Intervenor

Volume 22 No.4 July/August 1997

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Don't Let this Issue be Your Last

This edition of the *Intervenor* highlights some of CELA's thinking on international issues, especially concerning trade and the environment. CELA has worked on these issues since 1988, when our reading of the Canada-US Free Trade Agreement convinced us that trade agreements could have important impacts on the environment. In the ensuing ten years, the combination of globalized production and the new international trade regime have made environmental protection even harder to advance.

As this month's articles demonstrate, corporate players, their allies at the World Trade Organization and even the United Nations are promoting increased trade at all cost. We believe that the cost to citizens and the environment is high and negative. Unfortunately, the Canadian government plays a leading role in the expansion of the misnamed "free trade" agenda.

On the positive side, the Supreme Court of Canada, on September 18, 1997, issued its decision in the *Hydro Québec* PCB-dumping case, upholding the constitutionality of the *Canadian Environmental Protection Act* and the PCB control order under it. CELA was an intervenor in the case, together with three other environmental groups. Mr. Justice La Forest spoke eloquently of the need to protect the environment: "The protection of the environment is a major challenge of our time. It is an international one that requires action by governments at all levels."

In this era when the federal government is seeking to devolve its green powers to the provinces, with little likelihood that the provinces will utilize them, it is particularly valuable to have the validity of this basic federal statute upheld. The decision is a reminder that the federal government has important responsibilities for environmental protection, and duties which we citizens must pressure them to perform.

Finally, unfortunately, I must remind you, readers, that CELA is not flush with money, and cannot afford to provide the *Intervenor* indefinitely to readers who don't subscribe. We don't want to cut back our mailings, but will soon have to do so. If you don't want to miss the next issue, please subscribe, or, if you're an individual, join — the *Intervenor* comes free to members (see the inside back cover for details). And keep those cards and letters coming; we're very happy to hear from you. Of course, so much the better if the letter contains a cheque for the subscription. With thanks for your support of CELA ...

— Michelle Swenarchuk, Executive Director

This Issue is About International Trade

Ken Traynor, CELA Researcher

As this issue of the Intervenor goes to press we have just passed the tenth anniversary of the completion of the negotiation of the Canada-United States Free Trade Agreement. As Brian Mulroney promised the past ten years have witnessed dramatic changes in Canada especially on the environmental front. Despite the ever increasing urgency of many environmental problems, governments in Canada continue to gut both the substance of the laws and the capacity to implement effective environmental regulation in this country. In many respects the signing of the Canada-US FTA represented a turning point for CELA.

CELA went on to play a key role in documenting the environmental downside to the pursuit of "free trade", first here in Canada, and then as part of a growing international critique of these international trade agreements. As an active member of Common Frontiers we collaborated with other Canadian organizations in developing links with Mexican and United States counterparts as the North American Free Trade Agreement was negotiated. We were part of a broad spectrum of organizations questioning the wisdom of the formation of the World Trade Organization to implement the Uruguay Round GATT Agreement.

In 1993, CELA sought and received funding to develop its growing international links in a more systematic fashion as a complement to its work in Ontario, Canada and as part of the binational Great Lakes United coalition. At that time we set out three basic objectives:

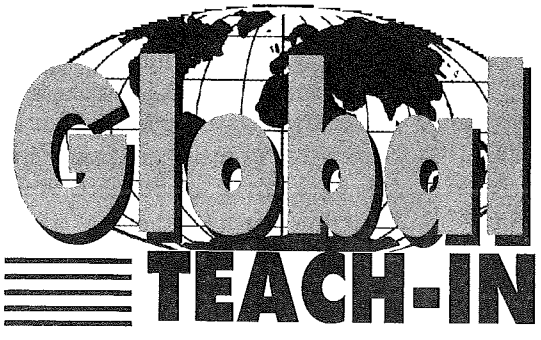
1. **To research and monitor the environmental impacts of trade agreements;**
2. **To establish effective working alliances internationally on trade and environment issues;**
3. **To provide key analysis and advice to organizations actively engaged with the WTO, OECD and NAFTA institutions.**

Over the past four years we have been successful at meeting these objectives. We now have:

- a detailed understanding of the impacts of these trade agreements;
- evolving and increasingly effective alliances with counterparts internationally;
- information skills and tools to effectively present our views to decision makers and activist organizations; and;
- strategic experience with action and ideas concerning the key issues of the environmental impacts of trade agreements.

Our day to day work on the Ontario and Canadian reality remains a useful if disturbing case study of environmental regulation under "free trade" dogma. CELA plays a leading role in the analysis of the implications of the changes occurring and in presenting information on the implications of these developments, to the public, and to other organizations and international institutions.

CELA has just completed an application for further funding to expand its international work. This edition of the Intervenor presents information and ideas on some of the areas we are actively working on.



November 7-9, 1997
University of Toronto

Ken Traynor and Michelle Swenarchuk from CELA will be speaking in workshops at the Global Teach-in, Saturday, November 8, 1997. Look for the workshop on "The Corporate Underground" (global mining corporations) and you'll find Ken. Michelle is speaking in the workshop, "Bio-Piracy" — how corporations have patented the building blocks of life itself.

The Teach-in actually starts Friday night, November 7, at Convocation Hall with addresses from Tony Clarke (Polaris Institute), Maude Barlow (Council of Canadians) and Jerry Mander (International Forum on Globalization). It continues Saturday at OISE (252 Bloor St. W) and at the U of T Faculty of Education (371 Bloor St. W) with 20 workshops covering a range of topics (from bio-piracy to the privatization of Medicare). The Global Teach-in wraps up Sunday with a round table discussion at OISE auditorium from 10 am to 2 pm.

For more information and ticket prices, phone the Council of Canadians at 1800-387-7177.

WTO Shoots Down European Health Standard Thanks to Canada

Michelle Swenarchuk, CELA Executive Director

The World Trade Organization (WTO) has decided that the European Community (EC) is not entitled to maintain a ban on hormone residues in beef, because the ban does not comply with the new GATT agreement. **In two decisions, released in August because of complaints by the Canadian and US governments, the WTO has swung a serious blow at the sovereign rights of governments to set standards for health protection.**

The EC ban was enacted through a series of seven Directives (laws) in the 1980s to respond to consumer fears of health risks from hormone residues, after consumers had boycotted veal treated with hormones. Together, the laws amounted to a complex regulatory scheme concerning the six hormones at issue in the case.

The Canadian government, acting for Canadian agricultural interests, argued that the bans were not consistent with the new requirements for standard-setting in the 1994 GATT chapter on Sanitary and Phytosanitary Standards (SPS, or standards for plant and animal health). The WTO Dispute Panel agreed. In its 472 page decision, the first to interpret the SPS chapter, the panel meticulously analyzed every element of the agreement, with very negative results for health and environmental standards.

The panel held that since the EC ban was not based on risk assessment, since it resulted in unjustifiable distinctions in different situations, and since it was not consistent with international standards developed by the Codex Alimentarius (an international body), the ban could not be maintained.

The decision entrenches the need for risk assessment, which the panel considers to be an objective scientific process, in setting standards. That there is a live scientific and academic debate world-wide about the scientific and ethical limitations and biases of risk assessment is not considered in the decision. **As an official interpretation of the SPS chapter, the decision, *instigated by the Canadian government*, signals that environmentalists and health advocates in Canada can expect to meet a solid wall of risk assessment requirements when they advocate Canadian standards.**

The Panel rejected a number of important policy arguments advanced by the EC (as well as legal ones). The EC argued that the Codex standards passed by a slim margin, due to the controversial nature of the hormone residue issue; and that, in developing the standards before the 1994 GATT was in place, countries did not know they would change from being merely advisory to mandatory due to the WTO. The WTO Dispute Panel found these considerations irrelevant. It also dismissed the argument that new scientific evidence should be considered to assess whether the Codex standards were sufficient.

The WTO decision suggests that Codex standards, on thousands of substances, are now mandatory on all governments, and frozen in time, regardless of new scientific research. (To change them, one would presumably have to conduct international campaigns at the Codex, a corporate-dominated organization, largely inaccessible to citizens.)

The Panel also dismissed the precautionary principle, finding that it is not a generally applied principle of international law, and that, in any event, it has been given a specific (and limited) interpretation in the SPS agreement.

The decision undermines two arguments that have been used by environmentalists sympathetic to free trade to respond to criticisms from CELA.

They have cited wording from the SPS chapter that countries are entitled to set their chosen "levels of protection", despite the restrictive wording of the Agreements. The EC relied on that right here and lost.

The Panel also found that the use of "should" in a term of the agreement, instead of "shall" creates no obligation on a Party. This interpretation supports CELA's views of the section of NAFTA which says countries "should" not lower environmental standards to attract investment. The section does not prohibit countries from doing so, and the avalanche of environmental deregulation in North American shows that they continue to do so.

The WTO Panel convened its own group of experts to advise it, but its decision is ultimately more legal than scientific, since it strictly interpreted the history and content of the EC directives in comparison to the SPS chapter wording. The EC has appealed the decision to a WTO appeal body, but we are not optimistic that the appeal will be won.

The scope of the 1994 GATT is rapidly being fully implemented, constituting a global legal regime that is anti-democratic and anti-green, and meanwhile, our governments gut health budgets and protections at home. This decision makes the connection between international and national policies painfully clear.

The UN and the Corporate Agenda

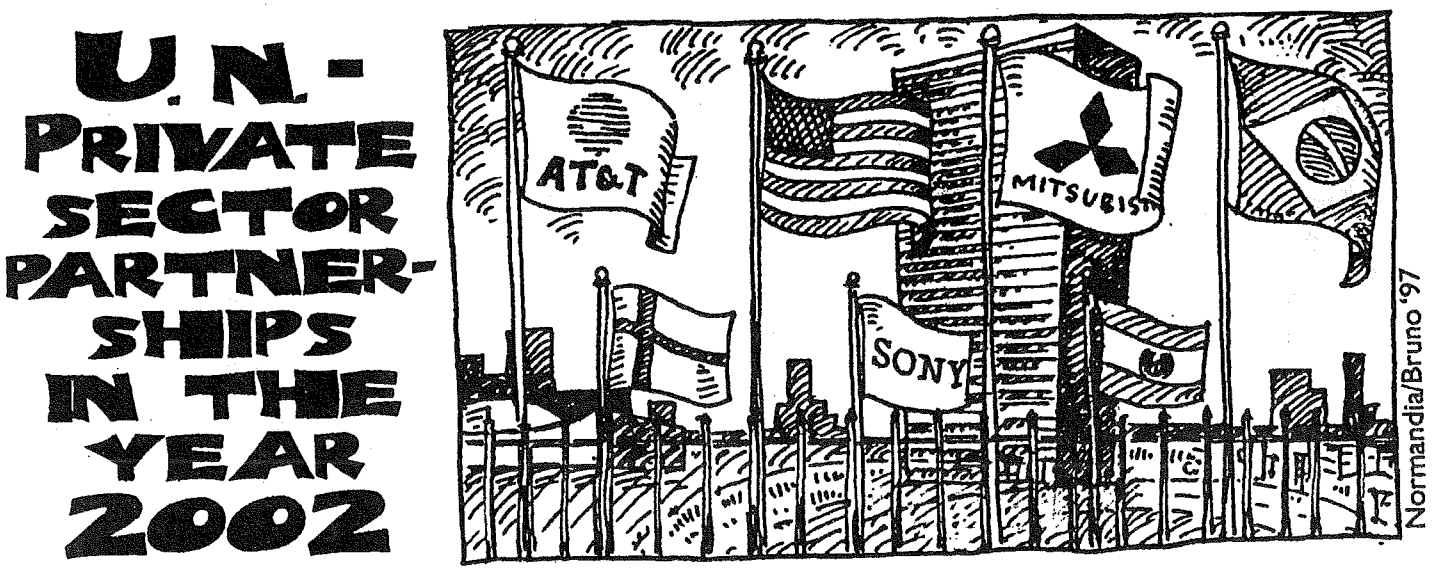
David C. Korten, PCDForum*

It was a true power lunch of lobster and an exotic mushroom salad held in a private dining room at the United Nations on June 24, 1997. Thirty seven invited participants were co-hosted by Ambassador Razali Ismail, President of the UN General Assembly, and Mr. Bjorn Stigson, Executive Director of the World Business Council on Sustainable Development (WBCSD) to examine steps toward establishing terms of reference for business sector participation in the policy setting process of the UN and partnering in the uses of UN development assistance funds. The players in the meeting were 15 high level representatives of government, including three heads of state, the Secretary General of the UN, the Administrator of UNDP, the UN Under Secretary General responsible for presiding over the UN Commission on Sustainable Development, the Secretary General of the International Chamber of Commerce, and 10 CEOs of transnational corporations. The CEOs were mostly members of the WBCSD, a council of transnational corporations (TNC) originally organized by Stephan Schmidheiny and Maurice Strong to represent the interests of global corporations at the United Nations Conference on Environment and Development in Rio in 1992.

In a limited gesture toward transparency and multi-stakeholder participation, two "academics" and two NGOs were invited to observe. The academics were Jonathan Lash of World Resources Institute and myself. CheeYoke Ling of the Third World Network and Victoria "Vicki" Tauli-Corpuz of the Indigenous Peoples' Network, Philippines were the NGO participants.

The meeting's outcome was preordained. It closed with Ambassador Razali, President of the General Assembly, announcing that a framework for the involvement of the corporate sector in UN decision making would be worked out under the auspices of the Commission on Sustainable Development.

Listening to the presentations by the governmental and corporate representatives left me rather deeply shaken, as it revealed the extent to which most of the messages the world's NGOs have been attempting to communicate to the UN and its governmental members at UNCED and the other UN conferences have fallen on deaf ears. On the positive side, Mr.Thorbejoern Jagland, the Prime Minister of Norway, called for a tax shift to place the burden of taxation on environmentally damaging consumption. Both Ms. Clare Short, Secretary of State for International Development of the United Kingdom and Mrs. Margaret De Boer, Minister



* The editor wishes to thank Mr. Korten for allowing us to reprint this article. It has been edited slightly for length. You can find the whole article (and a lot more) at the People-Centered Development Form web site at http://iisd1.iisd.ca/pcdf.

of Environment for the Netherlands, called for giving high priority to ending poverty.

Ms. Chee Yoke Ling of the Third World Network, the only non-corporate stakeholder voice given the floor, spoke eloquently of the growing concentration of wealth being created by the corporate sector and of the corporate commitment to the unattainable agenda of creating a universal consumer society. She observed that there are not enough resources in the world for everyone to live even at the current level of consumption of the average Malaysian, let alone the level of the United States or Europe. She further noted that people are becoming increasingly cynical about the professed corporate commitment to sustainability given that in corporate dominated forums such as the World Trade Organization (WTO) they talk only of the rights of corporations and nothing of their obligations. Such moments of enlightenment were the exception.

> The best hope for the 3 billion people in the world who live on less than $2 a day is to bring them into the market by redirecting more private investment flows to low income countries.
> — Gus Speth, UNDP Administrator

On the less enlightened side, we were treated to the views of Mr. Samuel Hinds, the President of Guyana. He was the only speaker to take any note of Chee Yoke Ling's comments and he dismissed them out of hand. Indeed, he accused NGOs of causing popular unrest by trying to postpone, in the name of environmental protection, the development that people so desperately want. Besides, he pointed out, if he does not cut down his country's forests someone might grow marijuana in them.

The United States sent Larry Summers, Deputy Secretary of the Treasury as its representative to the luncheon. The Clinton administration could hardly have sent a clearer message as to how it views the trade-off between its commitment to sustainability and its commitment to its corporate clients. Summers is the former Chief Economist of the World Bank who gained public fame for advocating the shipping of more toxic wastes to low income countries because people there die early anyway and they have less income earning potential so their lives are less valuable. Summers treated the luncheon guests to a litany of neoliberal platitudes. He praised privatization, noting that people take better care of their homes when they own them, implying that environmental resources will be better cared for when they are all privately owned by the corporate sector. He assured us that economic growth leads the way to creating both the will and the means to deal with the environment. In other words, he believes that the more a person consumes the more careful that person will be of the environment. And he noted that by attracting private foreign capital to build bridges and roads on a fee for use basis, the receiving countries will eliminate their need to use scarce public funds for physical infrastructure. He might well have noted as a further advantage that the private toll roads and bridges will be less congested than open public facilities as fees will exclude their use by the poor.

Mr. Kofi Annan, Secretary General of the UN, gave the corporate CEOs a warm welcome with his message that he sees opportunities for the private sector and the UN cooperating at many levels. He referred to the Rio meeting as an example of where the private sector participated in setting the standards rather than the UN or government imposing them. He of course made no mention that corporate participation in Rio helped assure that few standards were actually set and that even fewer have been met. He called on the private sector to come up with alternative energy sources for the poor so they "don't have to cut down every tree in sight," while making no mention of the corporations that are strip mining the world's forests. He praised UNDP for its role in preparing the way for private investment to come into Third World countries and called on governments to provide incentives to move business in this direction. In short he is firmly committed to using the UN's and other public funds to subsidize the corporate buy-out of Third World economies.

Gus Speth, the Administrator of UNDP, said that the best hope for the 3 billion people in the world who live on less than $2 a day is to bring them into the market by redirecting more private investment flows to low income countries. UNDP is apparently facilitating this process by giving priority to using its limited funds to "leverage" (read "subsidize") private foreign investment. He mentioned that peace and justice will require a particular kind of development, but did not elaborate as to what kind that might be.

Those of us who have been studying these issues have long known of the strong alignment of the World Trade Organization (WTO), the World Bank, and the IMF to the corporate agenda. By contrast the United Nations has seemed a more open, democratic and people-friendly institution. What I found so shattering was the strong evidence that the differences I have been attributing to the United Nations are largely cosmetic.

Confronting the Ecological Limits of "Free Trade"

Ken Traynor, CELA Researcher

Over the past two years CELA has been investigating the concept of "ecological footprint" analysis as a methodology to inform and structure our perspective on "sustainability" of current economic systems and their environmental impacts. The ecological footprint measures our dependence on nature. A nation's ecological footprint corresponds to the aggregate land and water area in various ecosystem categories that is appropriated by that nation to produce all the resources it consumes, and to absorb all the waste it generates, in order to support, indefinitely, the material standard of living of its human population, using prevailing technology.

In a report, *Footprints of Nations*, prepared this year for the Earth Council as input to the Rio+5 review process, Mathias Wackernagel and colleagues from the Centre for Sustainability Studies at the Universidad Anahuac de Xalapa in Mexico compare the ecological impact of 52 large nations inhabited by 80 percent of the world population. The report shows to what extent their consumption can be supported by their local ecological capacity. One key finding is that in 1997, humanity as a whole uses over *one third more* resources and ecoservices than nature can regenerate. As recently as 1992, this ecological deficit was only one quarter. The report sets out an interesting and persuasive argument for using such biophysical analysis to help build a sustainable future.

The methodology has been refined and improved over recent years building on the concept first described by William Rees of the University of British Columbia. Detailed data and calculations are now available by country in spreadsheets. A key element of this approach is to measure a population's total load rather than just the number of people. This recognizes that people have an impact somewhere even if it is obscured by trade and technology. While commodity trade may release a local population from resource constraints this merely displaces parts of that populations environmental load to distant exporting regions. When a local population is able to import carrying capacity this reduces the load-bearing capacity in the exporting region and is not a net gain in overall carrying capacity. In fact only if nations exported true surpluses — output in excess of local consumption whose export would not deplete self-producing natural capital stocks — would the net effect be an ecological steady state.

In 1997, humanity as a whole uses over *one third more* resources and ecoservices than nature can regenerate.

Wackernagel, in *Footprints of Nations,* assigns a key role to trade and argues in the report that by "encouraging regions to exceed their local ecological limits, by minimizing the perceived risk for local people to deplete their local natural capital and by exposing all the world's natural capital indiscriminately to world demand, trade as we witness it today diminishes global carrying capacity and intensifies the long-term threat to everyone. Therefore, trade may represent the single most powerful mechanism in the world, governing global economics and environment."

Over coming months, CELA wants to use Ecological Footprint Analysis to develop a critique of expanded trade and its impact on ecological sustainability. We feel that we need to develop a more critical critique of the role expanded trade plays in undermining sustainability in order to reorient the discussion of trade expansion in the Americas. This analysis with its emphasis on resource throughput and ecological surpluses can help us shift the sterile trade and environment debate off its present assumptions. We intend to further develop our analysis using southern Ontario as a case study.

On average, each person in North America requires 5.1 hectares to sustain our lifestyle. However, if you take all the available ecologically productive land on earth and divide it by the number of humans living today, on average, there is only 1.7 hectares available for each person. To support the entire human population in the lifestyle North Americans and Europeans have grown accustomed to would take 3 additional earths.

— From Mathis Wackernagel & William Rees, *Our Ecological Footprint – Reducing human impact on the earth*, Gabriola Is., BC, New Society Pub., 1996 (in *Rachel's Environment & Health Weekly*, March 13 1997)

Ecological Footprints of Nations

How much nature do they use? How much nature do they have?*

Excerpts from a Centre for Sustainability Study*

In the previous article, Ken Traynor summarizes the method of ecological footprint analysis. Here, are excerpts from the original report:

Everybody (from a single individual to a whole city or country) has an impact on the Earth, because they consume the products and services of nature. Their ecological impact corresponds to the amount of nature they occupy to keep them going....

Ecological footprint calculations are based on two simple facts: first we can keep track of most of the resources we consume and many of the wastes we generate; second, most of these resource and waste flows can be converted to a biologically productive area necessary to provide these functions. Thus, ecological footprints show us how much nature nations use. However, in reality, this footprint is not a continuous piece of land. Due to international trade, the land and water areas used by most global citizens are scattered all over the planet....

The foot print data of the 52 analyzed nations indicate their respective ecological impact world-wide. A five hectare footprint would mean that five hectares of biologically productive space (with world average productivity) are in constant production to support the average individual of that country. Compared to the available 1.7 hectares per world citizen, this five hectare footprint occupies three times more ecological space....

Canada has 5th Heaviest Footprint

From Table 1 of the report, here are the top 10 consumers of the earth's resources (footprints are measured in hectares per capita; the world average is 1.7 ha/cap) —

Iceland	9.9 ha/cap
New Zealand	9.8
United States	8.4
Australia	8.1
Canada	7.0
Ireland	6.6
Finland	6.3
Japan	6.3
Russian Fed.	6.0
Sweden	5.8

In fact, only 9 countries consume less than the 1.7 hectares available to each person in the world. India and China are among those living within the world's ecological means.

The earth has a surface area of 51 billion hectares, of which 36.3 billion (71%) are sea and 14.7 billion are land. Only 8.3 billion hectares (16%) of the land area are biologically productive. The remaining 6.4 billion hectares of land (13%) are marginally productive or unproductive for human use....

Who can deny that the rural poor are often forced by sheer necessity to abuse the land or that the urban poor in squatter settlements throughout the developing world suffer appalling public health and environmental conditions? It is also true that greater wealth can provide safe drinking water, functional sewers, and improved local air quality. All this has fostered the popular (and politically acceptable) view that, as one prominent economist puts it, "the surest way to improve your environment is to become rich." However, while the acute environmental problems afflicting the world's poor are essentially local in both cause and effect, eco-footprint analysis shows that the chronic global problems that threaten us all (eg, ozone depletion and climate change) stem from material wealth....

Ecological footprinting explodes another myth of our industrial culture. We generally see technology as having made us less dependent on nature. In fact, it merely extends the efficiency and range of our exploitive activities. Together with trade, technology thus cushions us from the negative consequences of local resource depletion while invisibly expanding our ecological footprints....

The World Trade Organization's (WTO) economists cannot see that including social and environmental costs into their analyses and systems of national accounts would not only reveal true costs of investments, but also reduce the irrationality of much of today's world trade.

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* Mathias Wackernagel *et al*, Centro de Estudios para la Sustentabilidad, Universidad Anáhuac de Xalapa (Apdo. Postal 653, 91000 Xalapa, Ver. Mexico), March 10, 1997. This "Rio+5 Forum" was commissioned by the Earth Council, Cost Rica. Additional copies can be obtained from the Earth Council in Costa Rica (e-mail: eci@terra.ecouncil.ac.cr; fax: ++506-255-2197). A computer disk accompanies the report which contains detailed footprint calculations for each of the 52 countries covered in the report.

Multilateral Agreement on Investment

A Primer — Ken Traynor, CELA Researcher

The Multilateral Agreement on Investment (MAI) is being negotiated in Paris by officials from the 29 member countries of the Organization for Economic Co-operation and Development (OECD) in Paris. It had been expected that the agreement would be concluded for ratification at the May, 1997 OECD Ministerial Council meeting, following two years of negotiations. However, no final text has yet been agreed upon due to the complexity of the process and major, unresolved differences between countries. Negotiations will continue, and a new deadline has been set for May, 1998.

As with the free trade agreements before it, the MAI has serious implications for effective environmental regulation of corporate activity. Some analysts who have reviewed the draft text suggest that it institutes a "pay the polluter" principle in the way it would allow corporations to seek compensation for the impact of even *bona fide* measures of environmental regulation. The definition of investment raises concerns about introducing the concept of a form of regulatory takings into Canadian Law. The exact implications will only become clear once a final text is negotiated, but a reading of the preliminary text raises serious concerns about the approaches under discussion.

We are including two articles in this edition of the *Intervenor* to alert readers to the scope of what is being considered. The first is from the Canadian Labour Congress and sets out the full range of concerns they have about the agreement as it is currently drafted. The second delves into the "Investment Protection" provisions under Section IV, which are intended to protect investors against "expropriation without compensation".

MAI — A Preliminary, Critical Analysis

Canadian Labour Congress

The MAI is being negotiated by member governments of the OECD to remedy the supposed weaknesses of the World Trade Organization (WTO) agreement with respect to investment issues. The basic intent is to prohibit all "discrimination" against foreign investors through the key principle of national treatment, and to make government decisions to regulate or control foreign investment subject to appeals by foreign governments and foreign investors and companies.

The US and, more recently, other major industrial countries have, on behalf of "their" transnationals long pushed for GATT/WTO rules to limit the ability of governments receiving foreign investment to impose performance requirements, such as achieving a certain level of domestic content or export sales, or to transfer technology. They have also pushed for an opening of closed or regulated national markets to foreign investment. Some of these objectives have been achieved through the "structural reform" programs imposed on heavily indebted developing countries by the IMF and the World Bank.

The GATT system itself has only slowly and in a limited fashion begun to limit states' rights to regulate foreign investment. The proposed MAI builds on the North American Free Trade Agreement, or NAFTA, and the treaties which have created the European Union, both of which are much more than "free trade" agreements and have extensive "WTO plus" provisions regarding national treatment for investors and companies.

Leaked drafts (the most recent is that of May 13, 1997) show that the MAI is a comprehensive and far reaching set of rules restricting what governments can do to regulate foreign investment and corporate behaviour, and creating new rights for corporations to challenge government decisions. It is explicitly intended to go well beyond the rules which already exist in the World Trade Organization (WTO) and even in the more far reaching North American Free Trade Agreement (NAFTA) and European Community (EC) agreements.

The fact that the MAI talks are taking place at the OECD reflects the fact that most developing countries were not prepared to participate in the negotiation of a major WTO round on investment issues. Most developing countries still maintain major restrictions and regulations on foreign investment, and are in no hurry to deregulate. The advocates of the MAI in the industrialized countries (led by the US government) and transnational corporations hope that a successful agreement among a smaller group of countries will eventually lead to wider participation. The MAI would not be just a treaty among OECD countries, but would be immediately open to any other country which wished to join.

Put bluntly, if an MAI is concluded, it will be increasingly difficult for developing countries which want to attract foreign investment to remain outside. It is widely recognized that the central purpose of the MAI is to limit the role of the state in developing countries, and that relatively few of its

(Continued on page 9)

intended provisions will have major impacts on existing policies in most of the OECD member countries.

It is worth recalling that, as recently as a decade ago, Canada generally opposed US attempts to limit the power of states to regulate foreign investment through the GATT system. Foreign investment review, regulated foreign access to natural resources, restricted foreign participation in industries such as transportation, communications and financial services, and domestic content requirements were centrepieces of Canadian economic policy well into the 1980s. Many "restrictions" remain in place (large foreign investments are still reviewed and performance requirements can be imposed; foreign investment and establishment are still limited in key sectors such as finance and culture) and these are potentially challenged by the MAI.

The MAI will set new, more binding limits on government policies, and it will allow transnational corporations to appeal government decisions to binding, international tribunals.

There are some important differences between OECD countries on the nature of the MAI. Some countries (reportedly including the US and Canada) want a "tight", legally binding agreement with very few exceptions and reservations. This implies a complex set of negotiations in which investment "barriers" in different countries are traded off against each other. At the other end of the spectrum, some countries are prepared to sign on to certain key principles, provided that a wide range of non-conforming measures can be retained. France, for example, has sought a blanket exemption for cultural industries.

Still at issue in the talks is the extent to which the MAI will effectively replace existing agreements, such as NAFTA and the EC, with a single, new "free investment" space. The EC countries want to retain the right to accord better treatment to investors from EC countries than to those from outside. There have also been major debates around the extent to which the agreement should limit subsidies and government regulation generally, and the extent to which labour and environmental standards should be included.

The MAI is still in draft form. Much of the text is still bracketed to indicate lack of agreement. And there are many alternative formulations of specific provisions. The formal position is that "nothing's agreed until everything is agreed". However, while no final agreement has been reached, it is clear from the text that the MAI will very significantly limit the ability of democratic governments to shape and influence the decisions of large transnational corporations, and will increase the power of corporations to challenge government intervention in the economy.

In the case of Canada, the MAI would do three things:

1. It would extend broadly the same rules which now apply to US and Mexican investors under NAFTA to all other MAI signatories.
2. It would further entrench NAFTA limitations on our ability to shape investment by moving them into a multilateral context.
3. It would go beyond even NAFTA in terms of restricting the ability of governments to regulate, and in terms of expanding the rights of other countries and of transnational corporations and foreign investors to challenge government decisions.

The MAI will set new, more binding limits on government policies, and it will allow transnational corporations to appeal government decisions to binding, international tribunals. Once signed, its provisions would apply for up to 20 years.

Critics of the MAI will also have to reflect on some of the thornier questions thrown up by the proposed agreement. Given the greatly increased investment flows between countries and the growing weight and influence of transnational corporations, is there a need for some agreed rules of the game? A different kind of international agreement could address these issues.

Undermining Our Ability to Regulate in the Public Interest

Canadian Environmental Law Association

The MAI goes well beyond simple "non-discrimination" in several respects. One of the most important of these is in its "Investment Protection" provisions under section IV, which are intended to protect investors against "expropriation without compensation" and other "unreasonable [and/or] discriminatory" measures by government.

Under the MAI (like NAFTA chapter 11 before it) foreign-affiliated investors will have the right to sue governments before international arbitral panels for violating not domestic law, but the terms of MAI.

Why is this, specifically, a concern? First, the definition of "investment" in the MAI is extremely broad. It covers "*every* kind of asset owned or controlled, directly or indirectly, by an investor," *(emphasis added)* including real property, moveable and immovable property, tangible and intangible property, intellectual property, claims to money and performance, contracts, and more. Under domestic law, certainly under Canadian domestic law, different types of prop-

(Continued on page 10)

erty enjoy different standards of protection and these property interests must be weighed and balanced against other legitimate interests.

If, for example, a government, in the public interest, decides to zone land for conservation uses only, create a park, revoke a natural resource permit, postpone or cancel a development project or ban a harmful substance, a property owner's title is not extinguished. But the owner's ability to profit from his property interest may be adversely affected.

Despite the injury to the investor, the level of compensation may be limited, or the investor may receive nothing at all. An injury to business or to trade resulting from a government regulation taken in the public interest is usually treated as simply a foreseeable commercial risk that is not subject to compensation.

In contrast, the MAI covers every kind of asset and makes no distinction between different kinds of investment interests — it extends the same "high standard" of protection to them all. (Intellectual property rights may be one exception because business lobby groups want special rules to ensure that the MAI does not adversely affect monopoly protection for patent holders.)

Issues around alleged expropriation and compensation can be complex — legally, politically, and ethically. They are usually decided under domestic law with full public disclosure; interested parties have a right to intervene; there is a right to appeal; and governments have the right to amend or create new laws as countries learn from experience. Investors (both domestic and foreign-owned) can and, frequently do, sue for damages alleging that government measures are equivalent to expropriation without adequate compensation. Investors, especially large international ones, can afford the best legal representation, have the same standing as domestic enterprises and are far from defenceless. **But courts and governments have the ability and responsibility to weigh the public interest and other values (resource conservation, consumer protection, health and safety, etc.) against any alleged injury to an investor and claims for compensation.** *(See the article, in this issue, on the Supreme Court Decision on Quebec Hydro — Ed.)*

By contrast, MAI arbitral panels will enforce the provisions of the MAI, not domestic law. Even if an arbitral panel were inclined to give weight to values such as environmental or public health protection, there is no legal basis for doing so in the MAI text. There is no general exception for environmental protection, or for anything other than "essential security interests" and possibly "public order." The panel proceedings are secret, interested citizen groups have no right to intervene, there is no appeal procedure, and if a party decided to withdraw as the result of a bad panel decision, MAI rules would continue to apply to existing investments for at least 15 years.

We need to learn from NAFTA before signing the MAI.

The MAI also expands the meaning of expropriation to include "direct and indirect" expropriation and "measures having equivalent effect." In addition, the Section IV of the draft text reads that "A contracting Party shall not impair by [unreasonable or discriminatory] measures the operation, management, maintenance, use, enjoyment, or disposal of investments in its territory of investors of another Contracting Party." Combined with the extremely broad definition of investment, these broadly worded protections would expose governments and the public to considerable financial liability. As others have noted, damage awards aside, the "chilling effect" alone on government regulation would be considerable.

It is also important to recognize that no country-specific reservations (exemptions) are to be permitted against these "investment protection" provisions (Section IV of the MAI). These core protections against direct and indirect expropriation, measures of equivalent effect, and unreasonable and/or discriminatory measures are unconditional. Country-specific reservations may be negotiated only against certain other provisions of the MAI (such as national treatment or most favoured nation.) Furthermore, these core protections exceed national treatment: even if a government measure applies equally to domestic and foreign investors it could still be challenged by a foreign investor as a violation of the MAI's provisions against "expropriation without compensation."

At the very least, the impact of the NAFTA investment chapter should be evaluated carefully before copying and expanding one of NAFTA's most extreme features. The bite of NAFTA's investor-state dispute provisions is just beginning to be felt. In two unrelated disputes, US investors are suing Mexican state and local authorities for refusing to give permission for the establishment of toxic waste dumps. In the first NAFTA investor-state dispute against Canada, Ethyl Corp. is challenging the Canadian federal government's ban on the trade of MMT, a manganese-based gasoline additive. One of Ethyl's legal arguments is that this regulatory policy is "tantamount to expropriation" without compensation. They are seeking damages of more than $350 million dollars for the reduced value of their manufacturing operations in Canada and "loss of goodwill." Because NAFTA chapter 11 contains no meaningful exceptions for environmental protection reasons, it may well be (legally) irrelevant whether Environment Canada acted for legitimate environmental protection reasons or not. As the Canadian international trade lawyer representing Ethyl describes it, "Rather than having the polluter-pays principle, we now have 'pay the polluter'." (*Maclean's Magazine*, September 1, 1997).

Ethyl uses NAFTA to sue Canada

A View from the States[1]

Ethyl Corporation's $251 million lawsuit against a new Canadian environmental law is sure to set off alarm bells throughout the public interest world. The suit, brought under the terms of the North American Free Trade Agreement, demonstrates how present and future international economic pacts could pose a danger to environmental regulations and other safeguards.

In early April, the Canadian Parliament acted to ban the import and interprovincial transport of an Ethyl product — the gasoline additive MMT — which Canada considers to be a dangerous toxin. Ethyl (the company that invented leaded gasoline) responded on April 14 by filing a lawsuit against the Canadian government under NAFTA. Ethyl claims that the Canadian ban on MMT violates various provisions of NAFTA and seeks restitution of US$251 million to cover losses resulting from the "expropriation" of both its MMT production plant and its "good reputation."

MMT is a manganese-based compound that is added to gasoline to enhance octane and reduce engine "knocking." Canadian legislators are concerned that the manganese in MMT emissions poses a significant public health risk. In addition, automobile manufacturers have long argued that MMT damages emissions diagnostics and control equipment in cars, thus increasing fuel emissions in general. Ethyl is the product's only manufacturer.

The Environmental Defense Fund (EDF), which tracks the use of MMT, reports that the additive is used only in Canada. The United States' *Environmental Protection Act* (EPA) has banned its use in the formulated gasoline, which includes approximately a third of the U.S. gasoline market. An EDF survey of the remaining producers reports that none use the additive.[2] California has imposed a total ban on MMT.

The investor-to-state dispute resolution clause in NAFTA (and in the proposed MAI) allows corporations and individual investors to sue directly and to seek monetary compensation.

Canadian legislators wanted to ban the use of MMT in order to protect the Canadian public. Because they could not do so under the *Canadian Environmental Protection Act* (CEPA) provisions, they chose the best available alternative: banning MMT's import and transport.[3]

NAFTA requires member countries to compensate investors when their property is "expropriated" or when governments take measures "tantamount to expropriation." Ethyl claims that the MMT ban constitutes such an expropriation.

A key provision of NAFTA makes the lawsuit possible. Under NAFTA's investment chapter, corporations are granted "private legal standing" — the ability to sue governments directly and to seek monetary damages — for the first time in a multilateral trade or investment agreement.

This "investor-to-state" dispute resolution mechanism diverges from dispute resolution systems in previous international economic agreements in two ways: First, previous agreements allow only national governments bring suits. Second, these agreements do not allow for monetary compensation. The most a government can do if it is successful in a suit is impose tariffs on the violating nation.

The Ethyl suit raises a host of issues that should be of concern to policymakers -- particularly since the US is negotiating the expansion of NAFTA, and a new multilateral investment agreement (MAI) that would apply NAFTA-like standards worldwide ...

- The Ethyl case could set a precedent where, under NAFTA and similar agreements, a government would have to compensate investors when it wishes to regulate them or their products for public health or environmental reasons.
- Effective limitations on the frequency and impact of lawsuits are removed when investors are granted the right to sue national governments on their own behalf.
- If claims like Ethyl's are successful and proliferate, the costs to governments could be burdensome. The threat of suits like Ethyl's could be used to pressure lawmakers who are considering new regulations.
- In cases like Ethyl's, international panels, not domestic courts, will have ultimate legal authority.

---

1 by Michelle Sforza, The Preamble Collaborative, and Mark Vallianatos, Friends of the Earth. The Preamble Collaborative can be reached at ... ph: 202-265-3263; fx: 202-265-3647; e-mail: preamble@rtk.net; web: http://www/rtk.net/preamble. *(Edited for length)*

2 Ivanovich, David. "Collision Course — Slow Start for Gas Additive — MMT's Effect on Air, Cars Debated," *Houston Chronicle*, April 16, 1996; EDF, personal communication, 4/22/97.

3 Because adequate data on the health risks of long-term exposure to lower-level manganese emissions were not available, Health Canada could not consider MMT a health risk under CEPA provisions. In addition, the fuel standards established in CEPA are not sufficiently broad to cover a ban on substances that may damage pollution control systems in cars, even if such damage leads to increased emissions. The Canadian Minister of the Environment reports that certain key provisions of CEPA are being rewritten, and may allow a future ban on the use of MMT (personal communication 4/19/97).

Supreme Court Says CEPA Rules

David McLaren, CELA Communications Coordinator

On September 18, 1997, the Supreme Court of Canada, in the case of *R v Hydro-Québec*, upheld the federal government's right to regulate toxic substances. Paul Muldoon, CELA counsel, intervened (along with four other environmental groups) on behalf of Canada and its authority to apply the *Canadian Environmental Protection Act* (CEPA) to matters that might be considered within the jurisdiction of provinces.

In the words of Mr. Justice La Forest, who wrote the majority decision, "The case arose in this way. The respondent Hydro-Québec allegedly dumped polychlorinated biphenyls (PCBs) into the St. Maurice River in Québec in early 1990." On June 5, 1990, it was charged with two infractions under s. 6(a) of the *Chlorobiphenyls Interim Order*, PC 1989-296 which was adopted and enforced pursuant to ss 34 and 35 of the *CEPA*.

On March 4, 1991, Hydro-Québec brought a motion before J. Babin seeking to have ss. 34 and 35 of the CEPA as well as s.6(a) of the Interim Order itself declared outside the jurisdiction of Canada. J. Babin granted the motion, but the federal government was granted leave to appeal to the Supreme Court in October 1995.

In a 5-4 decision, the Supreme Court asserted the federal government has the constitutional authority to apply laws to protect the environment and sent Hydro-Québec back to the Court of summary convictions to be dealt with in accordance with the CEPA. In so ruling the Supreme Court answered "yes" to the question put to it:

Do the *Chlorobiphenyls Interim Order*, PC 1989-296 and the enabling legislative provisions, ss. 34 and 35 of the *Canadian Environmental Protection Act* fall within the jurisdiction of Canada to make laws for the peace, order and good government of Canada?

In getting to this answer, Mr. Justice La Forest said a number of things worth repeating ...

"This Court has in recent years been increasingly called upon to consider the interplay between federal and provincial legislative powers as they relate to environmental protection. ... There can be no doubt that these measures relate to a public purpose of superordinate importance. ... In the opening passage of this Court's reasons in what is perhaps the leading case, Friends of the Oldman River Society v. Canada (Minister of Transport) [1991] 1 SCR 3, at pp. 16-17, the matter is succinctly put this way:

> 'The protection of the environment has become one of the major challenges of our time. To respond to the challenge, governments and international organizations have been engaged in the creation of a wide variety of legislative schemes and administrative structures.'"
>
> *(pp. 1-2, Mr. Justice La Forest)*

"... [The protection of the environment] is an international problem, one that requires action by governments at all levels. And, as stated in the preamble to the Act [CEPA] under review, 'Canada must be able to fulfil its international obligations in respect of the environment'. I am confident that Canada can fulfil its international obligations, in so far as the toxic substances sought to be prohibited from entering into the environment under the Act are concerned, by use of the criminal law power. The purpose of the criminal law is to underline and protect our fundamental values. ... The stewardship of the environment is a fundamental value of our society and ... Parliament may use its criminal law power to underline that value. The criminal law must be able to keep pace with and protect our emerging values." *(pp. 32-33, Mr. Justice La Forest)*

> "The protection of the environment is a major challenge of our time. It is an international problem, one that requires action by governments at all levels."
> — Mr. Justice La Forest

"... In saying that Parliament may use its criminal law power in the interest of protecting or preventing pollution, there again appears to have been confusion during the argument between the approach to the national concern doctrine and the criminal law power. The national concern doctrine operates by assigning full power to regulate an area to Parliament. Criminal law does not work that way. Rather it seeks by discrete prohibitions to prevent evils falling within a broad purpose, such as, for example, the protection of health." *(pp. 32-33, Mr. Justice La Forest)*

In a joint press release issued on the day of the Supreme Court decision, Paul Muldoon said, "We're gratified that the Supreme Court sustained the regulation-making powers of the *Canadian Environmental Protection Act* and specifically, Ottawa's right to regulate toxic substances that negatively impact the environment."

The judgment is a victory for the environment. The provinces have radically reduced their environmental spending in recent years. For example, since 1995, Ontario has cut its environment ministry's budget by 37%. Québec has reduced its environmental protection spending by 66% between 1992 and 1997.

Now that federal environmental laws have survived another challenge from the provinces, it remains to be seen whether they can survive the coming challenges from global trade. (And for that analysis, see the rest of the articles in this *Intervenor*).

Business can Profit from Good Environmental Practices

Rick Lindgren, CELA Counsel

At a recent conference, I heard a corporate lawyer describe his clients as "business environmentalists." I quietly chuckled at this apparent oxymoron, particularly since I had acted as counsel in environmental litigation involving his "green" clients.

Industry's professed commitment to environmental protection is difficult to take seriously. Environmental improvements have resulted from legislative prohibitions or regulatory restrictions rather than voluntary industry action. Proposals to strengthen environmental laws are actually opposed by industry.

Not surprisingly then, there is a serious credibility issue whenever an industrialist uses a term such as "sustainable development." Environmentalists are concerned that industry distorts the true meaning of important ecological principles, concepts and words to suit its economic interests.

The current controversy over old-growth forests provides a clear illustration of the competing paradigms. Environmentalists regard old-growth forests as irreplaceable repositories of biological diversity which must not be sacrificed for short-term profit. Logging proponents, on the other hand, counter that valuable timber will be lost if over mature trees are permitted to fall and rot. Resource ministries attempt to appease both sides by issuing cut permits, but also imposing small, no-cut reserves to protect critical habitat. The resulting "compromise" is denounced by the competing factions, and the public is treated to yet another round of protests, blockades, arrests, and lawsuits.

Nevertheless, there is an emerging consensus that it is time to move beyond the finger-pointing, the name-calling, and the "us versus them" mentality that too often masquerades as environmental debate; economic well-being and environmental protection are not mutually exclusive options. How then, can business turn green rhetoric into reality? In the current legal, fiscal and political climate, there are three steps to becoming a "business environmentalist":

1. Conduct environmental audits and establish environmental management systems. Businesses should conduct environmental audits to ensure that company operations comply with all regulatory requirements, and to identify opportunities for cost savings or increased efficiency through waste reduction, feedstock substitution, or process or product redesign. In addition, companies should establish a reliable management system — with appropriate employee training and contingency plans — to ensure that pollution control equipment is properly operated and maintained. Not only does this approach make good business sense, but it may also provide a "due diligence" defence if something goes wrong and an environmental prosecution is commenced against the company.

2. Oppose rollbacks in regulatory standards. Despite strong public support for environmental regulations, the federal and provincial governments have passed or proposed various "reforms" which weaken or eliminate many current regulatory standards, often for ideological rather than ecological reasons. Moreover, under the guise of "deficit reduction" and "restructuring", environment and resource ministries have experienced excessive and disproportionate reductions in staff and budgets. While these moves may please certain corporate actors, environmentally enlightened businesspeople should join the growing public outcry against such initiatives. Efficient and enforceable regulations are an essential cornerstone of our environmental protection regime. Clear and consistent rules — and timely investigation and enforcement activities — are necessary to provide a level playing field for business, and to avoid the long-term socio-economic costs of environmental degradation.

Similarly, it is in industry's interest to ensure that ministries remain capable of catching the "bad apples" who flout environmental laws, tarnish industry's environmental record, and erode public confidence in industry. In addition, companies should not be allowed to obtain a competitive advantage by refusing to comply with environmental standards.

3. Think globally, act locally. There are ample opportunities at the local level for businesses to enter into environmental partnerships with municipalities, conservation authorities, or non-governmental organizations. Businesses can also contribute funds, expertise or in-kind donations to sustain local environmental projects, such as tree planting, stream cleanup, habitat restoration, or household hazardous waste collection. At the same time, businesses should participate in non-regulatory initiatives which supplement — rather than supplant — existing regulatory requirements.

Whoops ...

In the last Intervenor, we renamed the new federal Minister of the Environment, Catherine Stewart. Her real name is, of course, Christine Stewart. And you can reach her at:
E-mail: stewac@parl.gc.ca
Fax: 613-995-7536
Phone: 613-992-8585
Mail: Room 484, Confederation Bldg.
Ottawa, ON, K1A 0A6
(no stamp needed)

First Nations and the Global Economy

David McLaren CELA Communications Coordinator

John Mohawk, the noted Native scholar is very clear about the root causes of racism — "plunder, plunder, plunder" he said at the 5th Biennial International Native American Studies Conference at Lake Superior State University, April, 1996. He was referring to the Spanish takeover of the New World in the 15th Century, but he could have been talking about how First Nations around the world are being treated in the age of the global economy.

Africa

The Shell game in Nigeria is now well-documented. (See *Rachel's Environment & Health Weekly* , May 15, 1997 for a well-referenced summary of Shell Oil's involvement in the economy and politics of Nigeria.) Shell spilled some 56 million gallons of oil into the farmlands and water supplies of the Ogoni people in the Niger River delta. The destruction of the environment has put the very existence of these indigenous people at risk.

When the Ogoni's protests hit the world's headlines, the Nigerian government (with guns and logistical support courtesy of Shell) terrorized the Ogoni and killed 1800 of them.

Shell claims to have ceased oil production on Ogoni lands in 1993. Since that time, Shell admits another 24 oil spills have occurred there.

South America

Montreal based Cambior Inc. is the majority owner of Guyana's Omai Gold Mine Ltd. On 19 August 1995, the mine's tailings dam breached resulting in the escape of 3.2 billion litres of cyanide-laced effluent into the heart of Guyana's rainforest. The area was immediately declared "an ecological disaster zone."

A special Commission set up by the Guyanese government and the UN Water Resources Unit found that the breached dam was built by Cambior and a subcommittee of the Guyana National Commission of Inquiry found that the dam, "as designed and constructed was bound to fail." To date the company has paid out less than US$75,000 to the people living in the disaster zone. Cambior is facing a $69 million class action suit launched by Recherches Internationales Québec on behalf of those affected by the spill. The company is seeking a gag order to prevent its critics from speaking to financial institutions about the disaster. (Source: Recherches Internationales Québec, 3 Sept. 1997).

Canada

Daishowa is a Japanese company that has been intensively logging lands in northern Alberta, including (through its subsidiary, Brewster Construction) the traditional territory of the Lubicon First Nation. a group known as the Friends of the Lubicon organized a boycott of companies using Daishowa paper products in order to slow the progress of destruction.

Daishowa has sued the Friends, charging the boycott has cost them $2 million in lost business. As Michael Valpy correctly pointed out in his *Globe and Mail* column of September 30, 1997, the court battle is really about what tools of protest citizens can legitimately use.

During the trial, Dr. Joyce Ryan, an anthropologist and author, told of her visits to the Lubicon territory. In the 1980s, intensive oil and gas exploration in Lubicon territory was driving off the animals and separating the elders from their traditional role of stewards of the land. The hunt and the socializing afterward are central to the Lubicon culture and the health of its society. The consequences, for the Lubicon, of the loss of the animals amount to cultural genocide, she testified.

The word "genocide" is central to the trial since it was used by the Friends of the Lubicon to describe the effect of Daishowa's actions on the Lubicon. Daishowa sought and received an injunction prohibiting the Friends from using that word.

Ward Churchill, Chair of Ethnic Studies at the University of Colorado and author of 16 books, including, *Agents Of Repression*, took the court through the meanings of the word "genocide". Raphael Lemkin coined the term in his 1944 book, *Axis Rule in Occupied Europe*, and he used it in the 1946 resolution he drafted for the UN. The UN used "genocide" in its 1948 Convention to refer to 5 systematically imposed actions: direct killing; systematic imposition of psychological harm; destruction of physical environment; preventing births; and the compulsory transfer of children.

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We have increased the circulation of the Intervenor ten-fold since January 1997. However, not everyone who gets it is paying for it, and, unfortunately, we have to make the newsletter pay for itself. That means, if you have been receiving the Intervenor gratis, we would appreciate it if you could join CELA (if you are an individual) or subscribe (if you are an organization). Either way, you will be sure to receive the next issue — which, by the way will be an update on Ontario's deregulations. You will find all the necessary info. and forms on page 15.

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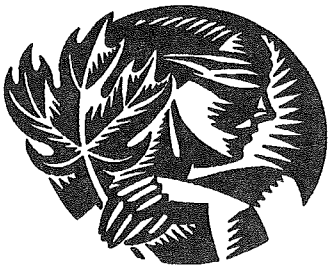

Price List for Recent Publications

(from May 1997 — for earlier briefs, see earlier Intervenors or phone CELA for complete list)

320. An Environmental Policy for Canada, CELA, May 1997. $5.00
321. Comments re: "Ontario's Approach to Wilderness, a Draft Policy", EBR Registry No. PB7E6003.P, R.Lindgren, May 1997. $2.50
322. Comments on the Proposed CCME Policy for the Management of Toxic Substances, CELA, CIELAP, GLU, June 1997. $20.00
323. Preserving and Enhancing the Environmental Integrity of the New City of Toronto, Deputation to Toronto Transition Team, P.Muldoon, CELA, July 1997. $2.50
324. Comments to the Ontario Ministry of Northern Development and Mines on the Regulation made under the Environmental Bill of Rights (Classification of Proposals for Instruments), P.McCulloch, R.Nadarajah, August 1997. $5.00
325. Comments on MoEE's Proposed Amendments to Compliance Guideline EBR Registry No. PA7E0005.P, R.Nadarajah, August 1997 $5.00
326. Comments to OMNR re s.35 of the Fisheries Act, EBR Registry No. PB7E400.P, R.Lindgren, September 1997. $2.50
327. Comments to MoEE re the draft "Timeline Regulation" proposed under the Environmental Assessment Act, EBR Registry No. RA7E0010.P, R.Lindgren, September 1997. $2.50
328. "The relationship among trade unions and other sectors of society to address the proposed Free Trade Area of the Americas — a perspective from the environmental movement", K.Cooper, May 1997. $5.00
329. Comments to Environment Canada regarding the Proposed Modification to the National Pollutants Release Inventory, P.Muldoon, CELA & J.Jackson, GLU, September 1997. $2.50
330. Submission to the Ontario Ministry of Municipal Affairs & Housing re Proposed Changes to Septic Standards Enforcement, K.Cooper, September 1997. $10.00
331. Comments on "Environmental Management Agreement" among Environment Canada, MoEE & Dofasco Inc., P.Muldoon, August 1997. $5.00

The video version of CELA's 1996 Conference, "Law for the Public Interest" is finally available.

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