

Forest Cover

A Global Forest Coalition Newsletter on International Forest Policy

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About Forest Cover

Welcome to the eleventh issue of *Forest Cover*, the newsletter of the Global Forest Coalition (GFC). The GFC was established by a group of non-governmental organizations (NGOs) and Indigenous Peoples Organizations (IPOs) to facilitate the informed participation of NGOs and IPOs in intergovernmental meetings related to forests. *Forest Cover* is published four times a year. It features reports on important intergovernmental meetings by different NGOs and IPOs and a calendar of future meetings. The views expressed in this newsletter do not necessarily reflect the views of the Global Forest Coalition, its founding members or the editors. For free subscriptions, please contact Simone Lovera at: lovera1@conexion.com.py.

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Ex Silvis: Protecting Nature for Business

By Miguel Lovera, coordinator, Global Forest Coalition

During the last quarter of last year, private companies increased their hold on nature in not one but three ways -- a sign of real ambition.

Last September, the World Parks Congress laid the basis for global corporate control over protected areas, a "mere" 12% of the terrestrial surface. Through its emphasis on "public-private partnerships" the global Convention on Biological Diversity (CBD) got ready to put its stamp of approval on this big sale, while national governments, too, finally divorced themselves from any real responsibility to protect natural areas and the people dependent on them. As the gurus of the International Monetary Fund suggested to Russia and Ecuador, "close your unproductive institutions down" -- meaning environment ministries and national parks systems. Apparently, the IMF and some governments agree that private concerns will be able to take care of natural areas in exchange for the sovereign right to manage, exploit, and speculate and prospect within them.

You may ask: What about the people that have been doing that in a sustainable manner in and around what are now protected areas since time immemorial? Well, if they can't pay for the sustainable use of those areas . . . hmmm, they have a problem! Luckily, governments know people are creative and will get around those small obstacles of suddenly having to pay for access to fuelwood, fresh water and medicinal plants -- and

since companies are always fair, they'll work it out together!

In December, corporate control of biodiversity took another leap forward at the Access and Benefit Sharing Workshop organized by the Convention on Biological Diversity. There, governments seemed to have abandoned any attempt to regulate access to genetic resources through a rigorous and comprehensive international framework to avoid biopiracy and to ensure fair, just and adequate compensation to people who have participated in the creation of knowledge concerning specific biotic material. From now on, corporations will be able to negotiate bilaterally with communities and Indigenous Peoples and voluntarily ensure "fair and equitable" deals to all parties in the negotiations, even the weak and poor. This would be great news were it not for the fact that in some trial runs things don't seem to have worked out quite that way: instead we've seen the usual exchange of "gold for trinkets". Modern day bioprospecting contracts have many qualifications, but "fair" and "equitable" are certainly not among them.

Also in December, the Ninth Conference of the Parties to the Framework Convention on Climate Change decided to include tree plantations -- euphemistically called 'carbon sinks' --- in the Kyoto Protocol's Clean Development Mechanism, to retrieve global warming-causing carbon dioxide from the atmosphere. With the help of these plantations, the most polluting countries will be able to continue emitting CO₂ and developing countries will get "aid" to develop in a "clean" manner. Well, that's the theory, anyway. What will most likely happen instead is that some companies will take money from other companies to plant trees and fool everybody into thinking that this is mitigating climate change. The most polluting countries will be able to avoid dealing with 1% of their CO₂ emissions by paying forestry companies to plant these "sinks". The funds available may mount up to \$500-700 million. Not much money for clean development in developing countries, but quite enough for a handful of companies always ready to exploit nature, even if swindling the whole world is part of the scam.

Talk about a corporate win-win-win-win-win-win situation! Shell or Exxon could "invest" in a precious protected area, sell the timber from the forest as Forestry Stewardship Council-certified, plant eucalyptus on the grasslands and receive carbon credits for it, sell the genetic resources to bioprospecting institutions, sell fresh water and fuelwood to nearby local communities, and, on top of it all, give itself a permit for "sustainable oil exploration" in the area!

Business as usual -- the natural way!

Indigenous Peoples and Protected Areas at CBD COP-7

By Joji Carino, Tebtebba, Philippines and Tom Griffiths, Forest Peoples Programme, UK

Governments and scientists met in Montreal from November 10-14, 2003 to prepare background documents and draft decisions for recommended adoption at the forthcoming 7th Conference of the Parties (COP-7) to the Convention on Biological Diversity (CBD), to be held from February 9-20, 2004 in Kuala Lumpur, Malaysia. Topics covered at the meeting included: protected areas, sustainable use, mountain biological diversity, technology transfer, monitoring and indicators, climate change, ecosystem approach and perverse incentives.

Several governments complained that the agenda for the 9th Meeting of the Subsidiary Bodies for Scientific, Technical and Technological Advice (SBSTTA) to the CBD was far too crammed, making careful consideration of key issues impossible. This criticism turned out to be valid. The week witnessed only very hasty discussion on substantive documents which were pushed through by the sub-working group chairs, particularly in Sub-Working Group I, where protected areas were under consideration.

Indigenous presence at SBSTTA-9 was modest: six activists were not enough to cover all the agenda items of potential importance to Indigenous Peoples. Experience has shown that a better representation of Indigenous Peoples is crucial if they are to have any chance of getting their high-priority issues into draft CBD texts and

then, with good lobbying and good luck, get the draft texts formally adopted at the COP.

The main goals of the Indigenous caucus were to build on the outcomes of the 5th World Parks Congress held in Durban in September 2003 and get strong language on the following issues included in the draft decisions and background documents that will go to COP-7:

- Indigenous Peoples' rights and prior informed consent;
- the value of a rights-based approach in protected area planning and management in particular and conservation activities in general;
- prohibition of involuntary resettlement of Indigenous Peoples from protected areas;
- prohibition of large-scale extractive industries in protected areas; and
- inclusion of social and human rights indicators in the monitoring and reporting systems for the Convention.

Protected Areas

The draft work programme on protected areas was amended to include an additional element on "Governance, Participation, Equity and Benefit Sharing". There was no time to discuss the activities of the Parties under this new work programme, which will have to be negotiated in full at COP-7. As they stand, some of the draft activities, stemming largely from the Durban Action Plan and Recommendations, are potentially useful. Examples include promotion of indigenous protected areas and community protected areas and advocacy of the principle that protected areas have to be established and managed: "with the prior informed consent and in full compliance with the rights of indigenous peoples and local communities". This important language will need to be defended in Kuala Lumpur, as some governments at SBSTTA-9 have already indicated that they will try to weaken it there.

Negative Points and Remaining Obstacles

Most of the text on Indigenous rights submitted by the Indigenous caucus for the protected areas document was not

incorporated. The final draft SBSTTA text on protected areas does not prohibit forced resettlement nor propose a moratorium on damaging large-scale activities in protected areas (industrial logging, mining, mineral and oil exploration etc.). Nor does it recommend the need for indicators on human rights. Canada, Australia and New Zealand, among other governments, meanwhile managed to undermine and dilute useful language on Indigenous Peoples' rights: the obligations of governments to Indigenous and local communities is said to require "particular attention", but a sentence mentioning "respect for land tenure, prior informed consent and Indigenous territorial rights" was not approved. Indigenous participants at SBSTTA-9 did succeed, however, in getting a complaint recorded that the purpose of a paragraph originally designed to recognize the rights of Indigenous and local communities appeared to have been "lost" and that the result was "unacceptable to Indigenous Peoples".

Clearly, the phrases "rights" or "rights-based approaches" are still being avoided by the parties to the CBD, preference being given instead to the terms "needs" and "participatory approaches". Social targets connected with protected areas systems will need to be strengthened and clarified at COP-7 if yet more top-down conservation projects and imposed parks are to be avoided.

It is also clear from SBSTTA that the battle over protected areas still has to be fought at COP-7. Indigenous organisations will have to muster substantial numbers and make persistent advance efforts to win allies to counter Canada and other retrograde governments.

For Indigenous Peoples in particular, the upcoming COP is important in order to use the legally-binding framework of the CBD to consolidate gains made under the "new paradigm" for protected areas agreed at the Durban World Parks Congress of last September. The Durban agreement urged governments to commit themselves to securing the participation of Indigenous Peoples in establishing and managing

protected areas and ensuring their participation in decision-making on a fair and equitable basis in a way that fully respects their human and social rights.

The complete CBD report on SBSTTA-9 is available at:

<http://www.biodiv.org/doc/meetings/cop/cop-07/official/cop-07-04-en.pdf>

For IISD coverage please go to: <http://www.iisd.ca/biodiv/sbstta9/>

Access to genetic sources: Favoring who and what for?

By Isaac Rojas, COECO-CEIBA/Friends of the Earth Costa Rica

Over the past several years, the seeds, biotech and agribusiness industry has evidently convinced governments to use international forums to help it get the access to genetic and biochemical resources it requires in order to develop its products.

One piece of evidence is the set of voluntary guidelines on access and benefit sharing produced in 2002 by the Convention on Biological Diversity's *ad hoc* Working Group on Access and Benefit Sharing (WG ABS). These guidelines, which were adopted by the Conference of the Parties to the CBD following meetings in Costa Rica, Canada, Nigeria, Germany and The Netherlands, are seen by many as a legitimization of existing biopiracy practices. .

A Mere Illusion

Less than half a year later, the World Summit on Sustainable Development also recommended that an international regime on benefit sharing should be developed. An intersessional meeting under the CBD in March 2003 then proposed that the WG ABS, the same working group that had developed the questionable voluntary guidelines mentioned above, elaborate a legally-binding regime for benefit sharing *and* access (emphasis added).

The last meeting of the WG ABS, in Canada in December 2003, duly took on this topic. Negotiations on access and benefit sharing, it

proposed, are to be based on the CBD objective of "fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding".

Gewijzigde veldcode

Yet experience demonstrates that while access by those countries which in theory hold sovereign rights to those resources has been greatly enhanced, in reality, fair and equitable benefit sharing remains an illusion. Without the needed political will, the world has witnessed little benefit sharing, while the subsequent rise in biopiracy at a global level has added to the mounting ecological debt that the North owes the South.

Gewijzigde veldcode

An Unfair and Inequitable Model

Some of the most important genetic resources are found where local communities and Indigenous Peoples have lived in conditions favorable to the preservation and evolution of biodiversity. These local communities and Indigenous Peoples arguably have collective and historical rights to biodiversity based on their culture, tradition and practices. In theory, granting access to genetic resources should not only respect the collective rights to which the Indigenous Peoples and the local communities are entitled as the primary curators of biological diversity, but should also ensure fair and equitable benefit sharing derived from its use. However, these collective rights are not private or exclusive property rights.

From the documents used in the December 2003 discussions, together with the discussion's conclusions, it is clear that the proposed international regime on access and benefit sharing is unlikely to respect or build upon the above-mentioned collective rights. Instead, it would legitimize the exclusive model, disrespectful of human rights, that has prevailed until now. This model allows large biotechnology companies to "buy" the genetic resources and associated traditional knowledge of Indigenous Peoples and local communities and even patent those genes and knowledge, thus blocking the access of those

communities to their own resources and wisdom. The model has led not only to the privatization and commercialization of resources and knowledge which form part of the common heritage of communities and peoples, but also to a further marginalization of these communities. While some ABS agreements have been more unfair than others, it is naïve to imagine that a bilateral agreement between a multi-million biotechnology company and a small rural community will ever be fair and equitable.

Conclusions

The debate on access and benefit sharing should not be centered on whether to continue with current bilateral agreements guided by voluntary guidelines, or instead establish a legally binding international regime that builds upon these guidelines. Both the current situation and an international regime based on its main features run counter to sustainability. Both facilitate the misappropriation of biological diversity and associated traditional knowledge, either through patents or other intellectual property rights.

The proposed international regime will continue to promote biopiracy, an activity that violates the collective rights of Indigenous Peoples and local communities over biological diversity. It will be a tool for more injustice and inequity and for the increase of the ecological debt.

Friends of the Earth International questions any regime that is based on, or incorporates clauses, such as those analyzed above, that favor intellectual property over life and associated knowledge and which weaken or undermine citizens' participation and community control over resources. We foresee a rapid escalation in the process of privatization of life and the commons if such a regime is established.

We reaffirm our commitment to continue fighting:

1. against any new international regime that legitimizes biopiracy, patents on life and associated knowledge, and the privatization and commercialization of cultural and biological diversity;

2. against patents and other intellectual property rights and technologies that privatize biodiversity;
3. for community management and control over biodiversity;
4. for the construction and conceptualization of collective rights by local communities and indigenous peoples, whether or not such rights are recognized or not by states;
5. for environmental justice for all; and
6. for the recognition and repayment of the ecological debt that has been accumulated by centuries of biopiracy and other predatory practices.

Met opmaak:
opsommingstekens en
nummering

Race to the Bottom at the Climate Talks

By Larry Lohmann, *The Corner House, UK*

Here's a trick question.

Who was it that, last December, formulated rules for capturing new subsidies for industrial forestry projects that will accelerate global warming, disempower activists trying to tackle it, promote genetically-modified monoculture tree plantations, reduce biodiversity —and violate local people's rights to land and forests worldwide?

International Paper? MobilExxon? Monsanto?

Wrong. The real answer is the Parties to the UN Framework Convention on Climate Change (UNFCCC). In other words, those same 171 nations that journalists and pundits often tell us are putting their heads together to try to *slow* climate change and *defend* biodiversity and forests.

Surprised? No need to be. The decision has been years in the making. And environmentalists have been watching all along, unable to figure out a way to intervene effectively.

Imaginary Carbon Sinks

What stumbled to a climax in Milan at the Ninth Conference of the Parties of the UNFCCC (COP-9) in early December was a process of deception and self-deception that has been going on since 1976.

That was when an enthusiastic physicist named Freeman Dyson came up with the bright idea that planting x number of trees might “neutralize” the carbon dioxide released by the burning of y tons of fossil fuels, making the world safe for further hydrocarbon development.

Since then, scientists have done more than enough to prove that Dyson’s idea is simply wacko. Fossil carbon and biospheric carbon belong to different categories. They can’t be added to and subtracted from each other in the same climatic ledger. Due to the huge uncertainties, ignorance and indeterminacies connected with the fate of carbon after it is dug out of the ground and enters the atmosphere, biosphere and social sphere, “we cannot compare the effectiveness of fossil fuel with land use change and forestry activities with respect to reduced emissions” (to borrow the words of the prestigious International Institute for Applied Systems Analysis).

COP-9 simply denied this fact from the start. Negotiators decided to:

- Allow corporations managing industrial monoculture tree plantations, including those using exotic or genetically-modified trees, to sell bogus “carbon credits” to support their operations.
- Disregard most effects on carbon flows or the climate that a plantation causes outside its borders, for example through support for continued burning of fossil fuels, delays in development of alternative energy, social displacement from the plantation site, soil erosion, increased pressure on native forests, hydrological damage or reduction in biodiversity.

Negotiators chose, in other words, to violate both the spirit and the letter of their own Framework Climate Change Convention, Convention on Biological Diversity, Ramsar Convention on Wetlands, and Convention to Combat Desertification.

Failure or Success?

To environmentalists, this may have looked like a failure of scientific integrity, environmental

responsibility and political and economic realism. But from the point of view of the emerging climate establishment -- including various UNFCCC bureaucracies, consultants, corporations, traders and lawyers -- it was actually a big “success”.

Commercially and institutionally, Milan’s scientific “mistakes” will be hugely productive in the short term. If the Kyoto Protocol can be ratified – the only real question mark left hanging over the negotiations – the result will be cheap carbon credits for industry, further delays in phasing out the use of fossil fuels, work for a range of new carbon companies, and valuable public relations for Northern governments eager to be seen to be publicly “doing something” about global warming. Along the way, Southern elites will be drawn into the scam by the usual promises of new investment, technology transfer and support for bureaucracies.

If Milan failed to address global warming, in short, it succeeded beautifully in helping enable corporate and state interests make short-term adaptations to scientific and public *concern* about climate change.

Lessons from History

For students of history, there’s not much new here. A World Bank supposedly set up to “alleviate” poverty which in fact makes it worse; a Tropical Forest Action Plan (TFAP) to “save” forests which in fact logs them and pushes farmers to encroach on them; “free trade” agreements which in fact promote subsidies, dumping and protection – such phenomena have long been staples of the official international economic and environmental order.

On reflection, why expect the institutions which have grown up around the UNFCCC and its 1997 Kyoto Protocol to be any different? The World Bank has only thrived from its failure to alleviate world poverty during the past 50 years. Why shouldn’t the UNFCCC and the rest of the emerging climate establishment flourish for another 40 years out of their failures in addressing global warming?

A key behavioral trait of such institutions is to take protests about these failures and transform them into more jobs for themselves. The more jobs are created to handle the consequences of failure, the less incentive there will be to address the real roots of global warming. The less those roots are addressed, the more failures will result – and the more work will be created to “handle” them, providing salaries for validators, lawyers, environmental technicians, participation specialists, and other interested entrepreneurs.

As the resulting technicalities become, in the words of *New Scientist* magazine, “ever more convoluted”, the less the public is able to figure out the frauds that are going on – and the happier climate bureaucracies and businesses become.

The Role of NGOs

Even with the best intentions, non-government organizations (NGOs) can easily lose their way in this tangle.

Some NGOs get frustrated when their accusations of “failure” are seen as irrelevant. They try to find something to show their constituencies -- and themselves -- that they’re winning a good deal. So they devote themselves to narrow agendas like getting the Kyoto Protocol ratified (even if that means helping to find ways of getting subsidies for business-as-usual energy schemes). And they try to ensure that the rules for setting up “sinks” are not as bad as they might otherwise be. “What else can we do?” goes the time-honored, if fallacious, justification. “The _____ is the only show in town.” (Fill in the blank with “World Bank”, “TFAP”, “GATS”, “Kyoto Protocol”, or whatever.)

In Milan, as in previous COPs, the outcome has been collaboration in a “race to the bottom”. As negotiators overrule objections to sinks, then objections to industrial plantations, then objections to any meaningful safeguards at all, NGOs whose need to have to have something to show for their efforts outweighs their honesty find themselves stubbornly claiming “partial victory” after each defeat. In Milan, the Climate Action Network, the main alliance of NGOs at climate COPs, went as far as to call the egregious

agreement on sinks “an encouraging step . . . which demonstrates the success of the multilateral process”.

How did things get this bad? Partly because in agreeing to disregard much of the science of climate change “mitigation”, many NGOs have isolated themselves more and more from affected people and the general public. In Milan, Northern NGOs lamented the continuing narrowness of the climate movement. But many of the silent Southerners sitting in the back rows of NGO meetings could have told them that by submissively adopting fraudulent official climate jargon – “tCERs”, “LULUCF”, “additionality”, and so on – they had excluded friends who could have empowered them. They had traded political effectiveness for a temporary voice in a counterproductive professional project which unwittingly buys into all the long-discredited illusions of “Third World development”.

Another Way?

Is there another way? Sure. But finding it will take some work, some imagination, and a lot more listening to a much wider variety of voices.

NGOs who lobby on climate issues should, as the saying goes, get out more. Hang out with people who are affected by industrial tree plantations, oil extraction and power plant pollution. Learn more about the history of resistance to the sorts of development projects being promoted under climate change agreements. Be skeptical about the received corporate wisdom that treating carbon dumps as a scarce resource to be marketed is the only way to handle climate change. Pay attention not only to “damage control” and “text changes” but also to property rights and new ways of applying popular pressure on governments not to invest in the UN’s new “carbon plantations”.

NGOs genuinely interested in making a difference to climate politics might surprise themselves by how effective they could become. And how fruitful it can be to be more honest with themselves and their supporters.

Reports on Other Forest-Related Meetings

Forests for business or forests for people?

By Ana Filipini, World Rainforest Movement

Two large international events one directly and one indirectly related to forests, took place during the past five months: the World Forestry Congress (September, Quebec City, Canada), and the World Social Forum (16 to 19 January, Mumbai, India). The two meetings were, however, entirely different in nature.

The World Forestry Congress was mainly a gathering of big business with the forestry establishment, aimed at providing technical backing to business as usual. Government delegates, academics and mainstream conservation NGOs expressed their concerns about forests, but without questioning the essentially destructive nature of most of the "development" policies that continue to result in forest destruction.

Meanwhile, the World Social Forum provided forest communities with an opportunity to voice their concerns and look at effective and equitable solutions for addressing the social and environmental impacts of deforestation and forest degradation. Representatives of forest peoples from India were able to talk about their own experiences regarding deforestation, dispossession and displacement, while forest activists shared their views about the impacts on similar forest communities of national and international economic policies.

It was stressed that while deforestation is commonly perceived as an environmental issue, resulting in biodiversity loss and in impacts on water and soil resources, this is, however, only part of the problem. Forests are in fact inhabited by millions of people, whose livelihoods depend on the resources provided by the forests: food, wood, fuel, medicines, fibre, fodder, etc. Forest conservation is, therefore, crucial in providing for the survival needs of all those millions of people - in India alone an estimated 150 million.

Governments' response to deforestation -- the demarcation of protected areas -- also impacts on

forest and forest-dependent communities, who are usually either evicted from their territories or banned from using the resources contained therein. In most cases, the absurdity and injustice of this approach to conservation lies in the fact that those evicted are precisely those who for centuries ensured the sustainable management of the forest that is now declared "protected."

The forest workshops at the World Social Forum were invaluable in bringing forest people and forest activists together, allowing for a lively exchange of experiences and ideas. Even more importantly, they led to a draft statement of principles (the "Mumbai Forest Initiative"), aimed at creating a global movement based on a common approach to forest conservation that acknowledges and respects forest peoples' rights and the need to strengthen their role as guardians and managers of the forest.

For more information on the Mumbai Initiative: <http://www.wrm.org.uy/bulletin/78/forests.html#move>

Calendar of Forest-Related Meetings

More information on these and other intergovernmental meetings can be found at: <http://www.iisd.ca/linkages>.

Gewijzigde veldcode

- The seventh Conference of the Parties of the Convention on Biodiversity will take place from 9 - 20 February 2004 in Kuala Lumpur, Malaysia. Main themes on the agenda include protected areas, mountain biodiversity, implementation of the Strategic Plan and follow-up to the World Summit on Sustainable Development. See also *Ex Silvis* and the reports by Joji Carino and Isaac Rojas. For more information, please contact: <http://www.biodiv.org>.
- The fifth Global Ministerial Environmental Forum/ eighth Special Session of the Governing Council of the UN Environment Programme will take place from 29 to 31 March in Jeju, South Korea. The meeting will discuss, among other things, water, human settlements and international environmental governance. For more information, please visit: <http://www.unep.org>.

- The fourth session of the UN Forum on Forests will take place from 3 - 14 May 2004 in Geneva, Switzerland. Themes to be discussed include traditional forest-related knowledge and social and cultural aspects of forests. *For more information, please contact: <http://www.un.org/esa/forests.htm>.*

Gewijzigde veldcode

- The twentieth session of the subsidiary bodies to the Framework Convention on Climate Change and the Kyoto Protocol will take place from 14 to 25 June 2004 in Bonn, Germany. See also *Ex Silvis* and the article by Larry Lohmann. *For more information, please visit: <http://www.unfccc.int>.* The thirty-sixth session of the International Tropical Timber Council will take place from 20 to 23 July in Interlaken, Switzerland. It will be followed by the United Nations Conference for the negotiation of a Successor Agreement to the International Tropical Timber Agreement, which will take place from 26 - 30 July in Geneva. *For more information, please visit: <http://www.itto.or.jp>.*

(**Meetings at which the Global Forest Coalition can facilitate Southern NGO or IPO participation.)

Editorial Team:

- *Simone Lovera, Friends of the Earth International*
- *Larry Lohmann, Corner House, UK*
- *Ricardo Carrere, World Rainforest Movement, Uruguay*
- *Sandy Gauntlett, International Research Institute for Maori and Indigenous Education, Aotearoa/New Zealand*
- *Berenice Muraille, FERN, UK-Belgium*
- *Andrei Laletin, Friends of the Siberian Forests, Russia*

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