

# COWBOY DIPLOMACY:

How the US Undermines International Environmental, Human Rights, Disarmament and Health Agreements



*formerly* **Infact**

In 2004, Infact changed its name to Corporate Accountability International. The mission and purpose of the organization remain the same. As we expand our work to protect people around the world from irresponsible and dangerous corporate actions, our new name and logo will help communicate our life-saving work, record of success, campaigns and momentum as a membership organization. We hope you like what you see.

Since 1977, **Infact** has been exposing life-threatening abuses by transnational corporations and organizing successful grassroots campaigns to hold corporations accountable to consumers and society at large. From the **Nestlé Boycott** of the 1970s and '80s over infant formula marketing, to the **GE Boycott** of the 1980s and '90s to curb nuclear weapons production and promotion, to the successful **Boycott of Philip Morris/Altria's Kraft Foods**, which contributed to the adoption of the first global health and corporate accountability treaty, the Framework Convention on Tobacco Control—Infact organizes to win! Infact is an NGO in official relations with the World Health Organization, and a founding member of NATT.

**The Network for Accountability of Tobacco Transnationals (NATT)** consists of 75 consumer, human rights, environmental, faith-based and corporate accountability NGOs in 50 countries. NATT was formed in the spring of 1999 to ensure a strong, unified voice for an effective Framework Convention on Tobacco Control that will:

Institute effective controls over tobacco transnationals that are spreading tobacco addiction, disease and death; and

Contribute to the establishment of broad global standards that hold corporations accountable for policies, practices and products that endanger human health and the environment.

**Infact Campaign Headquarters**  
46 Plympton Street  
Boston, MA 02118-2425  
617-695-2525  
Fax 617-695-2626

**Infact**

Challenging corporate abuse  
Building grassroots power

[www.infact.org](http://www.infact.org) ▾ [info@infact.org](mailto:info@infact.org)

**Infact Seattle Office**  
603 Stewart Street, Ste. 400  
Seattle, WA 98101

# **COWBOY DIPLOMACY:**

How the US Undermines International Environmental, Human Rights, Disarmament and Health Agreements

## **TABLE OF CONTENTS**

Acknowledgments	2
Introduction	4
Environmental Treaties	
Kyoto Protocol	6
Persistent Organic Pollutants Treaty	8
Basel Convention	10
Biosafety Protocol	13
Human Rights	
Convention on the Rights of the Child/Child Soldiers Protocol	15
Peace and Disarmament Treaties	
Protocol to the Biological Weapons Convention	17
The Landmine Ban Treaty	19
Implications for the Framework Convention on Tobacco Control	21
Infact Publications and Resources	24
Recommended Resources	25
Treaty Process in the US	26

## ACKNOWLEDGMENTS

Infact is honored to work alongside the many individuals and organizations in the US and around the world who are advancing social justice, peace, human rights and a healthier environment. Our successful track record of exposing and challenging corporate abuse is a result of the commitment of thousands of people who have built Infact and its Campaigns. We thank our activists, donors, members and organizational allies.

Countless people have contributed generously to our international organizing toward a strong, enforceable Framework Convention on Tobacco Control (FCTC). Special thanks for generosity in support of our organizing, research and media outreach go to: Jamey Aebersold, Martha Alworth, Christine Andersen, Mig Boyle, Judith Davidson, Neva Goodwin, Diane and Don Hewat, Betty Jenney, Alan Kligerman, Betsy Krieger, Dan and Jan Lewis, Robin Lloyd, Betty Morningstar, Catherine Morton, the Racine Dominican Sisters, Deborah Rose, Kathleen Ruff, John and Barbara Schubert, the Sisters of Charity of the Blessed Virgin Mary, the Sisters of Charity of the Incarnate Word, Ted and Jennifer Stanley, and a few of you who wish to remain anonymous. Extra special thanks to Edie Allen: we couldn't have come this far without your leadership!

Our thanks to the following individuals and organizations who contributed to this report, and to their work which has resulted in important progress on the environment, human rights, weapons reduction and public health:

Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch  
John Burroughs, Executive Director, Lawyers' Committee on Nuclear Policy  
Brent Blackwelder, Executive Director, Friends of the Earth (US)  
Morag Carter, former Coordinator, International POPs Elimination Network  
Michael Christ, Executive Director, International Physicians for the Prevention of Nuclear War  
Gina Coplon-Newfield, Coordinator, US Campaign to Ban Landmines, Physicians for Human Rights  
Clifton Curtis, Director of Toxics Program, World Wildlife Fund  
Frederick Heffermehl, President, Norwegian Peace Alliance and Vice-President, International Association of Lawyers Against Nuclear Proliferation  
Peter Herby, Mines-Arms Unit Coordinator, International Committee for the Red Cross  
Tony Juniper, Executive Director, Friends of the Earth (England, Wales, Northern Ireland)  
Arjun Makhijani, President, Institute for Energy and Environmental Research  
Katherine Morrison, Staff Attorney, US PIRG  
Karen Perry, Deputy Director, Environmental Health Program, Physicians for Social Responsibility  
Matt Phillips, Senior Campaigner, Friends of the Earth (England, Wales, Northern Ireland)  
Jim Puckett, Director, Basel Action Network  
Phil Radford, Executive Director, Power Shift  
Steve Sawyer, Climate Policy Advisor, Greenpeace International

Jacob Scherr, International Program Director, Natural Resources Defense Council  
Michelle Swenarchuk, Counsel and Director of International Programs, Canadian Environmental Law Association  
Alyn Ware, Consultant at Large, Lawyers' Committee on Nuclear Policy  
Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch  
Peter Weiss, President, Lawyers' Committee on Nuclear Policy  
Glenn Wiser, Attorney, Center for International Environmental Law

Infact draws hope and inspiration from our allies in the Network for Accountability of Tobacco Transnationals (NATT). We are deeply appreciative of the dedication and perseverance of the Center for Alternative Development Initiatives (Philippines), Consumers Association of Malawi, ConsumerVOICE (India), Environmental Rights Action (Nigeria), and Zambian Consumers Association. We are grateful to the many NGOs working in support of a strong FCTC, including our partners in the Framework Convention Alliance. And we applaud the courage of government officials and treaty negotiators who are standing up to tobacco giants like Philip Morris and their powerful allies.

Many thanks also to Infact's Board of Directors, staff and interns whose commitment and energy keep the Campaigns moving ahead. Special recognition goes to Lucinda Wykle-Rosenberg for her work on this report.

Kathryn Mulvey  
Infact Executive Director  
February 2003

## INTRODUCTION

"I started as a cowboy. Now I'm a statesman."<sup>1</sup> This quote from Presidential candidate George W. Bush might be humorous if the US didn't regularly engage in cowboy diplomacy in international negotiations. The image (and reality) that the US has become a bully rather than sincere negotiating partner pre-dates the current administration, and if it continues will undermine US effectiveness and ability to influence international negotiations productively. US diplomacy needs to shed its lone ranger attitude, and demonstrate greater maturity by using its power, wealth and influence to better our environment, expand and respect human rights, to be a leader in promoting good governance, and improve the health and well-being of people everywhere.

Cowboy-style diplomacy, where larger and wealthier powers dominate negotiations, is no longer accepted by civil society, as seen in the streets from Seattle to Davos. Just as grassroots movements are forcing change to occur within institutions like the World Trade Organization, more recent and constructive styles of diplomacy based in democratic decisions that are arrived at openly have produced results that benefit people around the world—such as the Ottawa process for negotiating the landmine treaty.<sup>2</sup> The US, often idealized as a symbol of democracy, should lead rather than obstruct open and democratic decision-making processes in international negotiations, recognizing that public opinion is an important factor in global affairs.

The US has a particular responsibility since many transnational corporations (TNCs) are US-based, and are at the root of so many health, environmental and human rights problems.

This report examines recent international agreements on health, the environment and human rights. It finds that the US has increasingly isolated itself from the global community on issues of enormous global humanitarian and environmental consequence. The US is the only country apart from Somalia that refuses to ratify the Convention on the Rights of the Child.<sup>3</sup> The US walked away from the Kyoto Protocol on climate change at the outset of the current Bush Administration.<sup>4</sup> The US refuses to ratify the treaty banning the use of landmines that continue to maim and kill people (especially children) around the world.<sup>5</sup> The US unilaterally pulled out of the antiballistic missile treaty it signed.<sup>6</sup> Paradoxically, the US government accuses countries of violating weapons treaties, but opposes a protocol to ensure verification of compliance with the Biological Weapons Convention because it does not want to be subjected to inspections to verify compliance itself.<sup>7</sup> These unilateral and contradictory positions of the US appear arrogant and hypocritical. The US is essentially saying, "Do as I say, not as I do." But we aren't in the Wild West. The US is part of the international community, and needs to be a constructive partner, not a "Howdy Pardner."

<sup>1</sup> "Journeys with George: Documentary Shows Silly Side of Bush on Campaign Trail," Associated Press, March 7, 2002, <http://ca.news.yahoo.com/020307/6/kop5.html>, accessed January 8, 2003.

<sup>2</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 398.

<sup>3</sup> George Galloway, "Playing the Straight Man to a Bandit Called Bush," *Mail on Sunday*, July 29, 2001.

<sup>4</sup> Tom Doggett, "US Global Warming Emissions Drop 1.2%," *Boston Globe*, December 17, 2002.

<sup>5</sup> "International Meeting in Washington to Urge US to Join Landmine Ban Treaty," Agence France Presse, March 6, 2001.

<sup>6</sup> Duncan Currie, LL.B. (Hons.), LL.M., "United States Unilateralism and the Kyoto Protocol, CTBT and ABM Treaties: The Implications Under International Law," June 9, 2001, [www.greenpeace.org/index](http://www.greenpeace.org/index), accessed November 2002.

<sup>7</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, *Rule of Power or Rule of Law?*, New York: Apex Press, 2003, p. xxvi; "US Reassures UN Disarmament Body of Its Support," Agence France Presse, February 7, 2002; "US Seeks Changes to 1972 Biological Weapons Convention: Report," Agence France Presse, November 1, 2002.

In some cases, including the Kyoto Protocol and the Framework Convention on Tobacco Control (FCTC), US positions can be linked to corporate influence within the government. The oil and tobacco industries are big contributors to the major political parties in the US. Philip Morris was one of the top contributors to President George W. Bush's presidential campaign, and Bush's home state of Texas is a large producer of oil. The tobacco corporations have strong ties to key people within the Bush administration, including senior White House advisor Karl Rove. Philip Morris, through its Kraft Foods subsidiary, also has close ties to US Secretary of Health and Human Services Tommy Thompson, who plays an important role in the negotiations on the FCTC.<sup>8</sup> Even absent specific connections to corporations, the US is reluctant to control TNCs which pour millions of dollars into political campaigns and spend hundreds of millions more to influence public opinion.

In fairness, the US has its allies in undermining binding environmental agreements, most notably Australia and Japan, and in particular cases Canada and New Zealand, referred to as the JUSCANZ countries.<sup>9</sup> Australia and Japan have also been described as "not helpful" during negotiations on the treaty to ban landmines.<sup>10</sup> These are wealthy countries where many TNCs are based, and they are seeking to protect a consumer lifestyle that is incompatible with other environmental and humanitarian objectives.<sup>11</sup>

It is clear that the European Union (EU), combined with strong developing country leadership, has the capacity to strengthen international agreements in

the face of US opposition (and certainly they did in cases like the Biosafety Protocol and the Basel Convention). But the EU too often exerts that leadership only after years of delays, and after agreements have been watered down in failed attempts to appease the US.

The FCTC is being negotiated by member states of the World Health Assembly, with May 2003 as the target date for adoption. After four years of negotiations, the FCTC process has entered a pivotal phase. The next few months will determine whether the final text is strong enough to reverse the global tobacco epidemic—or whether the tobacco transnationals have managed to subvert the world's first public health treaty. It is imperative that negotiators put public health first and stand up to the powerful interests of the tobacco transnationals. Negotiators of this and future treaties must learn from the experiences outlined here: that the US must change course, or the international community must forge ahead without them.

An effective FCTC will set global standards to reverse an epidemic that now claims nearly five million lives per year. To preserve and protect public health, the FCTC must, at a minimum:

Ban all tobacco advertising, promotion and sponsorship to rid the world of images like Philip Morris's Marlboro Man;

Empower states and international bodies to monitor the national and transnational activities of the tobacco corporations including, but not limited to, political

<sup>8</sup> Tom Hamburger, Laurie McGinley and David Cloud, "Industries that Backed Bush Are Now Seeking Return on Investment," *Wall Street Journal*, March 6, 2001; David Pace, "Thompson Has Strong Tobacco Ties," Associated Press, January 10, 2001.

<sup>9</sup> "Who to Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002; Interview with Karen Perry of Physicians for Social Responsibility, January 13, 2003.

<sup>10</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 9, 2003.

<sup>11</sup> Jim Puckett and Cathy Fogel, "A Victory for Environment and Justice: The Basel Ban and How it Happened," Greenpeace International, 1994, [www.ban.org/about\\_basel\\_ban/a\\_victory.html](http://www.ban.org/about_basel_ban/a_victory.html), accessed January 15, 2003; "Who to Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002.

contributions, lobbying and interference in public health policy;

Ensure that tobacco corporations are held accountable for past, present and future harm including, but not limited to, legal processes;

Consistently establish the principle that public health takes precedence in the event of conflict with trade and other international agreements;

Provide adequate funding mechanisms and binding reporting, monitoring and enforcement mechanisms without "opt out" provisions or reservations.

This report draws upon examples of several types of treaties, including conventions, protocols and framework conventions. A framework convention is a legally-binding treaty with general guidelines and principles for international governance on a particular issue. The term "protocol" usually refers to more specific agreements often established to support a framework convention. A treaty by whatever name is still a treaty, whether general or particular, and it establishes rules that are recognized by states.<sup>12</sup>

This report shows a troubling and dangerous pattern of behavior of the US and its allies in protecting its own interests and the interests of its transnational corporations over broader concerns that affect all humanity, with an increasing disregard for its international obligations. Only when developing countries and Europe stood united has the world been able to make progress in each of these areas.

## ENVIRONMENTAL TREATIES

If there is an issue that should bind all of humankind together it is safeguarding the

environment in which we must all exist and by which we are all affected. This shared fate has provoked understandable outrage not only at the well-known Bush Administration rejection of the Kyoto Protocol, but also the US record as a whole on environmental agreements. Nothing says Ugly American better than the knowledge that the US is the biggest consumer of the world's resources and polluter, but selfishly (and stupidly) refuses to change its practices and stand up to corporations to protect our planet and its people.

### KYOTO PROTOCOL

**Date Adopted:** December 11, 1997

**Number of Countries Required for Entry into Force:** 55 (plus enough developed countries to represent 55% of 1990 carbon dioxide emissions)

**Number of Countries That Have Ratified:** 102

**Date Entered into Force:** projecting mid-2003 (requires ratification of Russia)

Sources: United Nations Framework Convention on Climate Change, <http://unfccc.int/resource/convkp.html#kp>, accessed January 27, 2003; "Kyoto Protocol Receives 100th Ratification," Framework Convention on Climate Change Secretariat press release, December 18, 2002, <http://unfccc.int>.

**Summary of Treaty:** The Kyoto protocol to the Framework Convention on Climate Change (FCCC) was signed at the 1992 Earth Summit in Rio de Janeiro (United National Conference on Environment and Development-UNCED). The FCCC included a non-binding pledge that the major industrialized countries would reduce their greenhouse gas emissions to 1990 levels by the year 2000.<sup>13</sup>

<sup>12</sup> Thomas Buergenthal and Harold G. Maier, *Public International Law*, St. Paul: West Publishing Company, 1985, pp. 25, 91.

<sup>13</sup> Susan R. Fletcher, Senior Analyst in International Environmental Policy, Resources, Science and Industry Division, "Global Climate Change Treaty: The Kyoto Protocol," CRS Report for Congress, 98-2, Updated March 6, 2000, [www.nceonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189](http://www.nceonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189), accessed December 16, 2002; "Earth Summit History," [http://archive.greenpeace.org/earthsummit/background\\_history.html](http://archive.greenpeace.org/earthsummit/background_history.html), accessed January 27, 2003.



When scientific evidence made clear that human activities were having a huge impact on the global climate, including global warming that could result in sea level rise and changes in weather patterns that can have negative health effects—and that the largest contributors to climate change such as the United States and Japan would not meet the voluntary targets by 2000—parties to the Framework Convention on Climate Change decided in 1995 to enter into negotiations on a protocol to establish legally binding limitations or reductions in greenhouse gas emissions. It was decided by the Parties that this round of negotiations (the Kyoto Protocol) would establish limitations only for the developed countries.<sup>14</sup>

The Kyoto Protocol requires developed countries to reduce emissions of six primary greenhouse gases by 2012. The Protocol opened for signature March 16, 1998 until March 15, 1999. The United States signed the Protocol on November 12, 1998. This treaty would require the United States to reduce its greenhouse gas emissions by 7% below 1990 levels between 2008-2012. It is now well-known that the US pulled out of the Kyoto Protocol, and that could have been the death blow to the treaty had the European Union not made the decision in 2001 to move forward with ratification and implementation of Kyoto without the US.<sup>15</sup> Japan and Canada, also obstructionists during negotiations, have since ratified the Kyoto Protocol. Australia continues to say it will not ratify,

as does the US, so it will be necessary for Russia to ratify (which they are expected to do) for the Protocol to enter into force without the participation of the world's biggest energy consumer and emissions producer, the US.<sup>16</sup>

**US Position:** The United States was one of the first nations to ratify the FCCC after George H. W. Bush signed it with much fanfare in Rio de Janeiro in 1992. However, the world was shocked and outraged when President George W. Bush pulled out of the Kyoto Protocol at the end of March 2001, which unlike the FCCC has specific and binding emission reduction requirements. The Bush Administration announced that it would 'hurt' the American economy and cost jobs. The administration also took the hard-line position that until developing countries also make commitments to participate in greenhouse gas limitations, it would not submit the Kyoto Protocol to the Senate for advice and consent, delaying indefinitely any possibility of ratification.<sup>17</sup>

"Even the most cynical would be shocked at the heavy-handed tactics of the US's bald display of their fossil-fuel backed politics in Geneva . . . . The US has struck another blow . . . to undermine international institutions and international agreements," said Steve Sawyer, a Greenpeace International Climate Policy

<sup>14</sup> Susan R. Fletcher, Senior Analyst in International Environmental Policy, Resources, Science and Industry Division, "Global Climate Change Treaty: The Kyoto Protocol," CRS Report for Congress, 98-2, Updated March 6, 2000, [www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189](http://www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189), accessed December 16, 2002.

<sup>15</sup> "Kyoto - Bush Increasingly Isolated, EU Pressing Ahead with Kyoto," Greenpeace press release, June 16, 2001, <http://archive.greenpeace.org/pressreleases/climate/2001jun162.html>, accessed January 13, 2003.

<sup>16</sup> Susan R. Fletcher, Senior Analyst in International Environmental Policy, Resources, Science and Industry Division, "Global Climate Change Treaty: The Kyoto Protocol," CRS Report for Congress, 98-2, Updated March 6, 2000, [www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189](http://www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189), accessed December 16, 2002; "Kyoto Protocol Receives 100th Ratification," Framework Convention on Climate Change Secretariat press release, December 18, 2002, <http://unfccc.int>; "Who to Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002.

<sup>17</sup> Susan R. Fletcher, Senior Analyst in International Environmental Policy, Resources, Science and Industry Division, "Global Climate Change Treaty: The Kyoto Protocol," CRS Report for Congress, 98-2, Updated March 6, 2000, [www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189](http://www.ncseonline.org/NLE/CRSreports/Climate/clim-3.cfm?&CFID=6136888&CFTOKEN=57141189), accessed December 16, 2002.

Advisor commenting on the election of a US-backed candidate to chair the International Panel on Climate Change after a well-respected scientist was ousted from that role in 2002. Greenpeace accused the US of acting on the direction of US oil giant ExxonMobil.<sup>18</sup>

According to international legal expert and Barrister Duncan Currie, ". . . as a party to the Climate Convention, the United States is bound by that convention, and if the US announces its intention to withdraw from the Kyoto Protocol, then that in itself is a breach of the parent Convention. It is clear law that a change of government is not a ground for non-compliance with international obligations . . . . The results, if this approach is not reversed, are likely to include an undermining of the rule of law, an unraveling of international consensus and reduced willingness by States to enter into and conclude negotiations, with particular consequences for nonproliferation and climate change. The consequences may also be disadvantageous to the United States, in loss of legitimacy of leadership and loss of confidence in negotiating and implementing multilateral agreements . . . ." <sup>19</sup>

**Corporate Influence:** Following the US pullout from Kyoto, and leading up to the Johannesburg Earth Summit in 2002, Friends of the Earth obtained a letter to President Bush from a list of groups, many of whom receive funding from ExxonMobil, urging him not to attend the Summit and to keep global warming "off the table and out of the spotlight." The letter went on to say, "the worst possible outcome of Johannesburg would

be taking any steps towards creating a World Environment Organization, as the European Union has suggested."<sup>20</sup> Friends of the Earth said the "US has been obstructionist throughout the WSSD (World Summit on Sustainable Development) on critical issues such as global rules for business that would ensure high standards of corporate behavior," and said the Bush Administration is "ignoring climate change and imperiling the world."<sup>21</sup>

**Lessons from Kyoto:** The most obvious lesson is that the US "often" or "usually" negotiates hard to water down a treaty, as it is doing with the FCTC, only to walk away in the end. The people and the environment are better served when governments find the courage to take a stand against US unilateralism.

### **PERSISTENT ORGANIC POLLUTANTS TREATY**

**Date Adopted:** May 22, 2001

**Number of Countries That Have Signed to Date:** 151

**Number of Countries Required for Entry into Force:** 50

**Number of Countries That Have Ratified:** 26

**Date Entered into Force:** N/A

Sources: <http://www.pops.int/documents/signature/signstatus.htm>; United Nations Environment Program, "Stockholm Convention on POPs" [www.pops.int/documents/convtext/convtext\\_en.pdf](http://www.pops.int/documents/convtext/convtext_en.pdf).

<sup>18</sup> "Tactical Victory for US and the Oil Industry: Greenpeace Calls on Scientific Community to Rise Above Politics," Greenpeace press release, April 22, 2002, [archive.greenpeace.org/pressreleases/climate/2002apr22.html](http://archive.greenpeace.org/pressreleases/climate/2002apr22.html), accessed January 13, 2003.

<sup>19</sup> Duncan Currie, LL.B. (Hons.), LL.M., "United States Unilateralism and the Kyoto Protocol, CTBT and ABM Treaties: The Implications Under International Law," June 9, 2001, [www.greenpeace.org/index](http://www.greenpeace.org/index), accessed November 2002.

<sup>20</sup> "How to Sabotage a Summit: Exxon and Republican Lobbyists Work to Stop Johannesburg Progress," Friends of the Earth International press release, August 15, 2002, [www.foei.org/media/2002/0815earth.htm](http://www.foei.org/media/2002/0815earth.htm), accessed January 15, 2003.

<sup>21</sup> "US Wrecks Earth Summit," Friends of the Earth International press release, September 4, 2002, [www.foei.org/media/2002/0904.html](http://www.foei.org/media/2002/0904.html), accessed January 15, 2003.

**Summary of Treaty:** The Stockholm Convention on Persistent Organic Pollutants (POPs) is designed to eliminate the use of 12 chemicals that are harmful to human health and the environment. Most of the chemicals prohibited by the treaty, including eight pesticides, are no longer used in the US.<sup>22</sup> POPs are chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of living organisms and are toxic to humans and wildlife.<sup>23</sup>

The Stockholm Convention on Persistent Organic Pollutants opened for signature May 2001 until May 2002.<sup>24</sup> Among the most controversial negotiating aspects of the treaty was the inclusion of the Precautionary Principle, something the European Union strongly supported, but the US opposed.<sup>25</sup> The Precautionary Principle states that when an activity threatens the environment or human health, precautionary measures should be taken even if the cause and effect relationships are not fully established scientifically. It recognizes that such proof of harm may never be possible, at least until it is too late to avoid or reverse the damage done. In other words, better safe (stop the activity until it can be proven safe) than sorry (continue activity until science can clearly connect it to harm). Compromise language was included, but referred back to the more narrow "precautionary approach" language used in the 1992 Rio Declaration.<sup>26</sup>

**Role of the US:** The US signed the Convention in 2001, but has not yet ratified it. On the most

controversial points of the treaty, the European Union tended to be on the side supported by environmental NGOs, with the US on the opposite side.<sup>27</sup> In addition to the debate over the Precautionary Principle, which the US opposes, the US and the EU wrangled over whether to establish a committee responsible for adding more chemicals to the ban list in the future. The US worked with the G-77 countries to block the proposal (exploiting G-77 concerns regarding funding issues), which ended in a weak compromise that allows subsidiary bodies to help the secretariat for the Convention.<sup>28</sup>

In the final days of negotiations, the US introduced a proposal on which there had been no open discussion to the amendments section of the treaty. The US said they wanted an "opt in" clause, meaning any future amendments need to be affirmatively decided country-by-country, and that a party must declare this option when they ratify the treaty, or else they are subject to the "opt out" language. The "opt out" provision already in the text stated if within six months a party could not abide by its obligations, they could file a notice. The US stated that it would use the "opt in" measure in signing the treaty, in which it reserves the right to decide on a case-by-case basis whether to agree to future bans on chemicals.<sup>29</sup>

<sup>22</sup> Jane C. Luxton, "POPs Treaty Signed; Attention Turns to Ratification and Implementation," *Environmental Compliance and Litigation*, Vol. 17, No. 1, June 2001.

<sup>23</sup> www.pops.int, accessed January 22, 2003.

<sup>24</sup> www.pops.int, accessed January 22, 2003.

<sup>25</sup> Karen Perry Interview, Deputy Director, Environmental Health Program, Physicians for Social Responsibility, January 13, 2003.

<sup>26</sup> Jane C. Luxton, "POPs Treaty Signed; Attention Turns to Ratification and Implementation," *Environmental Compliance and Litigation*, Vol. 17, No. 1, June 2001; Clifton Curtis, "Toxic Chemicals, the Precautionary Principle and Strategic Partnerships," www.worldwildlife.org, November 1, 1999.

<sup>27</sup> Interview with Karen Perry, Deputy Director, Environmental Health Program, Physicians for Social Responsibility, January 13, 2003.

<sup>28</sup> "US Signs Treaty on Organic Pollutants," *Environmental Laboratory Washington Report*, June 21, 2001; Jane C. Luxton, "POPs Treaty Signed; Attention Turns to Ratification and Implementation," *Environmental Compliance and Litigation*, Vol. 17, No. 1, June 2001; "Leaked Letter Reveals US Threat to Thwart Toxics Treaty," *Environmental News Service*, February 3, 2000.

<sup>29</sup> Interview with Clifton Curtis, Director, Toxics Program, World Wildlife Fund, January 22, 2003.

**Corporate Influence:** Since many of the chemicals targeted by the POPs treaty are no longer used by the US and most industrialized countries, the opposition from TNCs mostly centered on banning chemicals in the future (hence the battle over the Precautionary Principle). Trade associations for the chemical and pesticide industries were present and visible during negotiations, including the American Chemistry Council, the Chlorine Chemistry Council, Cropwise America (the American Crop Protection Association) and the International Crop Protection Association.<sup>30</sup> Sweden accused the US during negotiations of wanting to limit the number of chemicals covered by the treaty to avoid political fallout with the US chemical industry.<sup>31</sup> "We faced the situation that the US said they wanted to sign on, and they felt POPs was a priority issue and action needed to be taken, but they sided with the chemical industry on just about everything the industry wanted," said Clifton Curtis of World Wildlife Fund.<sup>32</sup>

**Lessons from POPs Treaty:** The European Union was able to counterbalance US efforts to water down the treaty on some issues, but could not do so effectively on the issue of future chemical bans since it did not have sufficient support from the G-77 countries.<sup>33</sup> The US will likely continue to oppose use of the Precautionary Principle and will continue to promote the supremacy of trade over the environment, health and human rights. There was not a great deal of corporate opposition to the limited number of chemicals covered by the treaty, since their use was already banned in the US and many countries. However, the chemical industry dug in

its heels to prevent additional chemicals from being listed in the future, and the US succeeded in watering down the treaty on that point. The US and other governments have similarly taken positions that match those of tobacco transnationals in some areas most important to the industry. There is clearly a correlation between corporate influence and investment and the success of environmental and public health agreements.

### **BASEL CONVENTION AND THE BAN AMENDMENT**

**Date Adopted:** 1989 (Ban Amendment in 1995)

**Number of Countries That Have Ratified Convention to Date:** 153

**Number of Countries That Have Ratified Amendment:** 35 (62 needed for entry into force)

**Date Entered into Force:** 1992 (Ban Amendment not yet in Force)

**Number of Countries That Have Signed the Protocol on Liability and Compensation:** 13

Sources: Secretariat of the Basel Convention, [www.basel.int/ratif/ratif.html](http://www.basel.int/ratif/ratif.html), updated November 20, 2002; "Country status—Waste Trade Ban Agreements," [www.ban.org](http://www.ban.org).

**Summary of Treaty:** The Basel Convention regulates trade in hazardous waste by requiring notification and consent for transboundary movements of hazardous waste prior to export. The Convention also prevents countries that have ratified the treaty from engaging in hazardous waste trade with non-party countries without bilateral agreements that contain similar requirements.<sup>34</sup>

<sup>30</sup> Interview with Karen Perry, Deputy Director, Environmental Health Program, Physicians for Social Responsibility, January 13, 2003.

<sup>31</sup> Jane C. Luxton, "POPs Treaty Signed; Attention Turns to Ratification and Implementation," *Environmental Compliance and Litigation*, Vol. 17, No. 1, June 2001.

<sup>32</sup> Interview with Clifton Curtis, Director, Toxics Program, World Wildlife Fund, January 22, 2003.

<sup>33</sup> Interview with Karen Perry, Deputy Director, Environmental Health Program, Physicians for Social Responsibility, January 13, 2003.

<sup>34</sup> "Basel Ratification: OECD Ban Update Could Free Senate," *Environmental Law Institute Report*, September/October 1998, [www.ban.org](http://www.ban.org), accessed November 22, 2002.

The Convention was a response to pressure from developing countries to protect human health and the environment from the export and dumping of hazardous waste from richer countries into poorer countries.<sup>35</sup> However the original Convention was denounced by environmentalists and developing countries as doing more to legitimize waste trade through a control regime, than to criminalize it by banning it. The African group, for example, walked out of the first round of talks. Later however, developing countries were able to adopt the Basel Ban Amendment (over the wishes of the United States, Canada, Australia and a small cadre of opponents) which banned the most abusive forms of the international trade in hazardous waste—that which is exported from rich to poor countries. Now, with the Basel Ban Amendment, the Basel Convention in many ways is viewed as a triumph of the international community over US obstructionism, though it still suffers stalling tactics and continuous attempts to undermine the ban.<sup>36</sup>

**Role of the US:** Australia, Brazil, Canada and the United States have actively worked to undermine the Basel Convention's amendment to ban the trade in hazardous waste, according to the Basel Action Network. The US is still not a party to the Basel Convention, though the US is the largest producer of waste in the world, earning the reputation of the "ugly American garbage dumper."<sup>37</sup>

Developing countries originally called for a total ban on the export of hazardous waste to poorer countries, but the US and other wealthy countries prevented the inclusion of a ban in the original Convention, and inserted a provision (Article 11) that would allow waste exports to countries not party to the treaty. NGOs have described the US government's position and that of its allies as "the biggest obstacle to a real solution to the hazardous waste crisis."<sup>38</sup>

Robert Ford, a US State Department official during the Clinton Administration, said in 1998, "The United States is on the outside of many international environmental conventions. We feel that Basel is important in its own right, but the concept of the US being part of the international framework is important and something the administration should strive to do."<sup>39</sup> As with the Landmine Treaty (see below), rhetoric from then-President Clinton did not match US positions on the Basel Convention. The Clinton Administration announced general support for a ban on exports of hazardous wastes outside North America, only to turn around and undermine a total ban during negotiations in 1994 in Geneva.<sup>40</sup> The US thwarted consensus on a Ban Amendment to the

<sup>35</sup> "Focus on COP VI," a briefing paper prepared by the Basel Action Network, December 2002, [www.ban.org](http://www.ban.org).

<sup>36</sup> Jim Puckett and Cathy Fogel, "A Victory for Environment and Justice: The Basel Ban and How it Happened," Greenpeace International, 1994, [www.ban.org/about\\_basel\\_ban/a\\_victory.html](http://www.ban.org/about_basel_ban/a_victory.html), accessed January 15, 2003; Sejal Choksi, "Annual Review of Environmental and Natural Resources Law: International Law, The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal: 1999 Protocol on Liability and Compensation," *Ecology Law Quarterly*, 2001, 28 Ecology L.Q. 509, accessed December 20, 2002.

<sup>37</sup> Basel Action Network, [www.ban.org/hall\\_shame.html](http://www.ban.org/hall_shame.html), Updated January 20, 2002, accessed November 2002; Sejal Choksi, "Annual Review of Environmental and Natural Resources Law: International Law, The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal: 1999 Protocol on Liability and Compensation," *Ecology Law Quarterly*, 2001, 28 Ecology L.Q. 509, accessed December 20, 2002.

<sup>38</sup> "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, p. 12.

<sup>39</sup> "Basel Ratification: OECD Ban Update Could Free Senate," *Environmental Law Institute Report*, September/October 1998, [www.ban.org](http://www.ban.org), accessed November 22, 2002.

<sup>40</sup> Jim Puckett and Cathy Fogel, "A Victory for Environment and Justice: The Basel Ban and How it Happened," Greenpeace International, 1994, [www.ban.org/about\\_basel\\_ban/a\\_victory.html](http://www.ban.org/about_basel_ban/a_victory.html), accessed January 15, 2003; Interview with Jim Puckett, Director, Basel Action Network, December 17, 2002.

Convention which was eventually passed only due to the unified leadership of the G-77 countries (especially Senegal and Sri Lanka) joined by China, Eastern Europe and European countries (particularly Denmark, as well as Norway, Sweden, Italy, Portugal, Belgium, Spain and France) which stood steadfast against the US and silenced opposition in the European Union. One particularly effective tactic in defeating the US was the threat of calling for a vote on the ban. The Ban Amendment had support of a two-thirds majority to win, and it takes only one country to call for a vote.<sup>41</sup> A vote was never called but the threat was seen as a real one and allowed the Ban Amendment to be adopted by a consensus despite overt opposition by the US et al.

Even after the ban passed as a decision in 1994, the US argued that as a decision, it was not legally binding. Even though the US is not a party to the Basel Convention, it engaged in heavy lobbying with Australia and Canada against the EU's proposal to amend the Convention to make the ban legally binding without question. In 1995 despite the US et al efforts, the Ban Amendment was also passed by consensus. Since then, the US has questioned the compatibility of the Ban with the trade rules of the World Trade Organization.<sup>42</sup> Meanwhile the US position is that it now wishes to ratify the Convention without simultaneously ratifying the Ban Amendment. This has been compared to a new 51<sup>st</sup> US state agreeing to join the union and uphold the US Constitution but refusing to accept its amendments (e.g. the Bill of Rights).<sup>43</sup>

In February 2002, the Basel Action Network and other environmental organizations released an exposé that showed how the US government exports hazardous electronic waste to developing countries with no controls, much of the waste going to Asia, primarily China.<sup>44</sup>

**Lessons from the Basel Convention:** Without the solidarity of the G-77 and strong country leaders in Europe (particularly in the Nordic states) it would have been difficult to isolate the US and its allies, and to prevent the US from succeeding to block consensus on a ban in hazardous waste trade as they did in Basel. Regional agreements and national bans in the years following the adoption of the Convention helped build momentum for an eventual Ban Amendment a few years later. Any country can call a vote, a tool that can be effective in final negotiations even as a threat, if a country is blocking consensus as the US did. Perhaps the most important lesson is that after the US convinced other countries to water down the treaty in 1989 to a bare bones minimalist shadow of its original intent, the US never signed the treaty anyway. "Until the US has global policies that are akin to its domestic policies, it would be better not to have them in the Framework Convention on Tobacco Control since the US will then act as a whip driving all efforts to the lowest common global denominator," said Jim Puckett, Director of the Basel Action Network.<sup>45</sup>

---

<sup>41</sup> Jim Puckett and Cathy Fogel, "A Victory for Environment and Justice: The Basel Ban and How it Happened," Greenpeace International, 1994, [www.ban.org/about\\_basel\\_ban/a\\_victory.html](http://www.ban.org/about_basel_ban/a_victory.html), accessed January 15, 2003.

<sup>42</sup> "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, pp. 14-15.

<sup>43</sup> "Beware U.S. Fox in Basel Chicken Coop," *Environmental Law Reporter*, September/October 1998, [www.ban.org/library/beware\\_US\\_fox.html](http://www.ban.org/library/beware_US_fox.html).

<sup>44</sup> "Toxic Trade Watchdog Calls US EPA's Proposal on Electronic Waste Illegal and an Affront to Environmental Justice," Press Release by Basel Action Network, September 13, 2002, [www.ban.org/ban\\_news/toxic\\_trade\\_CRTs.html](http://www.ban.org/ban_news/toxic_trade_CRTs.html), accessed November 22, 2002.

<sup>45</sup> Interview with Jim Puckett, Director, Basel Action Network, December 17, 2002.

**PROTOCOL ON BIOSAFETY**

**Date Adopted:** January 29, 2000  
**Number of Countries Required for Entry into Force:** 50  
**Number of Countries That Have Signed to Date:** 103  
**Number of Countries That Have Ratified:** 41  
**Date Entered into Force:** N/A

Sources: "Cartagena Protocol Signatures," <http://www.biodiv.org/biosafety/signinglist.asp?sts=sign>, "Cartagena Protocol Ratifications," <http://www.biodiv.org/biosafety/signinglist.asp?sts=rtf>, "Cartagena Protocol on Biosafety," Article 37, Entry into Force, <http://www.biodiv.org/biosafety/articles.asp?lg=0&a=bsp-37>.

**Summary of Protocol:** In 1992, developing countries attending the Earth Summit in Rio pushed for a biosafety protocol to the Convention on Biological Diversity. As a result, the Cartagena Protocol on Biosafety covers living genetically modified foods, seeds and some pharmaceuticals. Developing countries were concerned about the aggressive marketing and promotion of genetically modified food and seeds by transnational corporations without effective regulations. Many countries are worried about the potential for disrupting or eliminating local species or food crops, and wanted to require advance informed agreements. Fears have risen about the impact of genetically modified food on human health and biodiversity, particularly since the industry has faced little regulation while experiencing massive growth since the 1990s.<sup>46</sup>

The protocol that was adopted in 2000 requires advanced informed agreement by importing countries, giving countries the right to full assessments of the risks products pose to human health and the environment—and the ability to refuse to import a product or provide conditions on import based on safety concerns (though the US has threatened WTO action over this). The treaty also contains language incorporating the Precautionary Principle for genetically-modified products. However, identification of these products, labeling, and how information is shared are all weaknesses in the Biosafety Protocol.<sup>47</sup>

**Role of the US:** Northern countries including the US are accused of weakening the protocol, and of causing the collapse of negotiations in 1999. "It often appeared to me that the original environmental protection purpose of the treaty had been entirely subordinated to Canadian and American trade interests," said Michelle Swenarchuk of the Canadian Environmental Law Association.<sup>48</sup> "It was clear from the beginning that the US could not sign the Biosafety Protocol because the US has not ratified the Biodiversity Convention. The US role there was entirely to make it as weak as possible, and they had a strong impact in the fight to make trade agreements have primacy. Despite the fact that the US couldn't sign the protocol, and it was clear it never would, they had the largest delegation there. They had people to cover every question. Biotech corporate advisors were also there, and were visibly consulted. They (the US) wield a very heavy club," said Swenarchuk.<sup>49</sup>

<sup>46</sup> Michelle Swenarchuk, "The Cartagena Protocol on Biosafety," *Intervenor* (newsletter of the Canadian Environmental Law Association), Vol. 25, No. 1, January - March 2000; "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, p. 11.

<sup>47</sup> Michelle Swenarchuk, "The Cartagena Protocol on Biosafety," *Intervenor* (newsletter of the Canadian Environmental Law Association), Vol. 25, No. 1, January - March 2000.

<sup>48</sup> Michelle Swenarchuk, "The Cartagena Protocol on Biosafety," *Intervenor* (newsletter of the Canadian Environmental Law Association), Vol. 25, No. 1, January - March 2000.

<sup>49</sup> Interview with Michelle Swenarchuk, Counsel and Director of International Programs, Canadian Environmental Law Association, January 20, 2003.

The US has still not ratified the Convention on Biological Diversity, bowing to pressure from pharmaceutical corporations and agribusiness, but was allowed to participate in protocol negotiations since the treaty allows parties to participate in negotiating protocols without having ratified the Convention first. The US also had allies from other grain-exporting countries like Canada, Australia, Chile, Argentina and Uruguay.<sup>50</sup>

The US has long opposed Precautionary Principle language in treaties, including proposals from the European Union to apply the principle in trade disputes.<sup>51</sup>

**Corporate Influence:** Both the pharmaceutical and biotech industries have been cited as heavy influences on the US position on the Biosafety Protocol and the Convention on Biological Diversity.<sup>52</sup>

**Lessons from the Biosafety Protocol:** The fact that the treaty is not subservient to the World Trade Organization (or at least this was not made explicit) is considered a victory. However, language in the Preamble speaks of the mutual role of multilateral environmental agreements and trade, and does not go far enough to safeguard public health. Public health must take priority in the event of a conflict between international agreements. There is nothing mutually beneficial about tobacco and public health, and they should not be given

mutual priority. The Protocol also contains language supporting the Precautionary Principle (the US has opposed precautionary wording in the FCTC), so rather than assuming living genetically-modified organisms are safe, risk assessments must be done, with the right of countries to refuse those risks.<sup>53</sup>

Developing countries, a strong chair from Colombia, and the European Union are credited with the adoption of the Protocol. However, ratification has been slow, so the treaty has still not entered into force.<sup>54</sup>

## HUMAN RIGHTS TREATIES

The U.S. is known for one of the worst records of any Western country, not only in observing international human rights treaties, but also in ratifying them. According to Human Rights Watch, the US is a world leader in executing children—a practice that the majority of the world condemns as a human rights violation. The US is one of only two countries in the world that have not ratified the Convention on the Rights of the Child.<sup>55</sup>

---

<sup>50</sup> "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, p. 11.

<sup>51</sup> "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, p. 9.

<sup>52</sup> "Who To Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, p. 9.

<sup>53</sup> Interview with Michelle Swenarchuk, Counsel and Director of International Programs, Canadian Environmental Law Association, January 20, 2003.

<sup>54</sup> Michelle Swenarchuk, "The Cartagena Protocol on Biosafety," *Intervenor* (newsletter of the Canadian Environmental Law Association), Vol. 25, No.1, January - March 2000.

<sup>55</sup> "United States—A World Leader in Executing Juveniles," Human Rights Watch, March 1995, Vol. 7, No. 2; UNICEF, [www.unicef.org](http://www.unicef.org).



**CONVENTION ON THE RIGHTS OF THE CHILD****Date Adopted:** November 20, 1989**Number of Countries Required for Entry into Force:** 20**Number of Countries That Have Signed to Date:** 193**Number of Countries That Have Ratified:** 191 (US and Somalia only countries that have failed to ratify)**Date Entered into Force:** September 2, 1990**Optional Protocol on Child Soldiers:** Entered into force on February 12, 2002 with 111 signatories and 43 countries that have ratified to date.

Sources: "Convention on the Rights of the Child, Introduction," <http://www.unicef.org/crc/crc.htm>, "Convention on the Rights of the Child," <http://www.unicef.org/crc/crc.htm>, "Convention on the Rights of the Child, The Process: From Signature to Ratification," <http://www.unicef.org/crc/crc.htm>.

**Summary of Treaty:** The Convention spells out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.<sup>56</sup>

The Convention on the Rights of the Child is the first legally binding treaty to cover the full range of human rights—civil and political as well as economic, social and cultural rights. Two optional protocols, one on child soldiers and the other on the sale of children, child prostitution and child pornography, were adopted to strengthen the Convention in these areas. The optional protocol on the involvement of children in armed conflict has been signed to date by 111 countries and 43 have ratified this Protocol. The Protocol on child prostitution and pornography has been signed by 105 countries and ratified by 43. The protocols

entered into force, respectively on February 12 and January 18, 2002.<sup>57</sup> Much of the Convention was built around the US Constitution and Bill of Rights; ironically, the US and Somalia are the only countries that remain outside that Convention.<sup>58</sup>

**The Role of the US:** The US ratified two optional protocols to the Convention in December 2002, including one to prohibit the use of child soldiers and another on child sexual exploitation and prostitution.<sup>59</sup> However, Human Rights Commissioner Mary Robinson in 2002 criticized the US over the execution of two men in Texas who were under the age of 18 when they committed their crimes—a violation of the Convention on the Rights of the Child. The Bush Administration generated enough pressure to force her replacement by someone who would presumably refrain from such criticism of the US.<sup>60</sup>

One of the main "sticking points" of the Convention on the Rights of the Child was the issue of the use of children in combat. The US succeeded in getting governments to water down the language in the treaty on this point in Article 38 to put the age limit at 15 rather than 18, the age many other governments were supporting. Once agreement was reached, then President Clinton signed the Convention in 1994, but the US has not ratified it due to opposition from conservative religious groups who said the Convention threatened parents' rights and warned that the UN could come into people's homes to remove their children. Former Senator Jesse

<sup>56</sup> UNICEF, [www.unicef.org/crc/introduction.htm](http://www.unicef.org/crc/introduction.htm), accessed January 2, 2003.

<sup>57</sup> UNICEF, [www.unicef.org/crc/introduction.htm](http://www.unicef.org/crc/introduction.htm), accessed January 2, 2003.

<sup>58</sup> Interview with Jo Becker of Human Rights Watch, January 16, 2003; "NGOs Complain of 'Weak' Compromise at UN Children's Summit," Agence France Presse, May 10, 2002, accessed January 9, 2003.

<sup>59</sup> "US Ratifies Two Protocols to Convention on Rights of the Child," US State Department press release, December 23, 2002, <http://usembassy.state.gov/posts/in1/wwwhpr122402d.html>, accessed January 7, 2003.

<sup>60</sup> "Robinson Calls on US to Halt Disputed Executions," *Morning Star*, August 2, 2002.

Helms, who was chair of the Senate Foreign Relations Committee, was also openly hostile to the treaty (and most treaties).<sup>61</sup>

In 1994, the UN Commission on Human Rights established a working group to draft an optional protocol because many governments were unhappy with the language in the Convention that set the minimum age on child soldiers at 15, and wanted to raise the standard to 18. The US took the move seriously even though it was and is not a party to the Convention knowing that the protocol would be used to pressure the US, even if the US didn't sign it. The US recruits children in high school and has deployed 17-year-olds in combat, and did not want to change its practices, according to Jo Becker of Human Rights Watch. "It is typical for the US to go along with [treaty language] only if it coincides with what they are already doing," said Becker.<sup>62</sup>

The US played hardball and there were rumors that African and Latin American governments were getting calls at their capitals from the US, with some suggestion of threats to cut aid.<sup>63</sup>

**Lessons from the Convention on the Rights of the Child:** One of the problems in overcoming US opposition to the optional protocol on the involvement of children in armed conflict was the process of consensus. Though the vast majority of governments supported an age limit of 18 for soldiers, and governments could have voted to overcome the US, they are loathe to do this in the UN system. As a result, the process stalled by 1998 and dragged on for years until a separate optional protocol was adopted in part due to NGO

pressure to overcome US obstructionism. In the end, because the international community stood firm, the US was forced to back down with the compromise that voluntary recruitment of 17-year-olds is allowed, but they must be 18 for combat. This was the US's last and least desirable choice, but it did ratify the optional protocols to the Convention in 2002.<sup>64</sup>

Effective lobbying by NGOs in Europe and European governments bringing pressure to bear on the US is credited with the success of the protocol on child soldiers. The US was also taking heavy criticism already for not supporting the Landmine Treaty and the International Criminal Court, and didn't want to be isolated yet again on child soldiers, or to have the process taken outside the UN system as with the Landmine Treaty. Progress was made only when governments, particularly in Europe, responded to domestic political pressure by refusing to back down to the US. "The US tried to argue that we should cast the widest net to get the largest number of countries to sign the treaty. We argued that it was best to have the strongest standard and to take the time to get countries on board, because it's not about the lowest common denominator," said Jo Becker of Human Rights Watch.<sup>65</sup> Because the international community stood firm, the US is now party to the two optional protocols. The Convention on the Rights of the Child also illustrates the negative side of allowing countries not party to a convention to negotiate its protocols.

---

<sup>61</sup> Don Hubert, "Landmine Ban: A Case Study in Humanitarian Advocacy," Occasional Paper #42, Watson Institute of International Studies, Brown University, [www.brown.edu](http://www.brown.edu), p. 44; Interview with Jo Becker of Human Rights Watch, January 16, 2003.

<sup>62</sup> Interview with Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch, January 16, 2003.

<sup>63</sup> Interview with Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch, January 16, 2003.

<sup>64</sup> Interview with Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch, January 16, 2003.

<sup>65</sup> Interview with Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch, January 16, 2003.

## PEACE AND DISARMAMENT TREATIES

A recent trend in US foreign policy is to play a major role in shaping treaties, then not sign or ratify them, or to sign then walk away from its obligations. We have already examined the case of the Kyoto Protocol. Other examples include the Comprehensive Test Ban Treaty, the Anti-Ballistic Missile Treaty, the International Criminal Court Statute, and the verification protocol to the Biological Weapons Convention (BWC).<sup>66</sup> We will look at two examples of this pattern with regard to disarmament treaties: the BWC and the Landmine Treaty.

### PROTOCOL TO THE BIOLOGICAL WEAPONS CONVENTION

**Date Adopted:** 1972 (BWC)

**Number of Countries That Have Ratified:** 147

**Date Entered into Force:** 1975 (BWC)

**Verification Protocol talks were suspended indefinitely in 2002.**

Sources: Parties and Signatories of the Biological Weapons Convention (Current as of December 11, 2002).  
<http://www.state.gov/t/ac/bw/fs/2002/8026pf.htm>;  
<http://disarmament.un.org/wmd/bwc/>.

**Summary of Treaty and Protocol:** The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction more commonly known as the

Biological Weapons Convention (BWC) entered into force in 1975. The treaty was signed by the US, and requires parties to have destroyed all stockpiles of biological weapons by 1975 and to cease production except for peaceful purposes. An inherent flaw in the treaty is that it did not provide for verification of compliance, and included no mandatory reporting requirements. The Protocol is designed to correct that flaw by establishing means for monitoring country compliance with the BWC.<sup>67</sup>

Talks ended when the US rejected the draft protocol in 2002. Some informal talks will take place on the US proposal to criminalize possession of biological warfare or germ agents and on surveillance measures at the national level.<sup>68</sup>

**Role of the US:** The US rejected a draft protocol in 2002 to verify compliance with the BWC after six years of work on the protocol.<sup>69</sup> As with the Landmine Treaty, US policy is contradictory. The US says the threat of biological weapons use is extremely serious, and accuses countries of non-compliance, but does not support the verification protocol to determine whether countries are indeed violating the treaty by producing and stockpiling biological weapons. Of course, the US itself does not want to be subjected to verification inspections which could find the US in violation of the BWC, and has proposed voluntary measures (no change from the original BWC) and to criminalize the use of biological weapons instead.<sup>70</sup>

<sup>66</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, *"Rule of Power or Rule of Law?"*, New York: Apex Press, 2003, p. 18, 61.

<sup>67</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, *"Rule of Power or Rule of Law?"*, New York: Apex Press, 2003, pp. 75-77.

<sup>68</sup> "Bioweapons Talks to Resume in November 2003," Agence France Presse, November 22, 2002, accessed January 13, 2003.

<sup>69</sup> "EU 'Concerned' Over US Rejection of Germ Warfare Draft Protocol," Agence France Presse, July 26, 2002, accessed January 15, 2003.

<sup>70</sup> "US Seeks Changes to 1972 Biological Weapons Convention," Agence France Presse, November 1, 2002, accessed January 15, 2003; Jenni Rissanen, "United States' Position on Protocol Unmoved," *BWC Protocol Bulletin*, October 15, 2001, [www.acronym.org.uk/bwc/bwc11.htm](http://www.acronym.org.uk/bwc/bwc11.htm), accessed January 10, 2003.

US Undersecretary of State for Arms Control and International Security John Bolton in a speech to the Monterey Institute Center for Nonproliferation Studies stated, "It was our conclusion that more negotiations probably wouldn't have solved it . . . in any event, the other partner didn't want more negotiations. A focus on compliance and on exerting international pressure on non-compliant states to bring themselves into compliance or face the consequences is really, over time, a lot more likely to be productive."<sup>71</sup> There was no mention of how to determine whether parties are in compliance, nor how international pressure can be exerted without verification measures—other than a veiled reference to use of force.

The United States eventually declared the protocol too weak to be effective, though the US itself played a key role in weakening the agreement, in essence providing a way out for itself. For example, the US negotiated for limits on transparency measures and inspections to protect biological defense information and industry trade secrets. These protections in the protocol for industry made the treaty weaker than the Conventional Weapons Convention which the US has already joined.<sup>72</sup>

The US rationale for walking away from the protocol is contradictory to its expressions of concern about the use of biological weapons, and to earlier positions during negotiations on the protocol. Alternatives put forward by the US for voluntary measures would simply maintain the status quo, not improve existing international

agreements. In September 2002, the US suggested delaying further discussions to strengthen the BWC until 2006.<sup>73</sup>

**Corporate Influence:** US Undersecretary Bolton said that one of the US objections to the protocol to the BWC is the risk it would pose to US pharmaceutical and biotech corporations by compromising their intellectual property.<sup>74</sup> The draft protocol was criticized for exempting too many facilities and bending over backwards to minimize inconvenience or intrusiveness, largely to protect the biotech industry and biological defense programs.<sup>75</sup>

Edward Hammond of the Sunshine Project, a bioweapons watchdog organization, said that US "secrecy over its own work is partly the result of the biotechnology industry's increasing involvement in military and government contracts. Enormous profits are at stake in the hugely competitive genetics field."<sup>76</sup>

**Lessons from the Protocol to the Biological Weapons Convention:** The US watered down the transparency and inspection measures in the protocol, then walked away after declaring it too weak to be effective in catching violators of the BWC. The European Union expressed its disappointment, but the Ad Hoc negotiating group decided not to move forward without US participation, so the protocol is essentially dead.<sup>77</sup>

The reasons the US gave for rejecting the

<sup>71</sup> Speech by John Bolton to the Monterey Institute Center for Nonproliferation Studies, Washington, DC, January 11, 2002, [www.cns.miis.edu/pubs/programs/dc/briefs/011102.htm](http://www.cns.miis.edu/pubs/programs/dc/briefs/011102.htm).

<sup>72</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, "*Rule of Power or Rule of Law?*", New York: Apex Press, 2003, pp. 79-80, 84.

<sup>73</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, "*Rule of Power or Rule of Law?*", New York: Apex Press, 2003, pp. 86-87.

<sup>74</sup> Speech by John Bolton to the Monterey Institute Center for Nonproliferation Studies, Washington, DC, January 11, 2002.

<sup>75</sup> Nicole Deller, Arjun Makhijani and John Burroughs, eds, "*Rule of Power or Rule of Law?*", New York: Apex Press, 2003, pp. 78-79.

<sup>76</sup> Lynda Hurst, "America's Secret Bio-arsenal," *Toronto Star*, November 17, 2002, accessed January 13, 2003.

<sup>77</sup> "EU 'Concerned' Over US Rejection of Germ Warfare Draft Protocol," Agence France Presse, July 26, 2002, accessed January 15, 2003.

protocol and further discussions could be a cover for attempting to exempt the US from the oversight it wants to enforce on others. Walking away from negotiations is not negotiating in good faith, and undermines US credibility in future negotiations. In this case, it undermines the security of all parties, including the US public, who truly desire transparency and verification measures in the hope of preventing the use of biological weapons. Peter Gizewski, an international policy analyst and consultant for the Central Intelligence Agency and Department of Defense in Canada, said the US's "apparent double standard could destabilize the planet." Even if the US didn't have something to hide, said Gizewski, that's the perception.<sup>78</sup>

Unlike the Landmine Ban Treaty, the international community did not take a firm stand and progress has stalled.

**Summary of Treaty:** More people have been

### THE LANDMINE BAN TREATY

**Date Adopted:** December 3, 1997

**Number of Countries Required for Entry into Force:** 40

**Number of Countries That Have Signed to Date:** 146

**Number of Countries That Have Ratified:** 131

**Date Entered into Force:** March 1, 1999

Sources: <http://www.icbl.org/ratification/>, Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Article 17, Entry into Force, <http://www.icbl.org>.

killed by landmines than by nuclear and chemical weapons combined.<sup>79</sup> On December 3, 1997, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction opened for signature in Ottawa, Canada. On December 10, 1997, the International Campaign to Ban Landmines (ICBL) and its former coordinator, Jody Williams, were jointly awarded the Nobel Peace Prize.<sup>80</sup>

The Landmine Ban Treaty came into force quicker than any multilateral convention and, with 130 State Parties and 16 signatories, it is now one of the most widely accepted and fastest growing treaties of its kind according to ICBL.<sup>81</sup>

**Role of the US:** The United States is in the minority by refusing to ratify the Landmine Ban Treaty.<sup>82</sup>

The rhetoric from the Clinton Administration "to seek a worldwide agreement as soon as possible to end the use of all anti-personnel land mines" didn't match US policy on the landmine issue.<sup>83</sup> Rather than change its policy, the US instead went to final negotiations on the treaty in Oslo in September 1997 to try to convince more than 100 other governments to accommodate the US position.<sup>84</sup> The US proposed a package of new language dubbed "killer amendments"

<sup>78</sup> Lynda Hurst, "America's Secret Bio-arsenal," *Toronto Star*, November 17, 2002, accessed January 13, 2003.

<sup>79</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 13.

<sup>80</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 13.

<sup>81</sup> Canadian Foreign Ministry press release and background, [www.acronym.org.uk/docs/0212/doc01.htm](http://www.acronym.org.uk/docs/0212/doc01.htm), accessed January 10, 2003.

<sup>82</sup> UNICEF, [www.unicef.org](http://www.unicef.org).

<sup>83</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 215.

<sup>84</sup> "The World Will Reject U.S. Proposals to Maim the Treaty," *Ban Treaty News*, newsletter of the International Campaign to Ban Landmines, Issue One, Oslo, Norway, September 1, 1997, reprinted in "Report on Activities: Diplomatic Conference on an International Total Ban on Anti-Personnel Landmines," International Campaign to Ban Landmines, November, 1997, p. 42.

that would have delayed the entry into force of the treaty by seeking a far larger number of ratifications, including all of the permanent members of the UN Security Council (meaning the treaty could not enter into force without the US). The US also wanted an exception to allow continued use of anti-personnel mines in Korea, and it wanted a change in the definition of anti-personnel mines which would have created significant loopholes. The US wanted the option to allow governments to withdraw from the treaty during war. The US went further to say that if any of its proposals were rejected, it would not sign the treaty.<sup>85</sup> The rest of the world called the US bluff, and the treaty did not incorporate the proposals.

When the US realized it would not have the numbers necessary to win a two-thirds majority in support of making its amendments to the treaty, it withdrew them. The US ignored the growing global momentum toward a ban and underestimated the unwillingness of governments to compromise when the US decided to fully participate in 1997.<sup>86</sup>

**Corporate Influence:** Certainly one of the

reasons for the success of the Landmine Ban Treaty is that the producers of landmines are primarily state-owned facilities and not transnational corporations.<sup>87</sup> However, the US Pentagon was driving the US position on the treaty,<sup>88</sup> and the Pentagon is heavily influenced by the weapons industry in the US. Alliant Tech, a landmine manufacturer in the US, simply tried to pass responsibility onto the Department of Defense.<sup>89</sup> President Clinton was not willing to take the political risk of opposing the Pentagon, even after former US military generals came out in support of a ban.<sup>90</sup>

### **Lessons from the Landmine Ban**

**Treaty:** The Landmine Ban Treaty is often lauded as one of the most successful human rights treaties, not only because of the effective work of the International Campaign to Ban Landmines, but because of the negotiating process itself in which a core of two dozen small and medium countries drove the process including Canada, South Africa, New Zealand and Germany. Rather than just operating on consensus, the negotiations allowed voting (so that no single country could block progress). Access for NGOs was also unparalleled in

---

<sup>85</sup> "The World Will Reject U.S. Proposals to Maim the Treaty," *Ban Treaty News*, newsletter of the International Campaign to Ban Landmines, Issue One, Oslo, Norway, September 1, 1997; "Reject U.S. Demands - Don't Kill or Maim the Treaty," *Ban Treaty News*, Issue Four, September 16, 1997, reprinted in "Report on Activities: Diplomatic Conference on an International Total Ban on Anti-Personnel Landmines," International Campaign to Ban Landmines, November, 1997, p. 42, 61.

<sup>86</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 9, 2003.

<sup>87</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 9, 2003.

<sup>88</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 223.

<sup>89</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 216.

<sup>90</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*, Toronto: Oxford University Press, 1998, p. 224.

stark contrast to less successful efforts, such as small arms talks, where NGO involvement was limited due to closed-door sessions.<sup>91</sup> The treaty also had strong support from developing countries, and Africa is credited with a particularly key role in its success.<sup>92</sup> The lesson is "though the United States still can impose its will on the rest, the new power of NGOs and other nonstate actors gives a much larger role to small and medium-sized governments that decide to seize the baton."<sup>93</sup>

NGOs and a majority of governments shared a clear bottom line in support of a ban on landmines, and worked in true partnership to lobby the US and other governments who opposed the ban. Priority was given to a strict agreement on a ban over compromise to gain universal acceptance.<sup>94</sup> The ICBL slogan was "no exceptions, no loopholes, no reservations."<sup>95</sup>

The US position was flawed and contradictory: they wanted to be a party but didn't want the ban. Even some US delegates afterwards admitted that the US position was untenable. To accept the US position was to defeat the entire purpose of the treaty. Allies of the US during negotiations sought a way out for the US government through compromise (Canada played this role among others), and there was some initial support for a time delay on entry into force of the treaty. But because the US wasn't willing to negotiate on any of its demands, the US strategy failed and the treaty was not delayed.<sup>96</sup>

### **Implications for the Framework**

### **Convention on Tobacco Control**

There is a clear pattern in recent history of the US negotiating down to the lowest common denominator, then failing to support environmental, human rights and other treaties. This pattern has already begun to undermine trust that the US enters negotiations in good faith, and leaves US NGOs in the uncomfortable position of urging the rest of the world to move forward without expecting much in the way of our own government's participation.

One of George W. Bush's closest allies, UK Prime Minister Tony Blair, announced in January 2003 that if President Bush wants support on US policies, the US has to support agreements that the rest of the world wants like climate change.<sup>97</sup>

### **Implications for FCTC Negotiators:**

NGOs who have worked on other treaties uniformly urge negotiators of the FCTC not to weaken that treaty in an effort to appease the US. Peter Herby of the International Committee of the Red Cross observes that in treaty negotiations, "A lot depends on individuals and countries having the political will and the degree of risk politicians are willing to take. Agreements that don't achieve anything are damaging to people's confidence in multilateralism and international cooperation."<sup>98</sup> We have seen that when the majority of

<sup>91</sup> Don Hubert, "Landmine Ban: A Case Study in Humanitarian Advocacy," Occasional Paper #42, Watson Institute of International Studies, Brown University, [www.brown.edu](http://www.brown.edu).

<sup>92</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 9, 2003.

<sup>93</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*; Toronto: Oxford University Press, 1998, p. 234.

<sup>94</sup> Don Hubert, "Landmine Ban: A Case Study in Humanitarian Advocacy," Occasional Paper #42, Watson Institute of International Studies, Brown University, [www.brown.edu](http://www.brown.edu).

<sup>95</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 9, 2003.

<sup>96</sup> Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin, eds, *To Walk Without Fear*; Toronto: Oxford University Press, 1998, p. 234.

<sup>97</sup> Andrew Grice, "US Must Put Middle East, Poverty and Global Warming on Agenda, Says Blair," *The Independent (UK)*, January 8, 2003, [news.independent.co.uk/world/politics/story.jsp?story=367302](http://news.independent.co.uk/world/politics/story.jsp?story=367302), accessed January 17, 2003.

<sup>98</sup> Interview with Peter Herby, Mines-Arms Unit Coordinator, International Committee of the Red Cross, January 16, 2003.

countries are united, opposition from the US can be overcome. Appeasement doesn't work. Too often when the US has succeeded in watering down treaties, they fail to ratify them anyway, so better to have a strong Convention without US participation than a weak agreement with the same end result.

The consensus process does not mean giving veto power to a global bully. The general sense among US-based NGOs is that there is very little likelihood that the current administration will support the FCTC, and statements about wanting to sign the treaty are hollow. "In the case of the Landmine Ban Treaty, dozens of small and medium-sized governments decided to set the highest possible standard against this indiscriminate weapon. Rather than negotiating a treaty by consensus that could be improved over years to come, within a very short period of time they achieved their goal by establishing a clear and unequivocal loophole-free ban that governments could join without exception or reservation. The FCTC should seek to set a similar standard against tobacco. Any compromise or weakening of the standard against tobacco would result in the unnecessary loss of thousands of lives to this deadly product which, like landmines, represent an urgent public health threat. The negotiators should respond strongly and quickly to this public health emergency by producing a treaty that sets the highest possible standards," said Mary Wareham, Senior Advocate, Arms Division for Human Rights Watch.<sup>99</sup>

The FCTC can still be effective without US

participation. The bulk of the impact of the tobacco epidemic in the future will be in developing countries, not the US. The positions of the US on international tobacco control policy are out of sync with domestic policy where weak positions on tobacco control would not be tolerated. Why should the international community tolerate them? If the treaty is weak it will not be effective in controlling the tobacco transnationals. A low bar for the treaty will make it difficult for policymakers to make a case that stronger domestic laws are needed to protect public health, and the tobacco corporations will exploit loopholes on issues like advertising. We should strive for the highest, not the lowest standard. If the treaty contains strong provisions it will impact the activities of the tobacco transnationals with or without US participation—the focus is where the future of Philip Morris, British American Tobacco and Japan Tobacco lies.

The implications of the FCTC extend far beyond tobacco. While global mechanisms and institutions to govern trade have developed at a rapid pace, global measures to protect health, the environment and human rights lag far behind. The public health and NGO communities together with governments should demand that the FCTC set a worthy precedent by explicitly subordinating commercial interests to health concerns. Now is the time for governments and NGOs to let the world know we will not tolerate an FCTC the tobacco transnationals can live with—and, if necessary, to fight the adoption of an FCTC that will do more harm than good.

**A Message for the US Public:** The

---

<sup>99</sup> Interview with Mary Wareham, Senior Advocate, Arms Division, Human Rights Watch, January 25, 2003.



unilateral actions of the US are a threat to international law and cooperation, to the environment, to human rights and to public health and safety. The damage doesn't end with the US image of Cowboy Diplomacy. If the US expects international support on issues of importance to its interests, the US must be willing to be a leader on issues of international humanitarian significance.

Recent political statements espoused by some conservative elements—that US international obligations should go no further than its domestic obligations—are dangerous. "In viewing treaty compliance as a matter of political convenience rather than as a legal obligation, the United States is forsaking its own best traditions, which were to create the very best ideas of the rule of law and equality before the law. This US approach is not only setting a poor example, it is also increasing security and environmental dangers in the world," said Arjun Makhijani, President of the Institute for Energy and Environmental Research. The whole point is that treaties are necessary to solve

international issues that go beyond national law, and this concept has been widely accepted by the international community and codified in the Vienna Convention on the Law of Treaties in 1969.<sup>100</sup>

A common remark heard from governments and international NGOs during FCTC negotiations is, "It's always the US we are fighting." The US is the main obstacle to progress in preventing millions of deaths from tobacco—the world's largest threat to public health. We should be ashamed. But more than feeling shame, we must channel our outrage to make it politically untenable for the US not to support effective environmental, human rights, disarmament and public health treaties. The US government's positions on these issues are out of step with US public opinion. The US public must find its voice and not be silent.

---

<sup>100</sup> Thomas Buergenthal and Harold G. Maier, *Public International Law*, St. Paul: West Publishing Company, 1985, p. 92.

### INFACT PUBLICATIONS AND RESOURCES

*Dirty Dealings: Big Tobacco's Lobbying, Pay-offs, and Public Relations to Undermine National and Global Health Policies*, October 2002, 19 pp.

"Tobacco Transnational Activities to Undermine Tobacco Control Policy and the FCTC," May 2001-February 2002, 7 pp.

*Power Politics: Why a Global Tobacco Treaty Should Protect Public Health from Philip Morris*, Infact's 2001 People's Annual Report, 25 pp.

*Making a Killing: Philip Morris, Kraft and Global Tobacco Addiction*, Infact's newest award-winning documentary film exposes advertising and promotion, lobbying tactics, and circumvention of the law by the world's largest and most profitable tobacco transnational—including use of its Kraft Foods subsidiary to influence public health legislation. Produced and directed by AndersonGold Films. Video, 30 minutes, available in all formats, and in English or Spanish, ©Infact 2000.

"Mobilizing NGOs and the Media behind the International Framework Convention on Tobacco Control: Experiences from the Code on Marketing of Breast-milk Substitutes and Conventions on Landmines and the Environment," prepared by Infact for the World Health Organization Technical Briefing Series, Paper #3, 1999. Available in English, with Executive Summary in Arabic, Chinese, English, French, Russian and Spanish. ©World Health Organization 1999, 37 pp.

"NATT Key Principles for a World Health Organization Framework Convention on Tobacco Control (FCTC)." Addresses essential corporate accountability aspects for the FCTC and identifies what ought to be among the results of the FCTC negotiations. Developed by Infact and the Network for Accountability of Tobacco Transnationals (NATT). Available in English, with summaries available in French and Spanish, January 2001, 8 pp.

"Pulling Out All the Stops: Philip Morris's Fight to Block FDA Regulation of Tobacco," March 2000, English, 9 pp.

*Secrets and Lies: How Philip Morris and RJR Nabisco Have Responded to Infact's Tobacco Industry Boycott*, Infact's 1999 People's Annual Report, 32 pp.

*Global Aggression: The Case for World Standards and Bold US Action Challenging Philip Morris and RJR Nabisco*. An exposé of the role of the US-based tobacco corporations in aggressively promoting tobacco internationally, filled with examples of manipulation of public policy and Big Tobacco's disregard for advertising restrictions in other countries. Infact's 1998 People's Annual Report, New York: The Apex Press, 126 pp.

"The Human Toll of Corporate Influence Peddling: An Infact Exposé," Infact's 1997 People's Annual Report and 1998 Updates, English, 84 pp.

*Deadly Deception: General Electric, Nuclear Weapons and Our Environment*, winner of the 1991 Academy Award for Best Documentary: Short Subject. Video, 30 minutes, available in all formats, and many languages, ©Infact 1991.

*Infact at Work*. Membership newsletter, published three times annually, 8-12 pp.

**RECOMMENDED RESOURCES**

"Who to Blame Ten Years After Rio? The Role of the USA, Canada, and Australia in Undermining the Johannesburg Summit," Greenpeace International, August 2002, [www.greenpeace.org](http://www.greenpeace.org).

"United States Unilateralism and the Kyoto Protocol, CTBT and ABM Treaties: The Implications Under International Law," Duncan Currie, LL.B. (Hons.), LL.M., June 9, 2001, [www.greenpeace.org/index](http://www.greenpeace.org/index).

Nicole Deller, Arjun Makhijani, and John Burroughs, *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*. New York: Apex Press, 2003.

*To Walk Without Fear: The Global Movement to Ban Landmines*. Edited by Maxwell A. Cameron, Robert J. Lawson, and Brian W. Tomlin. Toronto: Oxford University Press, 1998.

"Mobilizing NGOs and the Media Behind the International Framework Convention on Tobacco Control," prepared by Infact for WHO Technical Briefing Series, Paper #3, 1999.

Don Hubert, "Landmine Ban: A Case Study in Humanitarian Advocacy," Occasional Paper #42, Watson Institute of International Studies, Brown University, [www.brown.edu](http://www.brown.edu).

Detlev F. Vagts, "The United States and Its Treaties: Observance and Breach," *American Journal of International Law*, April 2001. Vol. 95, No. 2.

Jim Puckett and Cathy Fogel, "A Victory for Environment and Justice: The Basel Ban and How it Happened," Greenpeace International, 1994, [www.ban.org](http://www.ban.org).

**TREATY PROCESS IN THE US**

After negotiations on a treaty are complete, and the US signs a treaty:

The President submits the treaty to the Senate.

The treaty is then referred to the Senate Foreign Relations Committee—the only congressional committee with the responsibility to review treaties.

According to the rules of the Senate Foreign Relations Committee "...the committee should conduct a public hearing on each treaty as soon as possible after its submission by the President."

The Senate Foreign Relations Committee discusses the treaty and reports back to the Senate.

The Senate considers the treaty and approves it with a two-thirds majority.

The President then declares the entry into force of the treaty.

**Contact the Senate Foreign Relations Committee today in support of a strong and enforceable FCTC:**

Senator Richard Lugar, Chair  
Senate Foreign Relations Committee  
450 Dirksen Senate Office Building  
Washington, DC 20510  
202-224-6797







# Infact

Challenging corporate abuse  
Building grassroots power

**Infact Campaign Headquarters**  
46 Plympton Street  
Boston, MA 02118  
617-695-2525 ▾ Fax 617-695-2626

**Infact Seattle Office**  
603 Stewart Street, Ste. 400  
Seattle, WA 98101

[info@infact.org](mailto:info@infact.org) ▾ [www.infact.org](http://www.infact.org)

