

A Heroic Little Bird: the CBD against the WTO

simone lovera, friends of the earth international

Reading through the report of the working group on the effectiveness of the implementation of the Convention on Biodiversity, one cannot help noticing the “Calimero” complex of some of the CBD negotiators seem to suffer from: Calimero was the little bird in a popular Western cartoon that complained daily that life was not fair because “they are big and I am small”.

Yet, even a “small” Convention can play a heroic role in international politics, as demonstrated by the fact that its conflict with the CBD might become one of the main stumbling blocks at the upcoming Ministerial Meeting of the World Trade Organization (WTO), which will take place in December in Hongkong. Countries like India have already threatened that they will not accept any outcome from this meeting if no solution is found for the long-lasting conflict between the CBD clauses on the fair and equitable sharing of the benefits of traditional knowledge and genetic resources, and the WTO agreement on Trade Related Intellectual Property Rights (TRIPs). The recognition of this conflict was already embedded, in diplomatic terms, in the text of the CBD itself, which obliges countries to find a solution to it. Yet, 13 years after this formal recognition, the conflict is still ongoing. Almost daily, absurd patents are granted that allow large corporations to claim full intellectual property rights over already existing genes, plants, knowledge, and even parts of the human body. The fair and equitable sharing that is demanded by the CBD has become a total illusion due this trend, and it is simply laughable to pretend that there could ever be any international regime that secures fair and equitable sharing of benefits as long as these practices are protected by the TRIPs agreement.

CONTENTS

A Heroic Little Bird	1
Tis the Season.....	2
Incentives.....	3
About the CBD Alliance	4

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A requirement to disclose the origin of genetic resources in patent applications is like proposing to treat a heart attack with a bandage in this respect. Even banning all patents on life, as called for by the African countries, will not be enough to implement the objectives of the CBD, as other intellectual property right systems like plant breeder’s rights are causing the same problems as patents. And like patents, these IPRs are being forcefully imposed on developing countries within the framework of multilateral and bilateral trade agreements. No country should ever be obliged to adopt or accept an intellectual property right system that conflicts with its obligations under the Biodiversity Convention.

However, the conflict with TRIPs is not the only conflict between the CBD and the WTO, though. Within the framework of the Non-Agricultural Market Access negotiations a group of well-known clear-cutters like Canada, New Zealand and the US have proposed to dismantle all tariffs on timber. Ironically, they state in their submission that “wood products are leaders in environmental performance”, as if massive biodiversity destruction caused by logging and pulp plantations is a phenomenon happening on another planet. It has long been recognized that current consumption levels of wood products are totally unsustainable: an average US family, for example, receives more than 2 pieces of unwanted junkmail per day. The problem with international trade is that it forms the bridge between these unsustainable consumption patterns and unsustainable production patterns in other countries. Ultimately, consumption and production patterns should become fully sustainable, but as long as there is no ban on junkmail, there has to be a continued moratorium on exporting timber from countries with out of control forestry sectors like Indonesia, at least until deforestation rates are halted and reversed. Likewise, with the soy and palm oil sectors competing hard to become the world’s number one Biodiversity Destruction Sector, there is a clear need to

halt the international trade in biofuel derived from these crops: With the current oil crisis, international trade in biofuel could easily become the number one cause of biodiversity destruction in the coming years. **...continued page 2**

Tis the season...

jessica dempsey, CBD alliance

Tis the season...to be in Montreal, doing our best to make *something, anything* happen for our earth. I must admit I'm quite pleased to be at the smaller of the two meetings - our sweet little SBSTTA seems absolutely miniscule compared to the Climate mammoth. Not that I'm disinterested in what is going on over there - biodiversity will not 'thrive' with global climate change - and no amount of protected areas are going to mitigate the potential effects of climate change on biodiversity.

But the draft findings of the second Global Biodiversity Outlook (UNEP/CBD/SBSTTA/11/6) to be discussed demonstrate that climate change is but one of many of the problems facing biodiversity loss. The table on Page 19 - listing the status and trends of 2010 indicators - is particularly depressing, with an overwhelming number of downward arrows. Trends in invasive species? Sorry, not looking so good. Status of linguistic diversity? Regrettably, downwards. Genetic diversity of domesticated animals, a diversity so carefully cultivated by the communities who rely on them? Another unfortunate decline. The document actually uses the word "alarming" to describe the situation. My favourite is the global ecological footprint diagram found on page 17. Global ecological footprint measures the area of land and water it takes to sustain the human population on earth. In 1961 we used only half of the earth's biocapacity, and now we have exceeded it, using 1.2 earths.

Tis also the season to SHOP! In an ironic twist - the American Thanksgiving weekend (this one just past) is also the official start to the Christmas shopping season. What better way to give thanks for the harvest than to get into your car, drive to the mall, and S.H.O.P till you drop. While watching the news in my hotel room last night, I saw frenzied shoppers in the US actually pushing and shoving each other in mad dashes to get that bargain and buy, buy, buy.

Tis the season to bring climate change, biodiversity loss, and those frantic shoppers together. Now how about a Programme of Work on Unsustainable Consumption (POWUC), which could finally place the responsibility of biodiversity loss and climate change where it belongs - with those who consume unsustainably and those who profit from it.

Controversial quote of the day

"...With regards to species loss given the powerful market forces promoting deforestation and over-exploitation of forests and the extremely poor governance in most of the tropics it is simply not feasible to imagine that we are going to be able to preserve every species. That implies that we are going to have to prioritize which species we want to preserve. I think that it is extremely important that when we do that we prioritize the species that local communities and poor people depend on the most and not just the charismatic species of interest to middle class urbanites or those that interest agribusiness and the pharmaceutical industry..."

~David Kaimowitz, Director General of the Centre for International Forest Research (CIFOR).
Excerpt from Forest Leadership Interview <http://www.forestleadership.com/>

...Lovera from page 1

However, under the WTO, existing export bans and other measures to protect biodiversity and the rights of local communities and Indigenous Peoples are also under serious threat. Numerous proposals in the current WTO negotiations threaten to classify such measures as "non-tariff barriers" to trade. Proposals to include "landscape and biodiversity management" under the general agreement on trade in services also threaten schemes that recognize Indigenous Peoples' rights and other community rights to manage their own territories: in the worst case companies and other commercial entities like conservation groups trading in "biodiversity offsets" could claim these schemes "discriminate" them.

In short, CBD negotiators should realize it is time to defend their Convention. This also implies that conflicts between the CBD and trade rules, like the ongoing conflict about GMO labeling, should be settled through the dispute settlement mechanisms of the CBD and its Cartagena Protocol itself. The CBD is a legally binding instrument that should be complied with. And it is time WTO negotiators start realizing that.

Incentives for conservation – reviving social equity

phil franks, CARE International

The CBD states “each contracting party shall, as far as possible and appropriate, adopt economically and socially sound measures that act as incentives for conservation and sustainable use of components of biological diversity” (article 11).

Incentives are supposed to reward conservation-friendly behaviour. But we should not forget that they are often the carrot that goes with the stick, the stick being the enforcement of various restrictions on resource use. The most obvious case is with formal protected areas but there are various other forms of land and resource use restriction that may impose opportunity costs on a range of stakeholders, and notably on indigenous and local communities. In such cases the allocation of any incentives should clearly reflect not only efforts to support conservation but also any costs incurred in the process. That said, we must avoid any possibility that incentives are used to justify abrogation of the rights of indigenous and local communities which has so often been associated with PAs.

Paragraph 20 within the proposals for design and implementation of incentive measures endorsed by COP6 includes the statement: “any conservation measure has some impact on stakeholders; incentive measures should take into account those who benefit and those who assume the cost of that measure”. However in the proposals on incentive measures that are annexed to the draft recommendation on incentives prepared for SBSTTA 11 all reference to costs and benefits of conservation has disappeared, leaving just a passing reference to the effect of incentive measures on income distribution. This appears to reflect a growing conspiracy of silence over the costs of conservation.

At the recent meeting of the Ad Hoc Working Group on Protected Areas (Montecatini, Italy, June 13-17th 2005) discussions about the gap between costs of PA management and available funding acknowledged that costs to indigenous and local communities have been largely ignored. Yet a growing body of evidence confirms that these communities frequently bear costs of a similar magnitude to PA management authorities. Most importantly, these costs are often borne disproportionately by the poorer elements of society who are most dependent on (albeit often illegal) use of PA resources, and have fewest livelihood alternatives.

So why the silence? More specifically why does the text on sustainable financing of PAs mention only the positive contribution of PAs to poverty alleviation and MDGs. The obvious answer is that you sell an idea (getting donors to increase funding for PAs) on a positive story. But isn't this

rather naive, if not dishonest? In many of the poorest countries in Africa the improved conservation of PAs that we seek could in many cases have a negative impact on indigenous and local communities, at least in the short to medium term.

Given this reality, we should insist on returning to the former position where at least there is some linkage between incentives and the costs incurred as well as the stewardship efforts that positively support conservation. Furthermore we should promote a more nuanced understanding of equity at the local level that recognises major disparities in the distribution of the costs and benefits of conservation within communities, and the need for incentive mechanisms to take this into account.

This last point relates not only to equitable sharing of costs and benefits at the local level but also the issue of equity in the local-national-global dimension. The draft recommendation on incentives invites international institutions to provide financial and technical support for design, start-up and evaluation of incentive measures. But nowhere in the document is there any reference to the long term financing of these incentive measures.

Rural communities that willingly (or not so willingly) support conservation of globally important biodiversity have a right to fair reward for stewardship, and, if they face significant costs, compensation or mitigation measures. Where the global conservation agenda requires more restrictions on the use of biodiversity resources by indigenous and local communities than might otherwise be the case if only national and local interests were considered, these costs are genuinely incremental costs. So we should be seeking some link between article 20 on the responsibility of developed countries to meet incremental costs, and the long term financing of incentive measures. Undoubtedly this is not going to be a popular idea but neither is fair trade and yet we believe this is a battle worth fighting. And this doesn't have to pit conservation against development for in many (but admittedly not all) situations it is clear that inequitable conservation will ultimately prove neither effective nor sustainable.

We have seen some progress on social equity within global biodiversity policies (e.g. within elements of the CBD programme of work on PAs), but well justified efforts to promote the relevance of biodiversity conservation to the MDGs may ironically be undermining the social equity agenda by the social equivalent of “green-washing”. Clearly this is a big issue but with the issue of incentives we can at least take a few more steps in the right direction.

Who is this CBD Alliance? What do they do?

The CBD Alliance is a loose **network** of **activists** and **representatives** from **nongovernmental organizations** (NGOs), **community based organizations** (CBOs) and **Indigenous Peoples organizations** (IPOs) advocating for improved and **informed participation** in **Convention on Biological Diversity (CBD) processes**. Being aware that there was limited participation of CSOs in CBD processes, the Alliance formed after COP 6 in 2002.

We, the Alliance, do not represent CSOs around the CBD – nor do we speak for the diversity of civil society voices. Rather, **we exist to help CSOs gain access to CBD processes**. Particularly, we aim to **increase the participation** of NGOs, IPOs and CBOs from the ‘South’ – the ones with historically low access to international policy-making processes, but who are often impacted the most.

We exist to **help CSOs be more effective** in their CBD-related advocacy. We hope to provide a **platform for initiating communication** among Civil Society representatives and other organizations, Parties to the Convention, media and the Secretariat – to change and **ultimately improve biodiversity-related policy** at international, national and community levels.

What does the CBD Alliance do?

We:

1. **Facilitate** general coordination and communication among CSOs throughout the inter-sessional and sessional periods. This includes maintaining a list serve of CSOs, posting secretariat notifications, coordinating CSO meetings at CBD sessions and fundraising for the Alliance and its’ activities.
2. **Support** financially nongovernmental, Indigenous and community representatives to participate in CBD meetings through a transparent self-selection process.
3. **Edit** and distribute the ECO – the newsletter of civil society at CBD sessions.

How is the CBD Alliance governed?

The Alliance is governed by an advisory board democratically selected by the CSO community, and is composed of civil society members from each of the following regions and major groups: Latin America, Middle East/Central Asia, North America, Europe, Russia/CIS, Asia, Oceania, Africa, Youth, Indigenous, Women. The current advisory board composition and their contact information is found in the side bar. Projects and activities, currently managed by a facilitator advised by the Advisory Board, receive on-going feedback and input from the entire CBD Alliance members through the list serve and around CBD meetings (SBSTTAs and COPs). Project funds are managed by Environmental Liaison Centre International.

How to get involved?

Contact current project facilitator Jessica Dempsey [jdempsey@interchange.ubc.ca] or any of the advisory board members. We welcome any ideas and contributions. Please contact Jessica to be placed on the listserve.

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