

N E W S
 =====
LETTER

OUTREACH

The Voice of the NGO Community at the CSD

Vol. 2 No. 2 Wednesday, 4 March 1998

CSD NGO Steering Committee and World Federation of UN Associations (WFUNA)

Editors: Jan-Gustav Strandenaes -- John Maskell

Journalists: Michael Strauss -- Karina Mullally

[Outreach Home](#) | [Steering Committee Home](#)

AT A GLANCE

[MAI: Industry's Hidden Agenda](#)
[The ToBI Agenda for Corporate Accountability](#)
[North-South Youth Cooperation](#)
[NGO Statement on Business and Industry](#)

OUTREACH is produced by the CSD NGO Steering Committee and the World Federation of UN Associations (WFUNA). The opinions, commentaries and articles printed in OUTREACH are the sole opinion of the individual authors or organizations, unless otherwise expressed. They are not the official opinions of the NGO CSD Steering Committee or of WFUNA.

MAI: Industry's Hidden Agenda

The Greatest Threat to Environment, Development and Civil Society

MAI was organized in 1995 in the aftermath of the founding of WTO. It was conceived by OECD, but is today seen by many as the sinister plan of corporate business, heedless of the environment, ignoring sustainability and detrimental to democracy.

But there is no clear approach to or support for MAI. The business community seems split down the middle. The strongest seem to favour MAI, and the weaker ones would like to abolish the whole idea. Most governments are either confused or reluctant to the idea while some are totally in support of the scheme. More than 600 NGOs have taken a stand against it.

OUTREACH asked two knowledgeable persons in the NGO world to give their arguments. Nick Mabey, of WWF-UK, and Anantakrishan, director of FORUM of Norway responded:

While hundreds of delegates arrive at the UN for the CSD Intersessional's Industry session, the real decisions which will determine the future of corporate impacts on sustainable development are being made several thousand miles away in Paris. Negotiators of the Multilateral Agreement on Investment (MAI) - a new treaty being developed by the OECD - are finalising a package of internationally legally binding measures which will completely undermine all the principles the CSD holds dear. While by the end of April 1998, the CSD will have arrived at solemnly debated - but ultimately non-binding - resolutions on industry and sustainable development, the OECD Finance and Trade ministers will be concluding the MAI which will be backed up by financial penalties and legally binding sanctions.

MAI will give unbridled rights and powers to investors and corporations. More than USD 350 million a year in investment would be covered by the treaty, most of it by way of flows within the 29 countries. The treaty will give foreign investors the same rights as the national ones. The governments will not be allowed to favour local companies or stipulate conditionalities on foreign investors that could be considered as discriminatory to the foreign ones. Under the treaty governments can be sued by companies for not meeting the terms of the treaty.

Though excluded from the negotiations, developing countries are the main target of the MAI, which is being promoted as a 'gold standard' for investor protection. Brazil, Argentina, Chile, Slovakia and the Baltic States have already expressed their intention to join the MAI in the first wave, and many others are under pressure to consider acceding.

In a secret forum, MAI negotiators are planning to restrict the ability of governments to control how foreign investors operate in their countries. At a stroke, signatory countries are planning to sign away the right to make foreign investors transfer technology, form joint ventures, employ local personnel, sell into local markets or use local suppliers. Countries will also be unable to restrict foreign entry into any sector they have not gained a prior exception for - but by assumption all sectors will be open to inward investment. This includes financial markets, forestry and fishery concessions, agriculture and cultural industries. The MAI will also allow corporations to protest against environmental and social laws which reduce their profits or appear 'discriminatory' in the eyes of an MAI dispute panel made up of finance experts.

The draft treaty as it stands now talks about the rights of investors while silent on their accountability and responsibility. There seems to be a total disregard for all the efforts of the world's nations to realize the goal of sustainable development. MAI might be able to disregard all the conventions such as the Climate Convention and the Biodiversity Convention and set aside the goals of development in poor countries. Though the treaty is initiated by the OECD, non-OECD countries can become signatories to it with out having the possibility to change it in any way.

As a final insult to the spirit of Rio, the MAI will also overrule significant provisions of many recent international environmental agreements - including the Kyoto Protocol - which use so-called discriminatory measures to ensure equity between Northern and Southern parties, following the principle of 'common and differentiated responsibility'.

We are witnessing a time when Overseas Development Aid (ODA) is drying up and rich nations talk about Foreign Direct Investments (FDI) as a panacea for the ills of the developing nations. Countries getting hooked on to foreign investments do not have the choice for the kind of investments they would prefer. Under MAI, developing nations will not be able demand technology transfer, joint ventures from the corporations. They also will not be able to put conditions on repatriation or reinvestment of profits. Local capacity building or environmental protection will become more difficult in a state of affairs dictated by the investors.

'Invest and devour' will be the motto of MAI. Rich capital exporting countries may very well benefit from this treaty. But even many of these countries have presented a number of exemption clauses in the treaty. France for example is not interested in giving the same subsidies to Disney Inc. or 20th Century Fox as it gives to its own film industry to maintain and promote its cultural identity. Indigenous peoples cultures will also come under threat as subsidies or special treatment to investments for their initiatives will be illegal under MAI. Many of the US investors are also now becoming wary of the treaty as they fear that it will become toothless due to the exceptions demanded by many of the other OECD partners. Norway for example would demand that its fisheries and oil resources should be used only by local companies or local companies owning majority shares.

MAI negotiations started in 1995 and it gained momentum after the near demise of a similar proposal at the WTO meeting in Singapore in Dec.1996. The WTO proposal known as the Multilateral Investments Agreement (MIA) went missing in action thanks to protests in unison from the developing nations. They see MAI now as a kind of a rearguard action by the OECD.

The MAI is currently in trouble, however, as over 600 environment, development and citizens' groups around the world have signed a statement calling for the suspension of negotiations while its full impacts on sustainable development are reviewed. The chilling light of democracy has shocked

the MAI negotiators who are not used to being held accountable to wider constituencies. It has also galvanised national and federal parliaments, and even government departments outside finance and trade, to cast a critical eye over an agreement that has been labelled - in favourable terms - as 'a new global economic constitution'.

NGOs working on the MAI are planning to make sure all delegates at the CSD are informed of the draft treaty's implications, and the widespread global opposition to it. We will also be highlighting the role of industry lobby groups in lobbying against any inclusion of environmental and social provisions in the treaty.

The fate of the MAI will be the litmus test of OECD governments' real commitment to sustainable development, the NGO community is waiting for a strong message to appear from the coming week that the MAI, and other economic agreements, cannot ride roughshod over the spirit of Rio.

It was interesting to note that a representative made the following remark " We are where we are and we should make the best use of it. We are not where we wish to be." It was also mentioned that Ministries of Environment came too late in the scene. So did the ODA people to make any impact on MAI negotiations so that the overarching goals of sustainable development could be built into the treaty. She felt that there is still time to get the voices of environment and development heard at the negotiating table.

So what has CSD got to do with this treaty often referred to as a charter for the rights of the corporate sector?

Years of work under CSD and the UN to make the world sustainable and a good place to live, here comes MAI to undermine and supersede all that and to put investment liberalization to further the negative aspects of globalization and free trade. CSD should urge that MAI to become an acceptable instrument must integrate the environmental and development objectives and subject itself to monitoring by the civil society. Otherwise CSD process will become a captive to MAI's interests.

[back to top](#)

The ToBI Agenda for Corporate Accountability

The NGO Taskforce on Business and Industry (ToBI) promotes to CSD Delegates the need for social responsibility and accountability of private sector corporations. It was formed in 1995 to examine industry's progress on the promises made at the 1992 Earth Summit to be socially responsible, to voluntarily protect the environment and to respect human rights.

Following CSD 4 (1996) ToBI consulted internationally with sustainable development NGOs and produced a report called *Minding Our Business: The Role of Corporate Accountability in Sustainable Development* which was presented to Earth Summit + 5. Over 100 NGOs and networks have endorsed the report which makes seven key recommendations.

At the heart of the ToBI Statement is the seven point Agenda for Corporate Accountability, recommended to government delegates as key objectives to promote and help ensure greater corporate responsibility and accountability:

1. For the UN and member states to acknowledge the importance of corporate accountability as a necessary element of sustainable development (noted by the General Assembly in its final report on the Programme for the Further Implementation of Agenda 21, para. 133).
2. To establish mechanisms to monitor and assess corporate practices, reviewing and evaluating the positive and negative impacts of investment and business activities.
3. Strengthen public access to information, such as right-to-know legislation and information on

externalized social and environmental costs.

4. Send the right message by reforming current economic incentives (e.g. eliminating unsustainable subsidies and tax breaks and improving access to liability instruments) to discourage corporate neglect and wrongdoing.
5. Create mechanisms to empower local communities rather than large corporations (e.g., reforming international agreements which undermine rather than enhance the sustainability of local production and consumption systems).
6. Make clean production a standard, including adopting and implementing the Precautionary Principle and Extended Producer Responsibility.
7. Reduce political influence of corporations on government, especially through political campaign reform.

[back to top](#)

North-South Youth Cooperation:

Dutch youth are trying to free 58 young Ogoni environmentalists

Discussions began at CSD 5 and the GA Special Session in 1997, between representatives of the Dutch National Youth Council for Environment and Development (NJMO) and the National Youth Council of Ogoni People (NYCOP), Linda Docter and NYCOP President Goodluck Diigbo, have led to practical actions concerning the role of Shell in the environmental devastation through oil spills in the Ogoni region of Nigeria. The Anglo-Royal Dutch Oil Company Shell is jointly owned to the tune of 40 percent/60 percent shares by Britain and the Netherlands respectively.

The NJMO facilitated an exchange of ideas and information between the NYCOP leader and government delegates, including the Dutch Minister of Environment and a representative of the ministry of Economic Affairs.

In October 1997, the Youth Coalition (the political working group of the NJMO which consists of practically all Dutch political and environmental youth organisations) started a dialogue with Minister Pronk (Development Cooperation), with all political parties and with the Director of Shell Netherlands.

The Youth Coalition's main concern is to keep the issue on the agenda (not much has improved since Ken Saro-Wiwa was hanged) and to try to free 58 young Ogoni environmentalists who were imprisoned by the Nigerian military government. Nineteen of them have been in prison since 1994 without trial for their peaceful environmental activism.

The Dutch youth are of the opinion that Shell, as one of the main actors in the area, has to play a more active role than it is playing now. This makes clear that the Dutch political leaders of tomorrow wish only to identify with multinationals based in their country if they put maximum effort into a responsible corporate policy.

One of the results of the cooperation so far: The Dutch Democratic Party has mentioned the issue in its program for the upcoming elections, in May 1998.

By Lynda Docter

[back to top](#)

NGO Statement on Business & Industry

The following statement was presented on Monday, March 2, by the Working Group on Business and Industry, of the NGO CSD Steering Committee, to the afternoon Plenary of the CSD 6 Intersessional. It is based on a document that will be available Wednesday, entitled the "NGO Statement to the CSD Industry Discussion."

Thank you Mr/Madame Chair,

We welcome the Secretary General's report on Industry and Sustainable Development (E/CN.17/1998/4) as a useful contribution to the upcoming discussion. The CSD is eminently positioned to advance dialogue on the necessary integration of environmental, social and economic policies and develop unified frameworks.

There are many examples of constructive NGO/ industry partnerships with progressive, socially responsible companies. We firmly believe that the private sector has a crucial role to play in the transition to sustainable and equitable societies. However, we feel that the Secretary General's report has not captured the balance between industry's economic role and other social, environmental and moral obligations. NGOs are often perceived of being opposed to many things industry does. While we oppose corporate abuse and anti-democratic activities, we welcome positive movements towards an integration of social, environmental and economic agendas. A number of key areas have been overlooked in the report's general over-reliance on market-based solutions to environmental and social crises.

In this respect, we would like to highlight seven areas for your consideration:

1. The need to move beyond the emphasis on efficiency to sufficiency, that is meeting people's needs while staying within ecological limits.

- Governments should recognise the need for effective policies respecting ecological limits, equity and human rights to be included in international frameworks, guiding eco-efficiency efforts towards time-bound, measurable sustainable development targets. As a matter of principle, the reliance on non-renewables in the context of sustainable development is a contradiction in terms.

- Governments, companies and intergovernmental bodies should develop and implement new sustainable development indicators and economic methods as soon as possible, so that public and private investment is redirected towards sustainable development.

2. The need to promote greater integration of environmental and social priorities into international economic agreements such as GATT and MAI.

- The CSD should emphasise the importance of respecting the Precautionary Principle inside all trade-related agreements.

- The CSD should recommend that the MAI and other international agreements fully integrate environmental, labour and social considerations with the same legal force as economic provisions, and not elevate investors' rights over governments' responsibility to act in the public interest.

- The CSD should initiate a review of how economic agreements incorporate sustainable development goals, and provide guidelines for how this should be achieved.

Furthermore, the CSD should recommend transparent and accessible processes for public participation.

3. The need to integrate sustainable development principles into industrial and corporate policy, not the other way around.

- Full and consistent implementation of the Rio Principles by government and industry should be a priority coming out of the CSD Industry sessions, as a follow-up to the Dutch Intersessional Meeting of the Domestic Implementation of Rio Principles. We would ask the CSD to hold another intersessional meeting on this topic and report the findings to the CSD in the year 2000.

4. The need to address corporate lobbying activity which undermines progress towards sustainable development, as in fora such as the Kyoto Protocol and the MAI negotiations.

- Given the extent of lobbying activities by some corporate groups against sustainable development efforts at recent fora, such as Kyoto and the MAI negotiations, governments should address the parameters of industry's approach, discuss the definition of legitimate industrial lobbying activity, and provide recommendations on how corporate lobbying should be balanced so as to preserve the interests of other, less powerful, stakeholders.

5. The need to clarify the role and need for greater corporate responsibility and accountability in the context of sustainable development.

- The CSD should, in co-operation with other relevant intergovernmental bodies and major groups, establish a process to review the effectiveness of voluntary initiatives intended to promote sustainable and equitable business practices. This review process would provide a focus and a forum for ongoing dialogues on the role of business and industry in sustainable development, continuing the work begun at the CSD 6 Industry Session.

6. The need to establish eco-developmental principles for appropriate science and technology exchange and co-operation.

- In particular we recommend that such eco-developmental principles, as developed by the Organisation for African Unity (OAU) and the Caribbean Common Market (CARICOM), for science and technology exchange prioritise basic human needs such as food, pure water, shelter and employment; promote self reliance rather than increased dependence on outside groups or countries; and respect the requirements of human cultures and ecological systems.

7. The need to continue to encourage and support the transition from corporate management methods to corporate eco-management methods.

- We applaud CSD's continuing efforts to encourage and support the development and implementation of sound environmental management and reporting.

We look to the CSD to provide a progressive vision for how industry can contribute to sustainable development. These are urgent matters, which need immediate action. Thank you for your attention, and we look forward to a continued dialogue with you.

[back to top](#) | [Outreach Home](#) | [Steering Committee Home](#)