

C I E L
1993 Annual Report

**CENTER FOR INTERNATIONAL
ENVIRONMENTAL LAW**



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

CIEL's goals are:

to solve environmental problems and promote sustainable societies through the use of law,

to incorporate fundamental principles of ecology and democracy into international law,

to strengthen national environmental law systems and support public interest movements around the world, and

to educate and train public-interest-minded environmental lawyers.

CIEL provides a full range of environmental legal services in both international and comparative national law, including: policy research and publication, advice and advocacy, education and training, and institution building.

CIEL works in partnership with public interest lawyers, nongovernmental organizations, international institutions, and states—especially developing nations and those with economies in transition.

President's Letter

Dear Friends of CIEL:

Practicing international and comparative environmental law—CIEL's fundamental mission—requires optimism. It requires optimism that environmental law *can* make a difference, and that our specific efforts in environmental law *do* make a difference.

As we approach the beginning of CIEL's fifth year, I can again say with confidence that our approach to strengthening environmental law and policy around the world is sound and producing important results. Our goals remain constant, and our strategies are continuing to be effective. Several successes this year confirm our judgment, and two in particular deserve mention, because they are unprecedented and represent important advances for protecting the global environment.

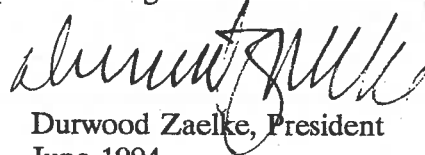
The first is the creation of the World Bank Inspection Panel, which is the first international financial institution to allow citizens and nongovernmental organizations to challenge projects directly. CIEL played a major role in this effort, though credit goes to the many other NGOs involved as well. During the next year we will continue to work with other NGOs, especially NGOs from developing countries, to use the Panel to improve Bank projects.

The second success is the creation of CEMDA—the Center for Mexican Environmental Law—the first public interest environmental law organization in Mexico. Again, CIEL had a major role in launching CEMDA, assisting a group of former students from Mexico who had studied in our joint program with The American University's Washington College of Law. We are continuing to work in partnership with this independent Mexican group on several projects, including trade and the environment. Many other NGOs also are working with CEMDA—which is not yet a year old—including groups from the United States, Canada, and Europe, as well as Latin America.

We are continuously evaluating our goals and our strategies to ensure that our day-to-day work is as effective as possible. The above successes confirm that our strategies are working, and they also suggest opportunities to expand our work, especially in further training and institution building. Institution building was added this year as a fourth CIEL strategy, and we are undertaking a funding drive that will allow us to expand our work in this area.

We also are undertaking a new initiative to develop the International Network on Environmental Policy, in conjunction with Global Legislators Organized for a Balanced Environment, headed by Senator John Kerry, and several other NGO partners. The goal is to provide more comprehensive, better-organized environmental information to help legislators around the world enact more effective environmental laws.

On behalf of CIEL, our clients and partners, I would like to thank you for your continuing support. We look forward to working with you during the upcoming year to help protect the global environment.



Durwood Zaelke, President
June 1994



Policy Research and Publishing

A common need expressed in developing and newly industrialized countries is "access to environmental information." Information is power, and access to environmental laws and legal analyses is essential to building a strong public interest environmental law movement. CIEL's analyses of key legal issues concerning environmental protection are regularly published as research papers, law review articles, congressional testimony, and books. These are widely distributed—nationally and internationally—and used by NGOs, governments, researchers, professors, and students. As this body of work accumulates, it is helping provide the foundation for development of more effective international and comparative environmental law.

CIEL published two new books in 1993—**Trade and the Environment: Law, Economics, and Policy**, which is being translated into Spanish, and **Freedom for the Seas in the 21st Century: Ocean Governance and Environmental Harmony**, which shared the 1994 Sprout Award for the best book in the field of international environmental policy. Both were published by Island Press.

CIEL also published a series of law review articles on various topics related to the Earth Summit, climate change and biodiversity conventions, international financial institutions, and trade and the environment. In addition, CIEL began work on a series of papers for the United Nations Environment Programme on trade and the environment.

CIEL continues to expand its series of reports under the title **State of Environmental Law**, publishing overviews of Argentina, Brazil, Hong Kong, Singapore, South Korea, and Taiwan.

CIEL publications are listed at the end of this report.

Advice and Advocacy

Through advice and advocacy, CIEL is able to promote the results of its independent research to solve real world environmental problems.

CIEL provides legal advice and advocacy assistance principally to other NGOs, but also to governments, especially those of developing countries and countries with economies in transition. CIEL's services are used by organizations that span a broad political spectrum, promoting common—and often stronger—positions among the organizations. This contributes to the spirit of cooperation essential for the success of any public interest strategy.

Trade and the Environment

During the debate on the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT), CIEL provided legal advice to many NGOs working on the agreements as well as to national, state, and local governments, congressional members and staff, and international governmental organizations. CIEL attorneys drafted a legal analysis of NAFTA's supplemental agreements addressed to the U.S. negotiators, which was signed by two dozen groups. Congress also invited CIEL attorneys to testify on several trade and environment legal issues. In addition, CIEL attorneys worked with the Natural Resources Defense Council and the National Audubon Society to prepare an amicus brief in support of the case brought by Public Citizen to require an environmental impact statement on NAFTA negotiations.

Biodiversity and Climate Change

On biodiversity and climate change, CIEL provides on-going legal advice to groups in the Biodiversity Action Network and Climate Action Network, working closely with other environmental lawyers who are focusing on these issues. CIEL also testified several times before congressional committees and participated in public debates on key aspects of biodiversity and climate change.

Legal Education and Training

Expansion of opportunities for legal education and training is critical to the development and implementation of international and comparative environmental law. One of CIEL's principal activities is to help ensure the rigorous education and training of the next generation of environmental law scholars, practitioners, regulators, and legislators. In partnership with law schools, NGOs, and governments, CIEL is working to increase the capacity for environmental law education, particularly in developing countries. CIEL's efforts include scholarships, research fellowships, professor exchanges, and visiting lawyer opportunities with CIEL and The American University's Washington College of Law, where nine CIEL courses are offered in the LL.M. specialization in international and comparative environmental law. CIEL also conducts environmental law workshops worldwide.

CIEL/American University Research Program for International and Comparative Environmental Law

CIEL attorneys offer a full range of environmental law courses within the specialization in international and comparative environmental law at The American University's Washington College of Law. One hundred and fifty lawyers from more than 50 countries enroll annually in the year-long LL.M. program.

Environmental Law Workshops

During the past year, CIEL conducted a series of environmental assessment training workshops in the Czech Republic, Slovakia, and Bulgaria. Also in Bulgaria, CIEL provided legal analysis on international agreements affecting the biological resources of Bulgaria to help NGOs in that country protect biological diversity and achieve sustainable use of natural resources. The results were presented at a workshop organized by the World Wildlife Fund.

In Brazil, CIEL continued its work to provide training in investigations and enforcement techniques for governmental and nongovernmental attorneys.

CIEL also joined with the Energy & Environment Study Institute to provide regular briefings for congressional staff members on trade and the environment, including NAFTA.

Institution Building

CIEL believes that strong environmental law institutions—both nongovernmental and governmental—are essential in achieving healthy ecosystems and sustainable economies. CIEL responds to opportunities to assist with the development of public interest environmental law NGOs in other countries, and often serves as the model for such organizations. During the past year, this resulted in the founding of the first environmental law NGO in Mexico and a new human rights and environmental law organization in Brazil. In addition, CIEL is working with former LL.M. students in Chile and Thailand to explore opportunities there and with other NGOs in the Czech Republic and Slovakia.

CIEL also strives to build coalitions of NGOs to address specific issues, such as the Biodiversity Action Network—founded by CIEL and the Sierra Club—and to participate actively in existing coalitions, such as the Climate Action Network.

In working to develop more effective international and national governmental organizations, CIEL played a key role in debates over the new Independent Inspection Panel established for the World Bank.

Mexico's First Environmental Law NGO— Centro Mexicano de Derecho Ambiental

CIEL assisted four Mexican environmental lawyers in establishing the first public interest environmental law firm in Mexico—the Centro Mexicano de Derecho Ambiental (CEMDA).

CEMDA is an independent organization that was modeled after CIEL and shares CIEL's public interest philosophy. It focuses on independent research, teaching and training, and advice and advocacy, including litigation at both the national and international level, and works in cooperation with other NGOs in Mexico and the United States, as well as governments, international organizations, and industry.

With support from the Max and Anna Levinson Foundation and the W. Alton Jones Foundation, CEMDA was formally launched in October 1993.

A New Brazilian NGO

A former student and CIEL Law Fellow recently established a public interest law group in Brazil—Centro Defesa do Meio Ambiente e Dos Direitos Humanos (Center for the Defense of the Environment and Human Rights). The group is working with CIEL on several projects.

Institution Building *(cont.)*

Biodiversity Action Network Monitors International Policy Making

In response to increasing threats to biodiversity, the Biodiversity Convention was signed at the Earth Summit in June 1992, establishing a general framework of international law and policy regarding the earth's biodiversity.

In 1993, CIEL and the Sierra Club led a coalition of two dozen NGOs in forming the Biodiversity Action Network (BIONET) to ensure broader and more effective NGO participation in implementing and monitoring the Biodiversity Convention. BIONET assists the U.S. and global environmental communities in making sure that the biodiversity policies address issues such as compensation for use of genetic resources, standards for biodiversity prospecting transactions among multinational corporations, and the transfer of technology derived from genetic resources.

BIONET has more than 80 U.S. participating organizations, including conservationists, indigenous activists, and social justice/biotechnology regulation advocates. Although initially focused on U.S. NGOs, BIONET is now linked with a dozen international NGOs that serve as regional coordinators for numerous other organizations.

New Independent Review Panel Provides an Unprecedented Opportunity for Accountability at the World Bank

In 1993, CIEL worked in partnership with the Environmental Defense Fund, Friends of the Earth, National Wildlife Federation, and the Bank Information Center to encourage the creation of the Independent Review Panel for the World Bank. The panel was formally agreed to by the Bank's Board of Executive Directors on September 22, 1993.

The three-member panel will accept complaints from Executive Directors and affected parties in borrowing countries regarding alleged violations of Bank policies. Shortcomings in the resolution establishing the panel could inhibit the panel's effectiveness. Still, the panel represents a major step forward in monitoring Bank projects.

The panel also marks an advance in CIEL's efforts to democratize international environmental law: for the first time, an international institution has acknowledged its direct accountability to citizens.

CIEL Publications

Trade and the Environment

- TRADE AND THE ENVIRONMENT: LAW, ECONOMICS AND POLICY (Island Press, 1993) (Eds. Zaelke, Orbuch, Housman)
- Reconciling Trade and the Environment: Lessons from the North American Free Trade Agreement*, UNEP (1994) (Housman)
- The Use of Trade Measures in Select Multilateral Agreements*, UNEP, (Fall 1994) (Housman & Zaelke, eds.)
- Democratizing International Trade Decisionmaking*, CORNELL LAW JOURNAL (Fall 1994) (Housman).
- GATT Tuna-Dolphin II: Environmental Protection Continues to Clash with Free Trade*, CIEL Brief No. 2, (June, 1994) (Goldberg)
- Integrating Labor and Environmental Concerns Into the North American Free Trade Agreement: A Look Back and a Look Ahead*, 8 AM. U. J. INT'L L. POL'Y. 3 (1993) (Housman & Orbuch)
- Enforcement of Environmental Laws Under a Supplemental Agreement to the North American Free Trade Agreement*, 5 GEO. INT'L ENVTL. L. REV. 593 (1993) (Housman & Orbuch)
- Making Trade and Environmental Policies Mutually Reinforcing: Forging Competitive Sustainability*, 23 ENVTL. L. 545 (1993) (Housman & Zaelke)
- Frictions Between International Trade Agreements and Environmental Protections*, in United States Environmental Protection Agency, THE GREENING OF WORLD TRADE (1993) (Housman & Zaelke)
- Trade, Environment, and Sustainable Development: A Primer*, 15 HASTINGS INT'L & COMP. L. REV. 535 (1992) (Housman & Zaelke)
- The Collision of the Environment and Trade: The GATT Tuna/Dolphin Decision*, 22 E.L.R. 10268 (1992) (Housman & Zaelke)
- A Kantian Approach to Trade and the Environment*, 49 WASH. & LEE L. REV. 1373 (1992) (Housman)
- Interbasin Water Transfers After NAFTA* (1993) (Hunter & Orbuch)
- OECD Bibliography on Trade and Environment Literature* (September 1993) (Prepared by CIEL)
- The Application of the National Environmental Policy Act to the North American Free Trade Agreement*, Testimony of the Center for International Environmental Law and the National Audubon Society Before the Senate Committee on Environment and Public Works (Aug. 9, 1993) (Housman & Orbuch)
- Promoting Environmental Standards Through Trade and Other Legal Mechanisms*, Testimony of Durwood Zaelke Before the Subcommittee on International Development, Finance, Trade and Monetary Policy (Mar. 23, 1994)

Protecting the Global Commons

- FREEDOM FOR THE SEAS IN THE TWENTY-FIRST CENTURY: OCEAN GOVERNANCE AND ENVIRONMENTAL HARMONY (Island Press, 1993) (Van Dyke, Zaelke & Hewison, ed.)
- Joint Implementation Under the Climate Convention: Promises and Problems* (Prepared for the White House Conference on Global Climate Change) (Summer 1993) (Goldberg)
- The Montreal Protocol Multilateral Fund: A Model for the Framework Convention on Climate Change*, 16 INT'L ENVTL. REP., 6 (1993) (Goldberg) (BNA)
- As the World Burns: Negotiating the Framework Convention on Climate Change*, 5 GEO. INT'L ENVTL L. REV. 2 (1993) (Goldberg)
- Negotiating the Framework Convention on Climate Change*, 4 TUORO J. TRANSNAT'L L. 149 (1993) (Goldberg) (includes Climate Convention)

CIEL Publications (cont.)

- Reducing Greenhouse Gas Emissions: A Combined Strategy Using Fees, Permits, and Country Commitments*, 3 DUKE ENVTL. L. & POL'Y FORUM (1993) (Goldberg)
- Global Warming and Climate Change—An Overview of the International Legal Process*, 5 AM. U.J. INT'L L. & POL'Y 249 (Winter 1990) (Zaelke & Cameron), reprinted in 22 LAND USE & ENVTL. L. REV. (1991); reprinted in Italian in FUTURO SOSTENIBILE: EFFETTO SERRA 36 (1990)
- The Global Environment Facility: Green Fund or Green Folly?*, 383 WISE NEWS COMMUNIQUE, SPECIAL EDITION, ENERGY & DEVELOPMENT (1993) (Goldberg)
- Protecting Sensitive Aquatic Habitats in the Gulf of Aqaba*, in Environmental Law Institute, PROTECTING THE GULF OF AQABA: A REGIONAL ENVIRONMENTAL CHALLENGE (1993) (Hewison & Oran)

Wildlife and Biodiversity

- New Diplomacy for the Biodiversity Trade: Biodiversity, Biotechnology, and Intellectual Property in the Convention on Biological Diversity*, 4 TOURO J. TRANSNAT'L L. 1 (1993) (includes Biodiversity Convention) (Downes)
- Biodiversity Prospecting Contract*, in Walter V. Reid, et. al., *Biodiversity Prospecting* (1993) (available from World Resources Institute) (Downes)
- Opinion: Proposed Listing Criteria for CITES Will Threaten Species*, 2 Wildlife Law Quarterly 2 (forthcoming Summer, 1994) (Wold)
- The Relationship of CITES to the ITTA (International Tropical Timber Agreement) and ICCAT (International Convention for the Conservation of Atlantic Tuna)*, Humane Society of the United States, (forthcoming Aug. 1994) (Wold)
- The Relationship Between the Trade Provisions of CITES and GATT*, Humane Society of the United States, (forthcoming Aug. 1994) (Wold)
- CITES and The Precautionary Principle: The Burden to Show that a Use is Sustainable*, Humane Society of the United States (forthcoming Aug. 1994) (Wold)
- The Proposed New Listing Criteria: Failing to Ensure Sustainable Trade*, Humane Society of the United States, (forthcoming Aug. 1994) (Wold)
- Remembering Elephants at CITES*, 9 ENDANGERED SPECIES UPDATE 6 (1992) (Wold)
- The Zimbabwe Resolutions: A Threat to the Convention on International Trade in Endangered Species* (submitted to delegates at the Eighth Conference of the Parties to CITES, March 1992) (Wold)

Central and Eastern Europe

- The European Bank for Reconstruction and Development: An Environmental Progress Report* (Fall 1994) (Goldberg)
- Promoting Sustainable Development and Democracy in Central and Eastern Europe: The Role of the European Bank for Reconstruction and Development*, 7 AM. U. J. INT'L L. & POL'Y 559 (1992) (Wold & Zaelke)
- Establishing an Independent Review Board at the European Bank for Reconstruction and Development: A Model for Improving MDB Decisionmaking*, 2 DUKE ENVTL. L. & POL'Y FORUM 59 (1992) (Wold & Zaelke)
- Environmental Reforms in Post-Communist Central Europe: From High Hopes to Hard Reality*, 13 MICH. J. INT'L L. 921 (1992) (Hunter & Bowman)
- Open Borders, Broken Promises, Privatization and Foreign Investment: Protecting the Environment Through Contractual Clauses* (1993) (Hunter, Downes/Greenpeace)

CIEL Publications (cont.)

An Overview of the Environmental Community in the Czech and Slovak Federal Republic (1992) (Hunter & Bowman)

An Overview of the Environmental Community in Latvia (1992) (Zilgalvis; Hunter, ed.)

An Overview of the Environmental Community in Hungary (1992) (Bonifer; Hunter, ed.)

State of Environmental Law Series

An Overview of the Environmental Community in the Czech and Slovak Federal Republic (1992) (Hunter & Bowman)

An Overview of the Environmental Community in Latvia (1992) (Zilgalvis; Hunter, ed.)

An Overview of the Environmental Community in Hungary (1992) (Bonifer; Hunter, ed.)

State of Environmental Law: Argentina (1993) (Bec; Hunter, ed.)

State of Environmental Law: Bulgaria (1992) (Moudrova; Hunter & Pershkov, ed.)

State of Environmental Law: Hungary (1992) (Bandi; Hunter & Wold, ed.)

State of Environmental Law: Poland (1992) (Jendroska; Hunter & Weinhouse, ed.)

Aspiration and Reality in Taiwan, Hong Kong, South Korea, and Singapore: An Introduction to the Environmental Regulatory Systems of Asia's Four New Dragons, (Fall, 1993) (Ferris)

State of Environmental Law reports are in progress for Brazil, Chile, and Mexico, as well as several additional Asia Pacific countries.

Other CIEL Publications

Concepts and Principles of International Environmental Law: An Introduction, UNEP (1993) (Hunter, Sommer, Vaughan)

A Proposal to Introduce the Right to a Healthy Environment into the European Convention Regime, 13 VA. ENVTL. L. J. 101, (1994) (Van Dyke)

The World Bank's New Inspection Panel: Will It Increase the Bank's Accountability?, CIEL Brief No. 1, (Apr. 1994) (Hunter & Udall)

The World Bank Inspection Panel and the Need to Create an International Framework Agreement for Administrative Procedures, Testimony of Durwood Zaelke and David Hunter Before the Subcommittee on International Development, Finance, Trade and Monetary Policy (June 21, 1994)

A Comparison of Six Environmental Impact Assessment Regimes: The United States, The Czech Republic, Slovakia, The European Community, The World Bank, The European Bank for Reconstruction and Development (1993) (Goldberg)

The Muted Voice: Women and Sustainable Development, 4 GEO. INT'L ENVTL. L. REV. 257 (1992) (Housman)

An Earth Parliament for Indigenous People: Investigating Alternative World Governance, 4 COL. J. INT'L ENVTL. LAW & POL'Y 197 (1993) (Wold)

Toward Global Citizenship in International Environmental Law, 28 WILLAMETTE LAW REVIEW 3 (1992) (Hunter)

Discovering the Limits of Democracy in International Law, 12 THE ADVOCATE 7 (Winter 1992) (Wold)

Sustainable Living: Seeking Instructions for the Future: Indigenous People's Traditions and Environmental Protection, 3 TOURO J. TRANSNAT'L L. 141 (1992) (Housman)

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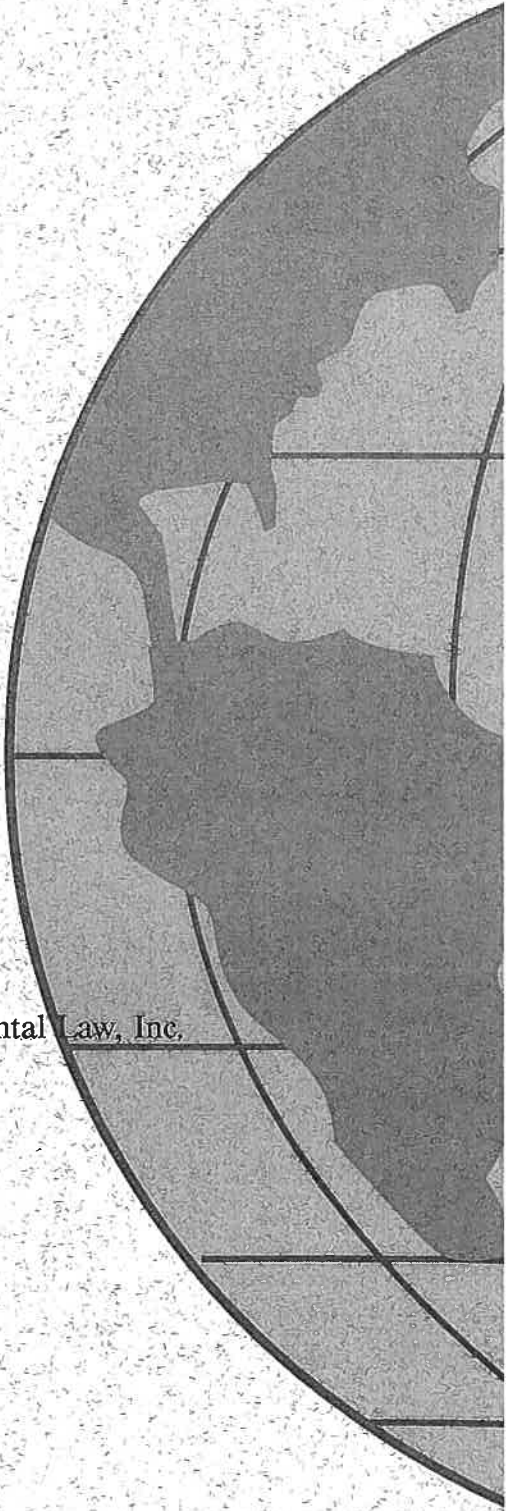
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