed a petition to the North American Commission for Environmental Cooperation, demonstrating this failure and requesting that the Council to the CEC require development of a factual record to investigate this claim. In 2003, a factual record was published, which confirmed CIEL's contentions that the United States government is obligated to enforce the Migratory Bird Treaty Act against loggers, but has not done so.

Biotechnology Program

CIEL believes that there is an urgent need for civil society to address the wide array of international and comparative legal issues related to biotechnology that will arise over the next decade.

Biotechnology encompasses all types of organisms and an ever-expanding set of uses, including cloning and genetically engineered organisms (GEOs), i.e., organisms whose traits have been altered through the use of recombinant DNA technology. One cannot predict the ultimate impacts of biotechnology, but their potential magnitude – both beneficial and harmful – is enormous.

Numerous international legal issues have already arisen in the course of dealing with biotechnology, including those related to biodiversity, trade in goods and services, investment, intellectual property rights, human rights, indigenous peoples' rights, agriculture, food and seed aid, licensing, and safety regulations for food, workplace and the environment. Biotechnology has already created unique issues that are being dealt with by new international instruments, such as the Cartagena Protocol on Biosafety, the Food and Agriculture Organization (FAO) Convention on

Plant Genetic Resources, and a possible treaty on human cloning now being considered under the auspices of the United Nations.

CIEL is helping to shape an international legal regime that allows society to reap the benefits of biotechnology while simultaneously protecting biodiversity and local communities. We participate in United Nations events and provide international legal expertise and assistance to other NGOs with respect to all important aspects of biotechnology. For example, during the past year, CIEL collaborated with other NGOs in organizing two briefing sessions on the United Nations' proposed treaty to

internationally ban human reproductive cloning. The briefing sessions took place in New York City and were designed to provide NGO leaders and UN delegates with information and analyses from the perspectives of science, medical ethics, international environmental law and human rights. CIEL's President also participated on a

National Academy of Science Committee studying the Biological Confinement of Genetically Engineered Organisms.

Persistent Organic Pollutants Program

Problem: Persistent organic pollutants (POPs) are a class of synthetic 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. Some POPs released to the environment can travel throughout the globe and concentrate in living organisms, including humans, at levels that may cause cancer, interfere with repro-



duction, and injure neurological systems. The highest concentrations of POPs in humans have been found in the tissue and breast milk of indigenous peoples living in the Arctic.

CIEL Response: CIEL is working to implement and strengthen the Stockholm Convention on Persistent Organic Pollutants, an international treaty that will eliminate or restrict the global use and trade of 12 of the worst POPs and create a science-based process to add newly identified POPs to the list of these original "dirty dozen."

A CIEL staff person serves as International Coordinator for the International POPs Elimination Network (IPEN), a global network of about 350 public interest NGOs committed to ridding the world of POPs. In addition to housing the IPEN secretariat, CIEL also serves as an active member of the IPEN Steering Committee.

In collaboration with other members of IPEN, CIEL helped develop a grant proposal to the Global Environment Facility (GEF), an independent, multilateral financial organization headquartered at the World Bank that provides grants to developing countries for projects that benefit the global environment and promote sustainable livelihoods in local communities. The project will enable public interest NGOs in approximately 40 countries to inform civil society about POPs and to participate in the implementation of the Stockholm Convention. GEF funded US \$1 million for this two-year project in June 2003. CIEL is providing legal support as the project moves forward.



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In July 2003, CIEL participated in the Seventh Intergovernmental Negotiating Committee (INC 7) to the Stockholm Convention in Geneva, Switzerland, where we worked to ensure that Convention processes will be transparent and readily open to public participation after the Convention enters into force. CIEL arranged for 17 representatives from developing- and transition-country NGOs to attend the INC.

CIEL helped shape emerging multilateral negotiations on the development of a Strategic Approach to International Chemical Management (SAICM) by co-writing the IPEN Steering Committee's position paper outlining a possible vision for the SAICM.

CIEL staff and the IPEN International Coordinator worked to facilitate high NGO attendance at the first SAICM Preparatory Committee meeting which was held in Bangkok in November

2003, where the IPEN General Assembly was also held.

CIEL has also played a key role in the effort to adopt comprehensive implementing legislation for the Stockholm Convention here in the United States. To implement the Convention completely, the U.S. Congress must adopt legislation that can adequately accommodate and respond to the Convention's process for listing additional POPs. After more than a year of negotiations, three separate bills, and many false starts, the Senate Environment and Public Works Committee (EPW) passed the portion of the Stockholm Convention implementing legislation that would amend the Toxic Substances Control Act.

Throughout these negotiations, CIEL critically evaluated the many draft bills, developed alternative statutory text, coordinated the preparation of NGO comments submitted to EPW, and took the primary "inquisitorial" role at NGO meetings with EPW staff. Although the adopted bill has many shortcomings, we were successful in persuading the Environment and Public Works Committee that it should reject the anti-regulatory provisions that were championed by the Bush Administration. CIEL will continue working with our partners to try to achieve adequate implementing legislation.

Protecting Children's Health

Problem: This year, more than ten million children under the age of five, most of them from low-income communities in developing countries, will die from readily preventable illnesses. Many of these illnesses are caused by dangerous environmental conditions, including lack of access to safe water, poor environmental sanitation, indoor and outdoor air pollution, high prevalence of vector-borne diseases, deficient food hygiene and unsafe waste disposal.

Addressing this crisis requires greater and more coordinated action by governments, individuals, intergovernmental organizations, non-governmental public interest organizations, private sector

interests, financial institutions, and other stakeholders at local, national and international levels.

CIEL Response: CIEL partnered with Physicians for Social Responsibility to begin production of the handbook, *Using International Law and Institutions to Protect Children's Health*. This handbook will highlight opportunities to protect children's health by strengthening human rights and environmental conventions and institutions.

CIEL continued to analyze the relationship of trade agreements to health-related issues. For example, we worked to highlight the impact of the General Agreement on Trade in Services on water availability and quality and promoted reforms to these agreements that would ensure greater protection of human health for children and all the world's citizens.

CIEL provided critical legal support to public interest NGOs working on the Framework Convention on Tobacco control, which will help protect the health of children and others throughout the world. CIEL analyzed and explained the implications of the draft text, proposed alternative text that was ultimately adopted in the treaty, attended the final negotiating session, and advised our partners on how to successfully counter the efforts of the Bush Administration to gut the treaty before it was formally adopted.



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REFORMING INTERNATIONAL ECONOMIC LAW, POLICY, AND INSTITUTIONS

Through integrated efforts from the local to the global level, CIEL seeks to ensure that progress towards sustainable development is supported and not undermined by international economic law, policies and institutions. Our Trade and Sustainable Development Program works to reform international trade rules, institutions, and policies to promote sustainable trade and investment. As investment, services, and goods move more freely across borders, CIEL is working to make sure that economic rules do not unduly restrict countries' ability to protect health, safety, and the environment, as well as to ensure that people have a voice in making decisions that affect their lives.

Our International Financial Institution Program is working with 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 while protecting the environment. CIEL is thus working towards a system of international governance 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.

Trade and Sustainable Development Program

The breakdown of multilateral trade talks at the World Trade Organization (WTO) Ministerial in Cancun highlights the range of problems that

CIEL's Trade and Sustainable Development Program has consistently worked to address over the past decade. 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 protect the interests of ordinary citizens, 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 sys-

tematic 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 in Geneva, Switzerland, CIEL defends international and domestic environmental 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 national level, pressing for public participation and transparency in U.S. trade policy-making remains an important goal.

CIEL is working with partners in civil society, governments, and intergovernmental 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.



Promoting Public Participation and Transparency

Problem: The processes and institutions that handle trade and investment issues suffer from severe democracy deficits with respect to transparency and public participation. The WTO conducts its negotiations in secret, and WTO dispute settlement mechanisms still operate behind closed doors. The lack of access to information impedes public participation in the making of trade rules, as revealed by the recent experience with bilateral free trade agreements (FTAs) negotiated by the United States. Transparency and public participation are also significantly lacking in investor-state arbitrations, where those directly affected by decisions are excluded from any role in the proceedings.

CIEL Response: CIEL is working to improve public participation and create greater transparency and accountability in trade, investment and international finance arenas. In collaboration with others, CIEL has sought to gain greater public access to the negotiating positions and tactics of the United States government through the Freedom of Information Act. This strategy proved successful, as a recent decision rendered by US courts ordered the US Trade Representative to release previously undisclosed documents relating to the negotiations on the investment chapter of the US-Chile FTA.

Based on CIEL's efforts to persuade the World Trade Organization that it should accept Amicus (Friend of the Court) Briefs from NGOs, we worked to ensure that provisions for such briefs form a part of recent investment agreements negotiated by the United States. CIEL has also advocated for greater transparency and public participation in the

CIEL has been at the forefront of pointing out the flaws of the investment rules in the North American Free Trade Agreement, as well as the dangers stemming from the ability of individual investors to bring claims against countries in international arbitration.



conduct of investment arbitrations under NAFTA. Such advocacy work has influenced the content of interpretative notes and statements by the NAFTA Free Trade Commission, which are binding on investment tribunals. Significantly, in collaboration with others, CIEL persuaded the Methanex arbitral tribunal to accept briefs from amici curiae. This is the first investment arbitral tribunal to open its doors to the public and thus constitutes a very important precedent.

Analyzing Investment Rules and Advocating Reform

Problem: Overreaching investment rules are having a significant chilling effect on new environmental and public health initiatives at all levels of government. Under NAFTA and other investment agreements, foreign investors are granted greater rights than others in society, thereby creating unacceptable discrimination. Additionally, investment rules are in many respects ambiguous and far-reaching, thus allowing legal challenges to health, safety, and environment regulations before unaccountable arbitral tribunals.

CIEL Response: For more than five years, CIEL has focused attention on the development of new and sweeping international investment rules. CIEL has been at the forefront of pointing out the flaws of the investment rules in NAFTA, as well as the dangers stemming from the ability of individual investors to bring claims against countries in international arbitration that seek to expand and broaden the scope of investor protections beyond previous norms of customary international law.

CIEL has been engaged in a number of activities to address these concerns. We helped coordinate an international NGO effort to keep discussion of investment off the World Trade Organization agenda, an effort that has proved

successful so far. Civil society has sought to limit the reach of the WTO into new areas, and investment negotiations would have represented a significant expansion of the WTO agenda and influence. Through a series of issue briefs, we provided solid legal analysis of how the current investment rules are being applied in ways that threaten legitimate environmental and public health regulations.

Through our partnership with the South Centre, an intergovernmental organization created to provide assistance on issues of concern to Southern countries in the context of trade negotiations, we offered timely legal analysis and support to developing country WTO delegates working on intellectual property and services issues. In collaboration with our Geneva-based NGO colleagues, we organized a four-day event in April 2003 that brought NGO representatives from around the world to Geneva to strategize a common approach to investment and the other so-called “new issues” on the WTO agenda.

International Financial Institutions Program

During 2003, CIEL sought to improve the social and environmental practices of International Financial Institutions (IFIs) and Export Credit Agencies (ECAs) by strengthening global and regional campaigns in support of reform of these institutions and their policies; and by applying international law and policy to achieve on-the-ground protection of human rights, health and the environment.

Holding Institutions Accountable for Social and Environmental Impacts

Problem: International financial institutions, such as multilateral development banks and the International Monetary Fund, as well as the World Trade Organization and other trade and investment regimes including Export Credit Agencies, are increasingly promoting the privatization of government assets and public services, as well as the

liberalization of market access for foreign services providers. In some circumstances, especially in developing countries where financial resources are scarce, it may prove beneficial to privatize certain services. However, a market-based approach can have disastrous social and ecological consequences if not properly implemented.

For example, in negotiations about water supply and management, financial and trade and investment bodies are generally more powerful in influencing domestic decision-making than more socially and environmentally oriented institutions, such as the United Nations Commission on Human Rights or the United Nations Environment Programme. In addition to this dangerous imbalance, the international rules relating to water contain potential conflicts between obligations imposed by the international economic agreements and institutions and those under international and domestic environmental and social regulations.

CIEL Response: CIEL is focusing attention on the potential effects that policies and rules of international financial institutions and the World Trade Organization have on domestic policy-making in the protection of water resources and public health. Special consideration has been given to water as a human right and how the policies and rules of these regimes may affect that right. For example, in 2002, CIEL organized presentations on these issues at the World Summit on



Sustainable Development in South Africa and in preparatory meetings leading to the Third World Water Forum held in Kyoto.

As the World Trade Organization continues to negotiate the General Agreement on Trade in Services (GATS), CIEL has worked to raise awareness of how the liberalization of water services may affect domestic policy-making regarding water resource management and environmental protection. CIEL urges WTO member states to carefully design their specific commitments under the GATS to ensure that regulatory control of water services remains with the state. CIEL has provided legal advice to civil society and relevant inter-governmental organizations and has assisted developing countries in their endeavor to understand the implications of the General Agreement of Trade in Services and how to ensure that regulatory flexibility is maintained. CIEL has also prepared numerous legal papers, including on how the GATS relates to water services, and was involved in consultations on the World Bank's outline of the World Development Report 2004, during which CIEL raised the challenges that GATS presents for water and sanitation services in developing countries.

CIEL has played a key role in several recent water-related investor vs. state legal disputes between investors and countries. For example, a current arbitration involves Bechtel, which is using a Dutch-Bolivian bilateral investment treaty in an attempt to force the Bolivian government to pay roughly US\$25 million for claimed losses as a result of events surrounding the privatization of the municipal water system in Cochabamba, Bolivia.



Photo by by Tom Kruse

Upon taking over the system, the investor significantly raised prices for water, sparking massive protests and riots. Another example is an arbitration case in which a Canadian investor (Methanex) seeks compensation for losses caused by the ban of a gasoline additive in California due to ground and surface water contamination. CIEL has been involved in the proceedings of both of these cases and filed an Amicus (Friend of the Court) Brief in the Methanex case.

CIEL is also actively researching and writing on these topics including conducting a study on transparency and public participation policies of international financial institutions and contributing to a forthcoming book entitled *Water and International Economic Law*.

Advancing Strong Environmental and Social Policies and Practices

Problem: Export credit agencies and international financial institutions frequently have inadequate environmental policies, or implement them in a flawed manner with respect to individual projects. Action is needed both at the institutional and project levels.

CIEL Response: CIEL and other NGOs have long pushed the Organization for Economic Co-operation and Development (OECD) to develop a set of "common approaches" for environmental and labor standards at export credit agencies. During 2003, CIEL continued to participate in the development and implementation of strategies, attended OECD meetings, and briefed officials on the need to hold out for higher standards in the OECD process. CIEL also worked with the International Financial Corporation and other multilateral development banks to help update and strengthen a wide range of sector-specific environmental standards.

CIEL supported the efforts of several Latin American NGOs to prepare case studies documenting human rights and environmental violations in projects funded by export credit agencies. Coordinated by the Center for Economic and Social Rights in Bolivia, this campaign is a collaborative effort of CIEL and the Sustainable Energy and Economy Network and Pacific Environment. These case studies were published and presented at the Ministerial meeting of the Free Trade Areas

of the Americas in Miami in 2003 at the World Social Forum in Mumbai, India.

Over the past year, CIEL provided legal advice on several cases involving the environmental impacts of pipeline construction. One case involved efforts to stop construction of the Camisea pipeline in Peru. CIEL prepared an exhaustive legal brief that examined the courses of action available to local and international organizations and discussed estimated timelines, expected outcomes, and rules on evidence, among other important legal issues. This CIEL document helped inform civil society organizations about legal avenues to obtain redress and, in August 2003, the Export-Import Bank decided to deny funding to the Camisea Pipeline.

Another major CIEL effort in 2003 involved the Baku-Tblisi-Ceyhan (BTC) Pipeline Project, a controversial plan that would carry Caspian oil to world markets from Baku, Azerbaijan to the Mediterranean Coast of Ceyhan, Turkey, via Tblisi, Georgia. Much of this controversy stems from the legal agreements governing the project, which raise significant concerns about the ability of Turkey, Georgia, and Azerbaijan to implement and enforce laws to protect the environment and health of its population.



Photo by Jeff Deutsch/Oxfam

CIEL helped inform civil society organizations in Peru about legal avenues to obtain redress and, in August 2003, the Export-Import Bank decided to deny funding to the Camisea Pipeline.



Some of Camisea's children (Photo courtesy of Amazon Watch)

The project has been proposed by an international consortium led by British Petroleum. CIEL met with representatives of British Petroleum and other stakeholders to discuss the potential social and environmental impacts of the proposed pipeline. CIEL staff also conducted a field trip to Turkey to gather data, investigate potential impacts, and evaluate the process of consultation and compensation. On the basis of this research, CIEL prepared a report that was sent to the various export credit agencies and the International Finance Corporation to inform their decisions on whether to support the pipeline.

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. Our fundamental right to a healthy life is directly compromised by a growing list of environmental threats to human health. Yet 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. While environmental threats affect people in both industrialized and developing countries, it is the developing world that often bears the greatest burden of environmental destruction and resource exploitation. CIEL strives 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 by effectively promoting conservation and sustainable development.

Law & Communities Program

Every person has a right to participate in decision-making processes that directly affect her or his life and livelihood. This right is conferred simply by the virtue of being human, not by virtue of education, monetary wealth, ethnic background or citizenship. Creative approaches, including the development and enforcement of new legal standards, are urgently needed to ensure effective community participation in decision-making, benefit sharing, and natural resource management. An essential corollary is support for public interest law organizations that provide legal services to indigenous and other local communities. CIEL collaborates with public interest law partners around the world to provide these legal services and promote the legal recognition of indigenous and other local community-based property rights in national and international arenas. This is usually done by way of

collaborative research and publication, and direct advocacy if and when requested.

Protecting Community-Based Property Rights

Problem: Rural peoples directly dependent on natural resources comprise large majorities in most developing countries, but are frequently neglected, and all too often completely ignored by national and international laws. Hundreds of millions of people in the Global South — including many who are indigenous — have no legal rights to the natural resources they directly depend on, regardless of how long they've lived in an area.

CIEL Response: CIEL participates in a wide range of local, national and international activities to promote and realize the concept of community-based property rights. Recent activities include organizing events at the World Summit on Sustainable Development in South Africa, the Ninth Biennial Conference of the International Association for the Study of Common Property (IASCP) in Zimbabwe, and a North America/South Asia Conversation on Environmental Justice in India. We organized workshops on human rights and the environment at the 2003 World Social Forum in Brazil and at one of the regional meetings in India prior to the Forum. We helped sponsor South Asian participation at a conference in Chiang Mai, Thailand, and are actively involved with preparations for the Tenth Biennial IASCP Conference to be held in Mexico in August 2004.

In collaboration with three Philippine partners, Tanggol Kalikasan, the Environment Legal Assistance Center, and Paglilingkod Batas



Pangkapatiran Foundation, CIEL continued to provide legal assistance and training to local community members participating in programs of the Department of Environment and Natural Resources, and advised the Department on a range of environmental and legal issues. We sponsored a research paper at the Centre for Environmental Policy and Advocacy in Malawi that explores the role of international development assistance in the Malawian forestry sector. Several research papers and workshop proceedings are in the pipeline and will be published later in the year.

Human Rights & Environment Program

During 2003, CIEL provided legal advice to groups in several countries in the Americas on ways to secure respect for their fundamental human rights, including by filing petitions on dams, mining, and genetically engineered organisms with the Inter-American Commission on Human Rights (IACHR). Either through direct representation or through formal and informal advice, CIEL has enabled groups to better understand the tools provided by the IACHR to safeguard their environmental rights.

Defending the Rights of Indigenous Families in Chile

Problem: Proposed construction of the Bio Bio dam in Chile would necessitate the forced resettlement of Pehuenche indigenous families from ancestral lands that would be flooded by the dam. After years of unsuccessful domestic litigation, groups in Chile contacted CIEL to explore filing a petition with the Inter-American Human Rights Commission (IACHR).

CIEL Response: CIEL prepared a petition alleging the violation of rights, as well as a detailed brief on the admissibility of the case. Further, in light of the urgency of the situation and the threat of irreversible harm to the

Pehuenche families, CIEL secured preliminary measures from the IACHR, which requested Chile to refrain from forcefully resettling the families. The international human rights claim presented to the IACHR forced Chile to the negotiating table. Up to that point, Chile had held that the case was of a private nature and had to be dealt with by the domestic judicial system. Before the IACHR, however, Chile was faced with a process involving its international responsibility for human rights violations. The IACHR invited the parties to a hearing in Washington, D.C. to explore a friendly settlement. After days of intense negotiations, including at CIEL's offices, the parties agreed on terms of reference for a potential settlement of the case. Conversations then continued in Chile, where CIEL provided constant support by e-mail and telephone. CIEL also organized a site-visit of the United Nations Special Rapporteur on Indigenous Peoples to the Pehuenche families, which received wide press coverage and further strengthened the case.

In October 2003, the terms of a friendly settlement between the Pehuenche Families and the Chilean State were presented to the Inter-American Commission on Human Rights which will monitor performance of the agreement. The terms of the final agreement include reparations owed by Chile, agreements that Chile will strengthen the legal framework for the protection of indigenous rights, and measures to strengthen Pehuenche control over their territory, including through the

creation of a municipality, mechanisms for monitoring the hydro-electric dams, and commitments not to construct more dams in the area. Further provisions include compensation in land, educational scholarships, and monetary payments in the order of \$300,000 per family. The settlement of the case illustrates the importance of the Inter-American human rights mechanism in securing adequate reparations for violations of environmental rights.



EDUCATION AND OUTREACH

CIEL staff members are guided by the principles of ecology, human rights, and environmental justice and a commitment to share skills and build the capacity of all actors, including those in developing countries, to promote positive change. All people need the legal tools to ensure that their voices matter. This is especially true for indigenous and other local communities that are often marginalized by legal, political, and economic forces.

CIEL answers this need by fostering 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.

Recruiting and Training the Next Generation of Leaders in Public Interest Law

Problem: 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.

CIEL Response: CIEL encourages qualified candidates to consider career opportunities in public interest law. We conduct outreach in leading law schools and public interest law NGOs around the world. This typically entails lectures and/or semi-

nars on career opportunities in alternative law, as well as networking and spreading awareness on important human rights and environmental law issues. Within the past year, lectures were given in India (New Delhi, Pune, Bhopal and Kolkata), Nepal (Kathmandu), Indonesia (Jakarta), Philippines (Manila and Davao), Zimbabwe (Harare and Victoria Falls), Malawi (Zomba), and Mexico (Mexico City). Whenever possible, these

lectures are presented jointly with another in-country or regional public interest lawyer.

CIEL provides internships at its offices located in Washington, D.C., and in Geneva, Switzerland. These programs offer undergraduate students a chance to

explore issues related to international environmental law. Responsibilities of an intern include researching and writing about areas of international law and policy; assisting with policy analysis and advocacy; attending meetings and conferences; assisting with the production of CIEL publications; and otherwise working closely with CIEL staff on various projects.

Over the past year, CIEL has also sponsored law student fellowships in Malawi, Indonesia and India. Agreements have been reached for additional fellowships during the coming year in the Philippines, Zimbabwe and Mozambique. The objective of the fellowships is to highlight the promise, importance and financial viability of public interest law careers and to grow the pool of public interest lawyers dedicated to working on the human rights and environment issues of importance to rural communities.



Exchange Programs for Experienced Professionals

CIEL also arranges opportunities for legal experts from different countries to meet and discuss their practice. For example, in April 2003, CIEL sponsored an exchange program that allowed two lawyers from Malawi to visit the Institute for Law and Environmental Governance in Nairobi, Kenya. This visit was designed to enable participants to share experiences, enhance understanding of comparative law and policy, and promote regional cooperation.

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. CIEL continues to advise on curricular matters.

CIEL participates in the Washington College of Law's summer study abroad program in Geneva, Switzerland, which introduces students and attorneys to evolving legal concepts and structures in Europe. CIEL also collaborates with WCL to carry out research and publish books, journals and articles on various environmental issues.

The CIEL/WCL joint program also regularly presents workshops and symposia. This past year, the program hosted several conferences, including the Conference on Prior Informed Consent; the Experts Seminar on Human Rights and the Environment in collaboration with the Center for

Human Rights and Environment; the 7th International Wildlife Law Conference with the American Society for International Law; and Combating Terrorism in the Environmental Trenches with the American Bar Association. In addition, the program co-sponsored a series of monthly panel discussions with the WCL Environmental Law Society on topics ranging from biotechnology to global warming.

The joint CIEL – WCL program's "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.

The joint program's "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. For more information, visit the joint program's

web page at: <http://www.wcl.american.edu/ilsp/>

CIEL attorneys also taught courses at the Johns Hopkins School of Advanced International Studies and lectured or led workshops on various topics throughout the world.



Louis B. Sohn Fellowship in Human Rights and Environment

CIEL is pleased to announce a new fellowship program that will begin in the fall of 2004. The Louis B. Sohn Fellowship in Human Rights and Environment will allow a recent law school graduate to work for a year in CIEL's Human Rights and Environment Program under the supervision and mentorship of experienced international lawyers. The Sohn Fellow will work on CIEL projects that seek to identify and develop connections between human rights and environmental protection. The Fellowship provides a stipend for travel expenses to allow the recipient to attend relevant international events such as meetings of the United Nations Commission on Human Rights or hearings of the European Court of Justice or the Inter-American Court of Human Rights.

The Sohn Fellowship is named after Louis B. Sohn, a renowned international law teacher, scholar, practitioner, and governmental advisor. Professor Sohn taught at the law schools of Harvard University, the University of Georgia, and George Washington University, and was a leader in the fields of both international human rights law and international environmental law. He was the first recipient of CIEL's Award for Outstanding Contributions to the Development of International Environmental Law and is now retired and living in Virginia.



Selected Publications

Assesment by the Office of the Compliance Advisor/Ombudsman in Relation to a Complaint Filed against IFC's Investment in ENDENSA Pangué S.A. (May 2003)

Export Credit Agencies and the World Trade Organization (November 2003) (Orellana)

GATS and Water: Retaining Policy Space to Serve the Poor (August 2003) (Ostrovsky, Speed & Tuerk)

The General Agreement on Trade in Services (GATS) and current GATS Negotiations (WEED/CIEL, April 2003) (Fuchs & Tuerk)

Going with the Flow: How International Trade, Finance and Investment Regimes Affect the Provision of Water to the Poor (En Español) (July 2003) (Tuerk)

The Implementation and Compliance Regimes under the Climate Change Convention and Its Kyoto Protocol (Wang & Wiser)

Intellectual Property in the FTAA: Little Opportunity and Much Risk [Also available in Spanish] (October 2003) (Oliva)

International Legal Framework on Foreign Investment (May 2003) (Bernasconi-Osterwalder)

The Right to Water and Trade in Services: Assessing the Impact of GATS Negotiations on Water Regulation (October 2003) (Tuerk & Krajewski)

Second Guessing National Policy Choices: Necessity, Proportionality and Balance in the WTO Services Negotiations (August 2003) (Kennett, Neumann & Tuerk)

The State of Trade and Environmental Law 2003: Implications for Doha and Beyond (International Institute for Sustainable Development/CIEL, 2003) (Mann & Porter)

Water Traded: A CIEL Issue Brief for the Third World Water Forum (March 2003)

The WTO Services Negotiations: Some Strategic Considerations (South Centre/CIEL, January 2003) (Mashayekhi & Tuerk)

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Honorary Mention

CIEL is committed to the protection of all animals, including 3-week-old strays like Carmelita, rescued from a backyard in suburban Maryland and brought to the CIEL office where she received plenty of food, water, shelter, and love. Whether it's advocating conservation efforts in the remote wildernesses of the world or in a residential backyard, CIEL remains dedicated to making the world a better place for us all.



STATEMENT OF FINANCIAL POSITION (1 JULY 2002 THROUGH 30 JUNE 2003)

ASSETS

CURRENT ASSETS

CASH & CASH EQUIVALENTS	\$ 1,294,244
FOUNDATION PLEDGES RECEIVABLE (SHORT-TERM)	700,000
U.S. GOVERNMENT GRANTS AND CONTRACTS RECEIVABLE	84,030
INTERNATIONAL GOVERNMENT GRANTS AND CONTRACTS RECEIVABLE	183,540
OTHER GRANTS AND CONTRACTS RECEIVABLE	18,568
MISCELLANEOUS RECEIVABLES	8,782
PREPAID EXPENSES AND DEPOSITS	48,109
TOTAL CURRENT ASSETS	\$ 2,337,273

OTHER ASSETS

FOUNDATION PLEDGES RECEIVABLE (LONG-TERM)	\$ 350,000
OFFICE EQUIPMENTS AND FURNITURE	155,192
LESS: ACCUMULATED DEPRECIATION	(130,581)
TOTAL ASSETS	\$ 2,711,884

LIABILITIES AND NET ASSETS

CURRENT LIABILITIES

ACCOUNTS PAYABLE	\$ 36,552
ACCRUED EMPLOYEE BENEFITS PAYABLE	51,170
DEFERRED CONTRACT REVENUE	43,071
OTHER CURRENT LIABILITIES	461
TOTAL LIABILITIES	\$ 131,254

NET ASSETS

UNRESTRICTED NET ASSETS	\$ 731,650
TEMPORARILY RESTRICTED NET ASSETS	1,848,980
TOTAL NET ASSETS	\$ 2,580,630

COMPARATIVE STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS

(1 JULY 2002 THROUGH 30 JUNE 2003)

REVENUE:

FOUNDATION GRANTS AND CONTRACTS	\$ 1,740,836
U.S. GOVERNMENT GRANTS AND CONTRACTS	460,497
INTERNATIONAL GOVERNMENT GRANTS AND CONTRACTS	520,485
OTHER GRANTS AND CONTRACTS	113,582
SALARIES IN-KIND	68,720
CONTRIBUTIONS	48,481
INTEREST INCOME	21,684
MISCELLANEOUS INCOME	26,020
TOTAL REVENUE	\$ 3,000,305

EXPENSES:

PROGRAM SERVICES	
CLIMATE CHANGE PROGRAM	\$ 277,554
HUMAN RIGHTS PROGRAM	58,419
LAW AND TECHNOLOGY PROGRAM	16,185
BIODIVERSITY AND WILDLIFE PROGRAM	84,273
LAW AND COMMUNITIES PROGRAM	479,976
TRADE AND SUSTAINABLE DEVELOPMENT PROGRAM	793,793
INTERNATIONAL FINANCIAL INSTITUTIONS PROGRAM	148,187
OTHER MISCELLANEOUS PROJECTS	863,485
TOTAL PROGRAM SERVICES	\$ 2,721,872

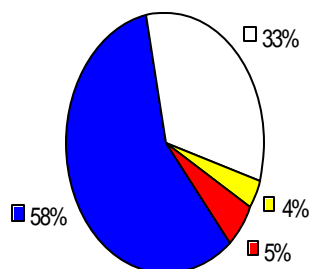
SUPPORTING SERVICES	
GENERAL AND ADMINISTRATIVE	\$ 167,518
FUNDRAISING	106,169
TOTAL EXPENSES	\$ 2,995,559

CHANGE OF NET ASSETS \$ 4,746

BEGINNING NET ASSETS \$ 2,575,884

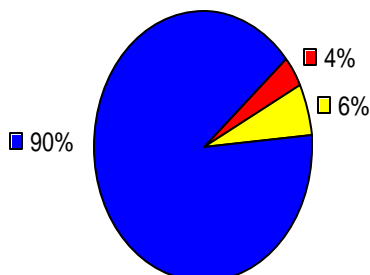
ENDING NET ASSETS \$ 2,580,630

REVENUE SOURCES



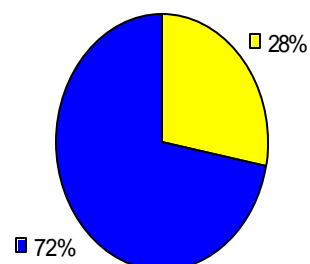
■ Foundations
□ US & Int'l Governments
■ Other Grants
■ Contributions & Misc. income

EXPENSES



■ Fundraising
■ Administrative
■ Programs

NET ASSETS



■ Unrestricted Net Assets
■ Temporarily Restricted Net Assets

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