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in Brief

Biotechnology and Globalisation

Newsletter for the Foundation for International Environmental Law and Development

FIELD designs Emissions Trading Regime for the European Union

The European Commission has adopted plans for a greenhouse gas emissions trading scheme based on proposals put together by FIELD's climate change team. The trading scheme, which should be up and running by 2005, will be a key element of the European Union's strategy for meeting its climate change obligations.

European ratification of the Kyoto Protocol requires adoption of a credible set of policy instruments if Member States are to achieve the 8% reduction they agreed to in the Protocol. The development of these instruments has been slow, partly because of the deadlock over the adoption of a European energy tax, and partly because there is little European experience with emissions trading, which is seen as a US idea.

From January 1999, FIELD led a large multi-disciplinary study team including leading US and European economists. The final report was widely discussed by Member States and forms the basis of the Commission's recent Green Paper (policy document) on the subject.

The emission trading project is one more example of how, outside the UN based negotiations, FIELD's climate change and energy programme is working towards the progressive development of international and European law to combat global warming.

The report and other papers produced during the study are available on FIELD's web site: <http://www.field.org.uk/papers/papers.htm> ●
Contact: Jürgen Lefevere: jl44@soas.ac.uk

Multinationals and the WTO

FIELD's Trade, Investment and Sustainable Development Programme is launching a new research initiative on the role of large corporations, multinationals and international trade associations in influencing and capturing WTO rules and procedures to advance their interests.

The World Trade Organization is an institution designed and run by governments. But behind many of the dramatic trade wars that have pitted the US against the European Union, and the North against the South, lie powerful corporations seeking to pry open new markets and to defend vested interests. Until recently, the commercial interests of most large corporations were closely allied with the economic interests of their 'home' countries. GATT/WTO Members entered into trade negotiations and initiated trade disputes to promote and protect 'national' industries against 'foreign' competitors.

However, the recent spate of mergers and acquisitions of large national corporations into massive multinationals has the potential to fundamentally change this dynamic, by divorcing the interests of powerful companies from the interests of any one particular country.

The project will pay particular attention to the involvement of industries in triggering disputes challenging trade measures that have, in part, been designed to promote development in poorer countries. The main objective of this study is to develop an analytical framework for exposing and holding accountable companies whose growing influence over the design and enforcement of trade rules may be undermining legitimate government efforts towards sustainable development. This project is funded in part by the Wallace Global Fund. ●
Contact: Jacob Werksman: jw18@soas.ac.uk

The globalisation of the biotechnology industry has not yet been matched by effective global action and regulation aimed at safeguarding both the environment and the food security needs of the poor. There remains an urgent need for a system of international governance that will strengthen the ability of developing countries to promote these goals.

June 2000 saw the beginning of a new collaborative research project between FIELD and the Institute of Development Studies (IDS) of the University of Sussex to examine the impacts of globalisation upon international and national regulation of genetically modified organisms, particularly in the field of agriculture. The project is part of a DfID Globalisation and Poverty Research programme. FIELD lawyers will work with experts in international relations and agriculture from IDS. The project will also involve close collaboration with partner institutions in Kenya and India.

These issues are particularly important at the moment, following the recently negotiated Protocol on Biosafety, debates over the prospects for World Trade Organisation 'Millennium Round' negotiations, and reviews of WTO agreements on agriculture and trade-related aspects of intellectual property rights (TRIPs). The research will examine the relationships between international agreements and institutions on trade, biosafety, intellectual property rights and agriculture, as well as between these bodies and national policy-making in developing countries. The role of international agribusiness in the development and regulation of agricultural biotechnology at the national and international level will also be examined. The research is intended to identify the constraints upon policy-makers in formulating policies on biotechnology that can, at the same time, comply with international obligations, promote foreign investment needs, achieve food security for poorer farming communities, and ensure environmental protection.

The project will run until October 2002. More information on activities under the project will be available shortly on FIELD's website and on a DfID Globalisation and Poverty website. ●
Contact: Ruth Mackenzie: rm9@soas.ac.uk

Obituary:

Professor Abe Chayes, a founding member of FIELD's Board of Advisers, died earlier this year. FIELD will sorely miss Abe's rich input into FIELD's work.

WTO: Institutional Reform

As the tear gas cleared in Seattle, one of the few points upon which most governments and NGOs agreed is that the WTO decision-making procedures are in desperate need of reform. The collapse of the WTO's third Ministerial Conference has been attributed in part to the assumption that backroom bargaining among the few and the powerful could push a deal through. But governments excluded from the process refused to accept the result and the talks ended without agreement.

Failure in Seattle frustrated efforts by developing countries to gain greater access to Northern markets, by developed countries seeking to liberalise new areas of trade and by NGOs pressing to make WTO rules more open to sustainable development. It did, however, open a unique opportunity to demand reforms to WTO decision-making procedures. FIELD's Trade, Investment and Sustainable Development Programme has been working with Oxfam GB and other development and environment groups

to provide research and analysis on options for making the WTO system more transparent, participatory and accountable. This work was launched at a workshop in Geneva in February 2000 for developing country WTO Members, co-sponsored by the South Centre. This work complements FIELD's ongoing efforts, in partnership with UNCTAD, to build trade capacity in developing countries, and will be followed by more publications and events. ●

Contact: **Jacob Werksman**: jw18@soas.ac.uk

Consuming Cyprus' Water Resources: The Price of Water

FIELD is participating in an international project aimed at suggesting solutions for the serious water shortage problems in Cyprus.

Over the past five years rainfall in Cyprus has been well below average, and from 1995 to 1998 the country suffered one of its worst droughts in decades. Over-exploitation of groundwater, the main water resource, has already led to saltwater intrusion in the country's main aquifers, making them unusable for generations to come. Government policies to address the situation have failed to reduce demand, which is still growing rapidly. Increased supply through the building of desalination plants and water recycling plants has been insufficient and costly.

It may thus be surprising that water is an important export. Three quarters of all water used in Cyprus goes to irrigation of crops. Much of this water is used on water-intensive crops like potatoes, melons and citrus fruits, mainly produced for export markets. The international competitiveness of these products is actively promoted through water prices that are about one third of real costs. The exploitation of groundwater resources through farmers' private wells, providing about half the water for irrigation, is almost uncontrolled.

FIELD's project, 'Integrated Water Management in Cyprus', is studying current water management systems in order to make suggestions for a sustainable integrated water management system. Key issues addressed in the project are the pricing of water, the exploitation of groundwater resources through private boreholes, and the large amounts of water used in agriculture.

The project is co-ordinated by the Centre for Social and Economic Research on the Global Environment (CSERGE) at the Department of Economics, University College London (UCL) together with the Department of Economics of the University of Cyprus, and funded by the European Commission. It brings together an international and interdisciplinary team of experts, including economists, lawyers and hydrogeologists, and has the co-operation of the Cypriot government. FIELD, together with experts from Maastricht University, will study the current legal and institutional framework and make suggestions for changes.

In the light of Cyprus' future accession to the European Union, an important component of FIELD's work consists of integrating proposed changes into the legislative modifications necessary for the implementation of EU water legislation. The project will also reveal what lessons the EU can learn from the situation in Cyprus.

Until recently, water quantity management has played a minor role in European Union water policy. This may change with proposals for a new EU Water Framework Directive. One of its central and still hotly debated provisions is the obligation to charge the full costs of water to the consumer. Together with a number of other central provisions, the proposal may be decisive in creating an effective water quantity management regime in Cyprus and the EU as a whole. Cyprus is an important testing ground for the effectiveness of the proposed regime. ●

Contact: **Jürgen Lefevere**: jl44@soas.ac.uk

FIELD/UNCTAD Build DC Capacity on Trade and Environment

A joint FIELD/UNCTAD initiative funded by DFID is helping to answer the growing demand of developing countries to build their capacity to engage more effectively in international policy making on trade and the environment. Through two regional workshops (Philippines, November 1999 and Cuba, May 2000) and a collaborative discussion network, developing country participants from 10 countries have chosen to focus on five critical issues: i) technology transfer; ii) domestically prohibited goods; iii) market access; iv) the Convention on Biological Diversity and the TRIPs Agreement; and v) trade liberalisation and the environment.

For each issue, trade experts and environment experts from participating developing countries have teamed up to produce research papers that summarise the conceptual and institutional background, and draw lessons from national experiences. This team approach has revealed the challenges posed by the complex interaction between trade and environment objectives, and the potential benefits of national policy co-ordination.

In the course of a year, the initiative has already proved its ability to enhance developing country participation in the international debate on trade and environment. A project paper from India on *sui generis* systems for the protection of indigenous knowledge, and another from Bangladesh on domestically prohibited goods recently contributed to discussions of the WTO Committee on Trade and Environment.

This year's activities will continue with a roundtable of core developing country participants and their developed country counterparts that will explore common ground on these issues. ●

Contact: **Beatrice Chaytor**: bc4@soas.ac.uk

FIELD Staff

Departures:

James Cameron's decision to step down as Director of FIELD, eleven years after he co-founded the organisation, marks an important moment for him and for FIELD. It is difficult to imagine the full extent of the changes that have taken place since 1989. At that time the subject of international environmental law barely existed. The idea of setting up an NGO, in an academic context, which would not only engage in teaching and research but also develop a hard practical edge, was a visionary one. The fact that FIELD has survived, prospered, and materially influenced the content and reach of the subject of international environmental law is in considerable measure due to James' intellectual vision and energy, his passionate commitment to the melding of ideas and practice, and his use of establishment pedestals to promote radical ideas and change.

James has contributed to FIELD's work across the range of its activities in research, writing, teaching, advice and advocacy. But the two areas in which his energies and impact have been most visible have been climate change and trade and environment. On the former, James established and built up FIELD's programme, providing legal assistance to small island states in the early stages of the climate change negotiations, and ensuring that these countries' interests were not treated merely as a codicil to a larger text. On the trade and environment issue, James was amongst the very first to identify this as a central challenge to a post-modern and

global community. He built up a formidable programme at FIELD, which combined meticulous legal research with advocacy for the disempowered. Beyond these two important areas James has also made a singular contribution to FIELD's role at meetings of CITES and the International Whaling Commission.

Everyone at FIELD wishes him well in his legal practice as a barrister at 3, Verulam Buildings in London and as Counsel to Baker and McKenzie, Chicago. We look forward to his continued advice and friendship to FIELD, where he will always be the first gentleman of the family.

Ruth Khalastchi, Staff Lawyer and **Margaret Enstone**, Programme Assistant left FIELD in September 1999, Ruth to work in the Legal Affairs Department, United Nations, New York and Margaret to do a Masters in ecology at York University. Everyone at FIELD would like to thank them for all their hard work and wish them well.

Arrivals:

Stephen Bowen (sb63@soas.ac.uk) Stephen joined FIELD in November 1999, replacing Jacob Werksman as Director. Stephen is a barrister specialising in international human rights, criminal and administrative law. He has held various posts with the United Nations, most recently in the former Yugoslavia where he served as Chief of Staff of the UN Special Coordinator for Sarajevo, and as an expert member of the Field Operation of the UN High Commissioner for Human Rights.

Annette Guerda-Fischer (ag37@soas.ac.uk) Annette joined FIELD in May 2000, replacing Louise Rands-Silva as Programme Assistant. Annette will be assisting on FIELD's Climate Change and Energy Programme and the Project on International Courts and Tribunals.

Carolina Lasén Diaz (cd31@soas.ac.uk) Carolina joined FIELD in January as a Staff Lawyer on the Biodiversity and Marine Resources Programme and works mainly on biodiversity-related issues and on European Community environmental law. She previously worked for the Royal Society for the Protection of Birds (RSPB) as the EU Environment and Development Policy Officer, where she co-ordinated policy and advocacy activities on EU Regional Funds and the Trans-European Transport Network for BirdLife International in EU and Accession countries.

Alice Palmer (ap42@soas.ac.uk) Alice will be joining FIELD in August as a Staff Lawyer on the Trade, Investment and Sustainable Development Programme. Alice previously worked for Davis Polk & Wardwell as an associate in the Project Finance Group. In 1998, she received an LL.M. in international law from New York University, where she was a research assistant, a graduate member of the New York University Environmental Law Journal, and received a grant for a summer internship with the United Nations High Commissioner for Refugees. ●

Sharing the Benefits of Biodiversity in the Pacific Islands

FIELD's Biodiversity and Marine Resources Programme is continuing to collaborate with the South Pacific Regional Environment Programme and the WWF-South Pacific Programme on promoting implementation of the Biodiversity Convention in the Pacific Islands region. In March 2000, participants from 12 countries attended a workshop in Nadi, Fiji on access to genetic resources and benefit sharing in the Pacific Islands region. Carolina Lasén Diaz and Ruth Mackenzie attended for FIELD. The aim of the workshop was to exchange information and experiences to date on access and benefit sharing practices in the region, and to consider

guidelines, which might be applied across the region. At the end of the workshop, a set of draft guidelines was approved by the workshop participants. These will be considered again later this year at the annual SPREP meeting.

The workshop was part of a two-year project, funded by the UK DETR's Darwin Initiative. In addition to ongoing consideration of this issue at the regional level, the project will also comprise two or three pilot projects to facilitate consideration of access and benefit sharing policies at the national level.

Workshop participants received copies of an information package on legal aspects of

implementation of the Biodiversity Convention. This was produced by SPREP and FIELD, with WWF-SPP, as part of an earlier Darwin project. The information package will be distributed more widely by SPREP in the region this summer, and will also be available on SPREP's website.

The March 2000 workshop also provided an opportunity for participants to initiate regional preparations for the fifth meeting of the Conference of the Parties to the Convention (COP 5) held in Nairobi in May 2000. ●

Contact: Carolina Lasén Diaz:
cd31@soas.ac.uk

Project on International Courts and Tribunals

The Project on International Courts and Tribunals (PICT) has been continuing its wide range of research, capacity-building and policy development activities. More detailed information on all PICT activities can be obtained from our website, at <http://www.pict-pcti.org>. The website, maintained by FIELD's project partners, the Center on International Cooperation at New York University, includes all basic information about the project as well as the following features:

- Links to the home pages of all major international and regional courts and tribunals
- A news section which includes regular updates on the case law and procedures of international tribunals
- A research matrix
- A discussion forum

Research and Policy: In July, PICT co-organised a Roundtable discussion on international courts and tribunals at the International Law Association 2000 Conference in London. Around 45 participants discussed policy and procedural issues related to the

increase in the number of international courts and tribunals, including jurisdiction, access and evidence. It is envisaged that the ideas generated at the session may give rise to further work in this area by the International Law Association. Related research is already underway by PICT.

Manual on International Courts and Tribunals: In autumn 1999, PICT published *The Manual on International Courts and Tribunals* (edited by Philippe Sands, Ruth Mackenzie and Yuval Shany) which provides basic information on the jurisdiction and procedures of twenty eight international and regional dispute settlement bodies and processes. It is the first publication of its kind and represents a key element of PICT's aim to improve access to mechanisms for the peaceful settlement of international disputes. With the support of Butterworths, 500 copies of the *Manual* have been distributed, free of charge, to developing country governments and to selected libraries and NGOs in developing countries. Sections of the *Manual* addressing human rights bodies are also being distributed by Interights.

Courses: PICT has commenced a series of courses on international courts and tribunals. The first of these was held in June 1999 in London, in collaboration with Justice. The course was attended by more than 90 participants from around 30 different countries, including practitioners, government advisers, academics and students. Several places were made available free of charge to developing country lawyers. The course provided a practical introduction to a range of dispute settlement mechanisms including the International Tribunal for the Law of the Sea, the International Court of Justice, the World Trade Organisation and the International Centre for the Settlement of Investment Disputes, and a range of international and regional human rights bodies.

The first of a series of regional courses on international courts and tribunals was held in Pretoria in May 2000 for lawyers from Southern Africa. Further courses are planned over the coming year for South East Asia and Central Asia, as well as a follow-up course in Southern Africa in 2001. ●

Contact: Philippe Sands: ps12@soas.ac.uk or **Ruth Mackenzie:** rm9@soas.ac.uk

If undelivered please return to: FIELD

SOAS, University of London
46–47 Russell Square
London WC1B 4JP
United Kingdom

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Contributions from:

Beatrice Chaytor, Jürgen Lefevere,
Ruth Mackenzie, Philippe Sands,
Jacob Werksman, Farhana Yamin.
Edited by Clare Duckney.

Tel: +44 (0)20 7637 7950

Fax: +44 (0)20 7637 7951

Email: cd2@soas.ac.uk

<http://www.field.org.uk>

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