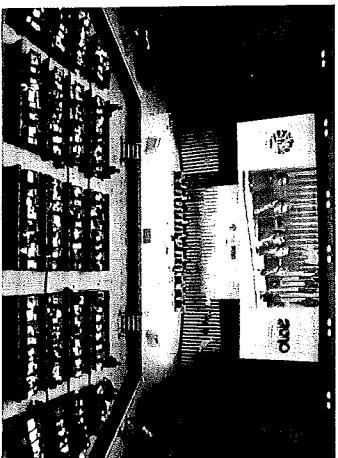


THE ROADS FROM RIO

Lessons Learned from Twenty Years of
Multilateral Environmental Negotiations



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and Lynn M. Wagner

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RESOURCES FOR THE FUTURE

 **ROUTLEDGE**

ACRONYMS

ABS	access and benefit sharing
ACIA	Arctic Climate Impact Assessment
AHEG PARAM	Ad Hoc Expert Group on Consideration with a View to Recommending Parameters of a Mandate for Developing a Legal Framework on All Types of Forests
AIA	advance informed agreement
ALBA	Bolivarian Alliance for the Peoples of Our America
AOSIS	Alliance of Small Island States
APEC	Asia-Pacific Economic Cooperation
BASIC	Brazil, South Africa, India, and China
BCH	Biosafety Clearing-House
BINGO	Big International Non-Governmental Organization Biodiversity Liaison Group
BLG	criteria and indicators
C&I	Canada, Australia, and New Zealand
CANZ	Convention on Biological Diversity
CBD	carbon capture and storage
CCS	Clean Development Mechanism
CDM	Chief Executives Board
CEB	chlorofluorocarbons
CFCs	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CITES	country-led initiative
CLI	Convention on Migratory Species
CMS	carbon dioxide
CO ₂	Committee on Forestry (FAO)
COFO	

COP	Conference of the Parties
CPF	Collaborative Partnership on Forests
CSD	UN Commission on Sustainable Development
CST	Committee on Science and Technology
ECOSOC	United Nations Economic and Social Council
EIG	Environmental Integrity Group
ENB	<i>Earth Negotiations Bulletin</i>
EU	European Union
EXCOP	Extraordinary Meeting of the Conference of the Parties
FAO	Food and Agriculture Organization of the United Nations
FSC	Forest Stewardship Council
G-77	Group of 77 (developing country negotiating bloc)
GATT	General Agreement on Tariffs and Trade
GC/GMEF	UNEP Governing Council/Global Ministerial Environment Forum
GEF	Global Environment Facility
GHGs	greenhouse gases
GM	genetically modified
GMOs	genetically modified organisms
GNP	gross national product
GURTs	genetic use-restriction technologies
GWP	global warming potential
HCFs	hydrochlorofluorocarbons
HFCs	hydrofluorocarbons
IAF	international arrangement on forests
IHF	Intergovernmental Forum on Forests
IGOs	intergovernmental organizations
IISD	International Institute for Sustainable Development
ILCs	indigenous and local communities
INCD	Intergovernmental Negotiating Committee on the International Convention to Combat Desertification
IPCC	Intergovernmental Panel on Climate Change
IPF	Intergovernmental Panel on Forests
IPRS	intellectual property rights
ITPGR	International Treaty on Plant Genetic Resources for Food and Agriculture
ITTA	International Tropical Timber Agreement
ITTC	International Tropical Timber Council
ITTO	International Tropical Timber Organization
UCN	International Union for the Conservation of Nature and Natural Resources/World Conservation Union
JI	Joint Implementation

JUSSCANNZ	Japan, United States, Switzerland, Canada, Australia, Norway, New Zealand (coalition)
LBI	legally binding instrument
IDCs	least developed countries
IMOs	living modified organisms
LULUCF	Land Use, Land-Use Change and Forestry
MA	Millennium Ecosystem Assessment
MIGs	Millennium Development Goals
MEAs	multilateral environmental agreements
MIS	Multilateral System
MOP	Meeting of the Parties
NBSAP	National Biodiversity Strategy and Action Plan
NGOs	non-governmental organizations
NLBI	non-legally binding instrument
ODA	official development assistance
ODS	Ozone Depleting Substance(s)
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of Petroleum Exporting Countries
PGRA	plant genetic resources for food and agriculture
PIC	prior informed consent
POPs	persistent organic pollutants
POPRC	Persistent Organic Pollutants Review Committee
REDD	reducing emissions from deforestation and forest degradation
REDD+	reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries
RST	Review of Significant Trade
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
SFM	sustainable forest management
SICA	Central American Integration System
SIDS	small island developing states
SMTA	standard material transfer agreement
TIEEB	The Economics of Ecosystem Services and Biodiversity Study
TRAFFIC	Trade Records Analysis of Flora and Fauna in Commerce
TRIPS	WTO Agreement on Trade-related Aspects of Intellectual Property Rights
UNCCD	United Nations Convention to Combat Desertification

UNCED	United Nations Conference on Environment and Development
UNCHE	United Nations Conference on the Human Environment
UNGSD	United Nations Conference on Sustainable Development (Rio+20)
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNGA	United Nations General Assembly
W/CED	World Commission on Environment and Development
W/CMC	World Conservation Monitoring Center
WMO	World Meteorological Organization
W/SSD	World Summit on Sustainable Development
WTO	World Trade Organization
WWF	World Wildlife Fund/Worldwide Fund for Nature

WITNESS, ARCHITECT, DETRACTOR

The Evolving Role of NGOs in International Environmental Negotiations

Stanley W. Burgiel and Peter Wood

Since the Earth Summit in 1992, civil society and, more specifically, non-governmental organizations (NGOs) have been critical players in the negotiation of multilateral environmental agreements. The Earth Summit signaled a watershed moment in NGO engagement in international environmental policy discussions, with 2,400 NGO representatives attending the summit itself, and an additional 17,000 attending the parallel NGO Forum (UN 1997). Prior to UNCED, NGO involvement in UN meetings and conferences was primarily restricted to large organizations with accreditation to the Economic and Social Council (ECOSOC). However, UNCED Secretary-General Maurice Strong held a clear vision for the integration of civil society into the discourse (and action) on sustainability, alongside formal governmental involvement (Kjellén 2008). Strong believed that greater NGO participation would result in greater legitimacy of the Earth Summit and its outcomes.

The large increase in NGO participation at UNCED gave rise to a range of different activities, as some NGOs were clearly interested in influencing governmental positions and the negotiating process itself, whereas others took more interest in parallel negotiations on climate and biodiversity and others were more interested in the Global Forum that took place alongside the Earth Summit (Engfeldt 2009). As a result of the UNCED process, NGOs were able to receive consultative status with the Commission on Sustainable Development (CSD), which helped shift their role in UN fora from being solely mute observers and information providers to being political players (Mulcke 1997).¹ A key symbol of this new status was the change in their physical access to the negotiators within UN Headquarters conference rooms. The “observer galleries” they once sat in were elevated and completely separated by a wall from the “floor” where the

negotiators sat, but after the Earth Summit these galleries were often unoccupied because NGOs were allowed onto the floor of the conference rooms and hallways during post-UNCED-related meetings, where they could interact more freely with government delegates.

If UNCED was the breakthrough in NGO involvement, signifying a movement from a passive observer to a more engaged actor in negotiations, a closer examination of the post-1992 era reveals significant diversity of groups within this category that differ by issue focus, political orientation, strategic approach, geographical representation and spread, size, and resources. Thus there is a wide spectrum of NGOs (along many axes), which en masse cannot be easily painted with one brush. This diversity, and even conflict over issues within the NGO community, arguably adds additional vibrancy to multilateral environmental negotiations. This chapter examines the "NGO community" using a rough categorization of the roles (or strategic orientation) that they play within environmental negotiations as witness, architect, and/or detractor. While these are not mutually exclusive categories, they do allow a first cut at the issue using the utilitarian perspective of how NGOs engage with a process.

This categorization will also entail a closer look at the nature of influence and action, resources and changes over time, and negotiating fora within each type of role. This perspective reveals both a diversity of roles among NGOs as well as potentially within the same NGO over time, thereby allowing for a more dynamic analysis. Substantively, these issues will be examined within case studies on the Convention on Biological Diversity (CBD) and its treatment of protected areas, and international forest policy negotiations. Since UNCED, both the CBD and forest negotiations have been focal points for NGO engagement on environmental and natural resource issues, which allow for an extended analysis of NGO interaction over two decades.

Witness, Architect, Detractor

The roles of NGOs in multilateral negotiations have been analyzed across a number of fora and issues (Betsill and Correll 2008; Mwangi 2005; Wapner 1996; Williets 2000). This analysis will examine these roles in terms of strategic orientation in the post-UNCED era. Given the limiting conditions around NGO participation in environmental negotiations prior to UNCED, one can argue that overall they played a more passive role. The shift in NGO status during and post-UNCED has broadened that dynamic across a spectrum ranging from passive to more active engagement. Within this frame, three rough categorizations for NGO roles can be discerned: witness, architect, and/or detractor.

Witness: in this role, NGOs observe negotiating processes with a primary objective of monitoring and documenting overall progress and/or the positions of particular countries. NGOs can play a role in raising public awareness particularly related to progress on key issues or the performance of their

national delegation. Other groups may possess technical or scientific expertise relevant to the discussions that are provided as information for consideration, yet without a broader political agenda or emphasis on how it gets integrated into policy outcomes.

Architect: as architects, NGOs engage constructively in the negotiating process by working with governments in country, lobbying at intergovernmental meetings, and providing input to secretariats. These NGOs may be focused on introducing new issues into the debate, influencing the framework for how specific issues are addressed, or lobbying for text in a particular decision. Pending available resources and influence, some NGOs may work across all of these scales. In some cases, NGOs may be invited to form part of a national delegation, blurring the distinction between government and non-governmental actors. NGOs may also provide technical and financial resources to further bolster their influence and credibility.

Detractor: in this role, NGOs may be involved in the negotiating process, but primarily from a critical perspective. Additionally, they may question the process's credibility and legitimacy, pursue the issue within another process, or seek to establish a new forum in which to move their agenda forward. They may exclude particular concepts under a multilateral environmental agreement's (MEA) outcomes, due to objections over the issue itself or potentially a preference to support alternatives under another process. These NGOs may also seek to deter governments from taking particular positions, and frequently use the media and other outreach efforts to rally the public.

Strategic Dynamism: NGO Roles over Time and between Processes

On any given issue there may be NGOs that fall into each of these categories: there may be some that "witness," some who act as "architects," and some who try to "detract" from the process. This may change depending on the MEA or process in question. For example, while most NGOs boycott forest discussions under the International Tropical Timber Organization (ITTO), the ITTO still has a Civil Society Advisory Group with a representative attending each meeting. An NGO playing the detractor under one negotiating process, such as the ITTO, may in turn be an architect on the same issue under another MEA, such as the CBD or the United Nations Framework Convention on Climate Change (UNFCCC). Similarly, an NGO may play different roles on an issue over the course of time. For example, an NGO may initially begin as a witness or architect if they see a process as legitimate and worthy of their efforts, but may switch to detractor if they feel it has lost legitimacy. The threat of "walking out" on a process (moving to "detractor") can also be used as a strategy to increase influence, where NGO buy-in is seen as desirable (for purposes of public relations, etc.). Thus, the roles that NGOs play as witness, architect, and detractor will depend

on their overall strategic plan and objectives, and the progress they achieve by using a given approach.

The ultimate purpose of NGO involvement in multilateral environmental agreements is to exert influence, whether in the negotiations themselves, at the point of implementation or in some other manner. The nature and success of such influence also relates to the type of role that they play, as well as the resources that they can bring to bear. An NGO "witness" may report on positions taken by governments, thereby raising its accountability domestically. An architect might be influential in crafting the language of a decision or, more broadly, elements of a work program, and if endowed with additional financial or personnel resources might play a role in implementation, thereby realizing decision language at the site level. Finally, a detractor may shame a government in the media or raise significant questions about the legitimacy of a process that ultimately shifts the way in which the discussions continue, or may establish an alternative process.

In sum, one hypothesis is that the nature of NGO influence and action varies across roles, resources, and opportunities. The second hypothesis is that the role of an NGO (or NGO coalition) may shift over time and/or across negotiating fora. The objective of an NGO is not ultimately to play any of the roles listed above, but instead to use those strategies to achieve its aims. Decisions on what role to play depend on factors such as:

- openness of a process to NGO participation;
- potential for a process to deliver positive vs. negative results (as defined by the NGO);
- potential for the NGO to influence the process;
- available political, economic, and informational/knowledge resources; and
- reputational risks or benefits of being involved in a particular process.

Convention on Biological Diversity and Protected Areas

The conceptual framework for the Convention on Biological Diversity is largely derived from initial discussions starting in 1980 on a world conservation strategy by IUCN, the World Wide Fund for Nature (WWF), and the United Nations Environment Programme (UNEP). In 1981, IUCN's General Assembly launched the idea of a global agreement to protect the world's biodiversity and in 1984 requested the IUCN Secretariat to develop principles for a basic draft of a treaty.

This effort spurred UNEP to form an Ad Hoc Working Group of Experts on Biological Diversity in 1987. A series of meetings further developed the issues and structure for a text that was referred for review to an Ad Hoc Working Group of Legal and Technical Experts. The outcomes of these discussions were transmitted to an Intergovernmental Negotiating Committee for a Convention on Biological Diversity, which deliberated on the text of a Convention at four

meetings prior to its adoption in May 1992 in Nairobi and opening for signature at UNCED in June 1992.

From the start, a few key NGOs and other intergovernmental organizations, such as IUCN, the World Resources Institute, Conservation International, the African Centre for Technology Studies, and the International Liaison Group (a global coalition of NGOs) were involved in identifying the potential elements for a framework agreement on biodiversity.² This involvement was ultimately trying to establish the architecture for the CBD. The initial focus of many of the larger NGOs based in developed countries (frequently referred to as Big International NGOs—BINGOs) was on strict conservation, including a listing of key protected areas identified by countries as critical for protecting global biodiversity. The proposed structure was similar to that of the 1971 Ramsar Convention on Wetlands of International Importance, which includes a mechanism to identify the conservation status of listed wetlands as well as to add new wetlands proposed by countries.

Such an approach was largely unacceptable to developing countries and the smaller southern NGOs involved in the process, which were wary of the sovereignty implications of fencing off sizeable tracts of their land in the name of conservation. The world's biodiversity hotspots coincide with some of the poorest areas on earth, and strict conservation measures could restrict the ability of local residents and governments to exploit their natural resources and develop their economies. This economic argument served as the basis for the CBD's second and third objectives (after conservation); namely, sustainable use of biodiversity and the fair and equitable sharing of benefits deriving from it. In the final agreement, reference to protected areas is limited to three provisions (establishment of protected area systems; development of guidelines for selection, establishment, and management; and regulation and management of biological resources) under Article 8 (*In Situ* Conservation). Thus, the BINGOs were largely unsuccessful in their initial bid as architects to include protected areas, whereas southern NGOs who were obvious detractors came out in the winning camp. Developing countries played the key role in this effort, yet the division within the NGO community (architects vs. detractors) on this one issue is notable.

The expansion of protected areas was thereby largely off the table during the early years of the Convention and deliberations on ecosystem-based programs of work (e.g., forests, marine and coastal areas, inland waters, dry and sub-humid lands) and cross-cutting issues (e.g., biosafety, incentives, invasive alien species). References to protected areas slowly appeared under agenda items on marine and coastal biodiversity, the ecosystem approach, and *in situ* conservation, reflecting the recognition that these sites were critical reservoirs for the conservation and sustainable use of biodiversity. It was not until COP 4 in 1998 that parties agreed to revisit the issue directly and put protected areas on the work program for COP 7 (2004), twelve years after the CBD was opened for signature at UNCED and a decade after its entry into force (ENB 1998).

At this point, a significant shift in BINGO engagement was evident. Whereas they had primarily been observers in the limited discussions around protected areas since the negotiation of the Convention, new political opportunities and resources helped to shift them back into the role of aspiring architects.

Initial preparations for discussions at COP 7 were conducted by an Ad Hoc Technical Expert Group (AHTEG), which met in June 2003 in Sweden. While the expert group was a relatively small group of approximately forty people, eight slots were filled by BINGOs, including BirdLife International, Conservation International, Greenpeace, IUCN, The Nature Conservancy (TNC), WWF, and the World Resources Institute, compared with eighteen representatives from parties. Additionally, the CBD Secretariat designated "resource person" was a Nature Conservancy staffer (CBD 2003). There was no representation from smaller NGOs, and even the indigenous and local communities' representative was from IUCN. This group of BINGOs became a powerful force in shaping the profile and path that protected areas would take under the CBD for years to come.

The results of the AHTEG were presented to the CBD's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) in November 2003. Additionally, a coalition of seven BINGOs—BirdLife International, Conservation International, Greenpeace, the Nature Conservancy, the Wildlife Conservation Society, WWF, and the World Resources Institute—emerged based on initial efforts in the AHTEG. They presented a pledge including elements for a work program on protected areas (looking at protected area systems, financing, management capacity, and monitoring) as well as support for developing effective and representative protected area systems, financing, capacity building, and monitoring (BirdLife International et al. 2003). The BINGOs were thereby working to reinforce their political agenda with promises of financial and technical resources to see it implemented. The elements of this pledge were closely associated with input into the AHTEG, which then received significant support by parties as a framework for the SBSTTA 9 recommendation on protected areas. As the *Earth Negotiations Bulletin* reported, "The Joint Pledge of a number of major conservation NGOs to support the implementation of a strong programme of work was also warmly welcomed by parties, to the surprise of some NGOs themselves" (ENB 2003).

Initial efforts by these BINGOs at the AHTEG was the first major step in playing a behind-the-scenes role in crafting the framework for the program of work on protected areas. With recommendations coming from the AHTEG, the BINGO coalition was able to contribute additional reinforcement to the proposed framework in their pledge to provide additional technical resources. These roles are in keeping with the idea of NGOs serving as architects, which had a particular interest in formulating the direction of the program of work on protected areas. This international framework set the terms for national level implementation, which was where these groups' major site-level conservation

efforts took place. Thus it was in their interests to have the international system align with and support their ongoing and future efforts in country.

Without a presence at the AHTEG, there were few other NGO (non-BINGO) voices around at the start of the broader discussions at SBSTTA 7. Of most interest are statements by Tebebba, a small community-focused NGO from the Philippines, along with some of the national chapters of Friends of the Earth, which noted the need to focus on issues relevant to indigenous peoples and local communities (ENB 2003). At this point in the discussions, such groups were primarily focused on other CBD areas such as traditional knowledge and access and benefit sharing, and were thereby limiting their role in the protected areas discussion to being witnesses.

This effort faced an uphill battle given historical resistance to protected areas as fencing off biodiversity, often associated with the marginalization of local peoples, as well as the increasing realization that the growing number of COP decisions and varied work programs were more than most countries could hope to implement, let alone developing countries high in biodiversity but lacking in financial, institutional, and scientific resources. The new approach taken by these groups was to look first and foremost at the financing of protected areas work, including their own investments, and to make leveraging of additional funds conditional on a proactive and strong program of work on protected areas.

Moving into COP 7, this coalition (which had expanded to include Fauna and Flora International) had solidified a joint NGO commitment on protected areas along with a proposed number of elements and structure for a program of work on protected areas under the CBD. Collectively these groups managed approximately US\$1 billion annually for conservation in over 120 countries, particularly those high in biodiversity. Additionally, they held the promise of investing additional millions of dollars in national-level efforts to implement the work program on protected areas (BirdLife International et al. 2004). Conservation International and TNC reinforced this message by pledging US\$2 million each toward the implementation of the program of work on protected areas.

The promise of new funding combined with the recognition of significant existing funding was a major factor in changing government attitudes more favorably toward protected areas. With more obligations and decisions than most countries could arguably implement, the CBD has generally been regarded as soft law. Provision of funding and technical support thereby provided the added bonus of ensuring that decisions on protected areas could be implemented. So beyond simply serving as architects to the structure of the work program on paper, the BINGO coalition was going the extra step toward mobilizing countries toward implementation.

The BINGO coalition solidified its position in the negotiations in two key ways. First, there was an explicit effort to increase the presence of NGO representatives from some of these groups, such as TNC and WWF, on national

TABLE 7.1 CBD Program of Work on Protected Areas

	<i>CBD COP Decision VII/28 (Protected Areas) (CBD 2004)</i>	<i>Joint NGO Statement (BirdLife et al. 2004)</i>
Program	Direct Actions for Planning, Selecting, Establishing, Strengthening and Managing Protected Areas and Sites	Representative and Effectively Managed Protected Areas Systems
Program Element 1	Governance, Participation, Equity and Benefit-sharing	Financing for Protected Areas
Program Element 2	Enabling Activities	Capacity Development
Program Element 3		
Program Element 4	Standards, Assessment and Monitoring	Monitoring and Evaluation of Protected Area Effectiveness

delegations to the CBD and/or in work by country offices in the run up to the meeting. By integrating themselves into delegations and national positions from countries such as Costa Rica, Ecuador, Indonesia, and other Caribbean and Pacific island countries, the BINGO coalition could move their agenda forward by raising it during parties' internal discussions, and not only through explicit NGO lobbying. Second, by marketing their position as "The Joint NGO Statement" and "The Joint NGO Commitment on Protected Areas," the BINGO coalition had effectively co-opted the voice of the NGO community by representing it as theirs. While there were dissenters, their position was marginalized by what appeared to be the mainstream consensus of NGO opinion on the issue.

Through all of this work, the final decision establishing the program of work on protected areas closely mirrors the position of the BINGO coalition, as reflected in Table 7.1.

At COP 7, other NGOs and groups such as the Friends of the Earth International, the International Indigenous Forum on Biodiversity, and Kalpavriksh increased their involvement in the discussion, while mainly focusing on the rights of indigenous peoples and the role of community conserved areas (ENB 2004a, 2004b) (Figure 7.1). In some cases, these voices tried to influence the content of the discussions by including reference to areas managed by indigenous peoples and local communities. However, there was both an underlying and, at times, an explicit resistance to the broader direction that the BINGO coalition and most parties were pursuing around the identification and establishment of protected areas. This process and the significant financial and political capital behind it raised long-held fears about the disenfranchisement of locals from their homes in areas to be designated as protected. These fears have continued to shape the ebb and flow in relations between these BINGOs and smaller NGOs and indigenous groups, primarily from developing countries.



FIGURE 7.1 NGOs and groups such as the International Indigenous Forum on Biodiversity increased their involvement in CBD discussions, mainly focusing on the rights of indigenous peoples. Photo courtesy of IISD/*Earth Negotiations Bulletin*

Through 2008, groups such as WWF and TNC included representatives from indigenous groups and local communities in their delegations as a means to improve their credibility on the issue, while also taking some of the core concerns of these groups into account in their site-level conservation activities. However, groups on the other side of the fence arguably grew even more polarized, which was clearly evident at a meeting of the CBD Alliance (a group seeking to support NGO input into the CBD process) prior to SBSTTA 12 in 2007. A significant number of NGO indigenous and community-group representatives openly stated their disagreement with the present course of CBD negotiations on protected areas and, in one or two cases, were openly hostile to BINGO representatives at the meeting. Such groups were thereby embracing the role of detractor, although with an interesting twist. They were objecting to the content of the formal negotiating process, but primarily due to their fundamental disagreements with the contingent of "architect" NGOs pushing the conservation/protected areas agenda.

Since its adoption at COP 7, the program of work on protected areas has risen in stature as many of these same NGOs have further engaged as architects in the planning/implementation side as well as the financing side. Thus, many BINGOs have put significant attention and organizational resources into leveraging additional funds for protected areas work from bilateral donors and multilateral development banks.

The work under the Global Island Partnership (GLISPA), which became one of the implementing vehicles for this consortium, is a case in point. Through the development of conservation challenges and initiatives committing to protect terrestrial and marine resources, GLISPA and its partners have motivated high-level heads of state leadership and leveraged over US\$20 million for the Micronesia Challenge, US\$80 million for the Caribbean Challenge, and over

US\$120 million for the Coral Triangle Initiative (discussions are still ongoing regarding an initiative in the Western Indian Ocean). Many of the BINGOs, such as Birdlife International, Conservation International, TNC, and WWF, are active in these areas, and such funding and close connections create positive feedback and support for the involvement of these groups in the CBD process and a much closer working relationship across involved NGOs, recipient countries, and the CBD Secretariat.

Looking back it is possible to view the various roles that NGOs played around the issue of protected areas. During the initial period of defining the issues and framework for the CBD, BINGOs aspired to the role of architect with a push for a list of priority-protected areas for conservation. Smaller NGOs from developing countries served as detractors at that time and at various points in the debate subsequently. For the next decade, BINGOs basically monitored the CBD, acting as observers and awaiting new opportunities to address protected areas (this is not to say that BINGOs were not more involved in other biodiversity issues). Then the opening arose in 2003 to put protected areas on the CBD work program, at which point BINGOs became re-engaged. Their influence in the expert groups, with the CBD Secretariat, on national delegations, and in countries at the site level formed a platform for moving their goals, and was further reinforced by the promise and delivery of technical and financial resources. Additionally, their success in aligning efforts within the protected areas program of work with their own organizational priorities provided further leverage for raising funds both internally and through other donor countries. While such an effort might seem self-serving, it was ultimately directed toward the conservation goals of those groups, which many CBD parties themselves came to champion. This campaign has arguably set a new bar for the CBD and NGO involvement, where the combination of influence on the political agenda with the provision of technical and financial resources has become a key precondition for national implementation.

Forests

There are a large number of multilateral agreements and processes that address issues related to forests (McDermott et al. 2007), all of which have had some level of NGO involvement. Here we will examine several of the most prominent ones: the International Tropical Timber Council (ITTC), UNCED, the Intergovernmental Panel on Forests/International Forum on Forests/United Nations Forum on Forests (IPF/IFF/UNFF), and UNFCCC.

International Tropical Timber Council: To Engage, or Not to Engage?

The International Tropical Timber Agreement (ITTA) was first adopted by the United Nations Conference on Trade and Development (UNCTAD) in 1983

and entered into force in 1985. It represented the first major international treaty specifically addressing forests at the international level, albeit from a trade-centric perspective. From the outset, many grass-roots environmental groups and indigenous peoples' organizations denounced the ITTA as an agreement designed to facilitate and increase trade, and expressed concern that it would result in the commodification of forests. Early ITTO sessions were attended by several large NGOs, many of which initially played an important "architect" role, facilitated by their access to significant resources and motivated by a generally optimistic outlook for the process to deliver desired outcomes. For example, WWF allocated staff resources in support of ITTC fulfilling its mandate, to the tune of 100,000 Swiss francs per year (Poore 2003, 155), and several BINGOs regularly participated as part of country delegations to the ITTC sessions: the UK, Denmark, and Malaysia all included WWF representatives, while the Netherlands included a representative from IUCN on its delegation, and the United States included a representative from the National Wildlife Federation (Humphreys 1996, 61).

However, this participation was not without incident or controversy—at the fourteenth session of the ITTC in 1993, the executive director of WWF-Malaysia was physically assaulted by the director of forests of Sarawak, with the former landing in the conference venue's swimming pool as a result, after a heated argument over deforestation in Sarawak (Humphreys 1996, 115). Although not related to the incident, in May 1994 WWF withdrew from ITTC following the conclusion of a successor agreement (ITTA, 1994), in which the council had opted not to follow WWF's recommendations that the scope of the agreement be expanded to consider other forests. In a departing address, WWF noted it would be "considering re-allocating resources to better options such as the CBD and CITES" (Poore 2003, 155).

The lack of NGO engagement with ITTO did not go unnoticed. At its thirty-second session in 2002, the Council adopted a decision "noting its concern that the views of Civil Society Organizations are still not well represented at Council sessions."³ A Civil Society Advisory Group (CSAG) composed of mainstream groups (such as TRAFFIC, IUCN, and Forest Trends) was formed, and at ITTC 35, CSAG members decided to appoint two co-chairs, representing producer and consumer countries, as per the ITTC structure.

Nevertheless, NGO participation in Council sessions diminished significantly following WWF's departure. Other groups have gone further than non-participation to playing "detractor," openly denouncing ITTC as biased toward logging interests. At ITTC 42 in Papua New Guinea, a country known for high levels of illegal logging, Greenpeace rappelled from the roof of the hotel in which the session was being held to suspend a banner protesting forest destruction (Greenpeace 2007) (Figure 7.2). It is clear from this act and the sophistication of the accompanying press release that it was not for a lack of resources or knowledge of the issue that Greenpeace chose to detract from the outside (literally) instead of attempting to influence outcomes of the meeting taking place inside.



FIGURE 7.2 At ITTC 42 in Papua New Guinea, a country known for high levels of illegal logging, Greenpeace rappelled from the roof of the hotel in which the session was being held to suspend a banner protesting forest destruction. Photo courtesy of Peter Wood

Beginning in the early 1990s,⁴ WWF and other BINGOs also allocated a substantial amount of resources toward forest certification, most importantly the Forest Stewardship Council (FSC) and the Global Forest Trade Network (GFTN). This could also be perceived as a form of “detractor”—a clear vote of non-confidence in intergovernmental responses to deforestation, throwing their support (and directing that of their constituents) behind this non-governmental alternative. Although the FSC was initially viewed with suspicion and as a potential impediment to the tropical timber trade by some ITTC countries and the industrial logging sector, it has since proven compatible with industrial logging, and has been embraced by these same actors. Certification has become a major focus of ITTC policies and projects, and some terms such as “high conservation value forests” have come to be used by the ITTC. At ITTC 46 in 2010, it was announced that the area of forest certified in producer member countries had expanded by 55 percent since the last assessment, to a total of 24.5 million hectares (ENB 2010). Thus, the FSC could be perceived as playing an “architect” role, albeit externally. At the same time, many NGOs have become increasingly

uncomfortable with FSC’s compatibility with industrial logging in the tropics and elsewhere. Several groups that were involved in its creation have now switched to the role of “detractor,” openly critiquing the FSC⁵ and other members jumping ship entirely. Nevertheless, it appears that the few NGOs that do engage with ITTC are supportive of including FSC as a way to encourage sustainable forest management, a core part of ITTC’s mandate. For example, at ITTC 46 it was reported that the ITTO Civil Society/Private Partnership for SFM had initiated a collaborative project with a logging company in Indonesia to assist it in obtaining FSC certification (ENB 2010).

At the same meeting, delegates adopted a decision giving the Secretariat the mandate to pursue funding support for the organization’s project work from other sources, including NGOs, since country contributions were far below that required to fund all approved projects. The response that they receive from NGOs, particularly WWF, could serve as an indicator of whether they are ready to re-engage with ITTO.

UNCED and the Forest Principles: A High Point in Engagement?

As noted above, UNCED was a critical moment for NGO engagement, and particularly within forest policy discussions. During the two years leading up to the Earth Summit, NGOs were very active in the forest negotiations, playing all three roles of witness, architect, and detractor. As architects, a coalition of Brazilian Amazon-based NGOs worked tirelessly to ensure that the rights of indigenous communities and local communities were recognized in the Forest Principles. Similarly, a group of UK NGOs put together a list of issues that they believed should be included in a treaty or agreement on the conservation and sustainable management of forests, which, among other things, included the importance of public participation in policymaking and respect for the rights of forest peoples; the need to address external causes of deforestation, including pressure to make debt payments, trade inequalities, and exploitation by foreign companies; and covers all types of forest and forest lands (Thomson 1992). As detractors, WWF expressed the frustration of many NGOs that discussions on forests in the UNCED preparatory meetings were “dilatory and confused” and that the evolving Forest Principles were “retrogressive.” WWF called on UNCED to establish a process to begin formal negotiations on a Global Forest Convention immediately after UNCED, with a timetable and target date for completion and ratification (WWF 1992). Some NGOs were so frustrated with the process that they participated in the negotiation of alternative treaties, which were adopted at the parallel Global Forum, including an alternative Forest Treaty that focused heavily on the needs of local populations.⁶

In lieu of a forest treaty, in the end the Earth Summit produced a number of voluntary instruments that addressed forest management, including Chapter 11 of Agenda 21 on “Combating Deforestation” and the “Non-legally Binding

Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests" (otherwise known as the "Forest Principles"). Chapter 27 of Agenda 21 also recognized the role that NGOs play within sustainable development, and established a new consultative relationship between the UN and NGOs, according to their observer status within nine different "Major Groups."⁷

IPF, IFF, UNFF: From Architect to Detractor

Agenda 21 and the Forest Principles provided the basis for continued negotiations on forests at the international level beginning in 1995 when the UN Commission on Sustainable Development (CSD) was slated to review implementation of Chapter 11 of Agenda 21 and the Forest Principles. NGOs, once again, played an active role in the CSD's negotiations—this time as architects. A coalition of NGOs, the Global Forest Policy Project,⁸ participated in drafting group meetings on the establishment of a new Intergovernmental Panel on Forests (IPF) and urged that the panel should: encourage the participation of Major Groups; conduct an independent assessment of existing instruments; address the underlying causes of deforestation and forest degradation; avoid discussing a global set of criteria and indicators; and prevent trade-related issues from dominating discussion (ENB 1995). The resulting IPF had a two-year mandate to analyze priority forest issues as well as to review existing international organizations and instruments to develop a clearer view on the work being carried out and to identify any gaps, areas requiring enhancement, and areas of duplication. By 1997, the end of its mandate, the IPF had identified over 150 Proposals for Action (PFA) to address global challenges to managing the world's forests sustainably.

In 1997, the CSD decided to continue the dialogue on forests by creating the Intergovernmental Forum on Forests (1997–1999), which established additional PFAs, bringing the total to nearly 200, but accomplishing very little in terms of their implementation. NGOs continued to participate both in the IPF's meetings and various interessional meetings in an attempt to influence the process.⁹ By the end of the IFF process, most NGOs held the view that there should be no further political negotiations on additional proposals for action, and that governments instead should concentrate on implementing the existing proposals. While the language in the agreed proposals was far from what the NGOs would have liked, most NGO campaigners felt that they would gain greater influence by monitoring and contesting the implementation of these proposals within individual countries and through national reporting and peer review at the UN than could be gained from further multilateral negotiations (Humphreys 2004, 68). Nevertheless, at its last session in 2000, the IFF decided to establish a new multilateral forum and called on ECOSOC to establish the United Nations Forum on Forests.

The engagement of the world's major NGOs in these processes has declined substantially during this time, most markedly during the mandate of the UNFF. Initially, NGO attendance was relatively strong during the first few sessions of UNFF, despite participation being limited to NGOs accredited by ECOSOC, and their engagement could best be described as that of witnesses, with some acting as architects (for example, an NGO representative on the Canadian delegation was known to contribute textual suggestions). However, NGO participation soon began to wane, and many stopped participating, or became detractors (such as FERN, which openly called for UNFF to be discontinued). This was due to two main factors: the low profile granted to NGOs within UNFF, and UNFF's overall lack of power.

Many NGOs came to realize that their ability to influence negotiations would be quite limited within the UNFF. Big NGOs in particular, accustomed to holding a great deal of influence in international environmental negotiations, were less than thrilled to be bracketed within one of nine "Major Groups," with considerably less standing. As one NGO complained in a release circulated at UNFF 5, "we actually do NOT appreciate to be covered under that awkward late-night-UNCED-prepcom compromise term 'Major Groups' ... it is mainly due to the persuasion of the UNFF Secretariat and their active support that you still find some observers who are prepared to attend these UNFF sessions" (GFC 2005). In contrast, this system afforded other Major Groups such as "Children and Youth" greater presence than they might otherwise have been able to attain, and were thus more inclined to participate. UNFF held multi-stakeholder dialogues (MSD) at each session to facilitate the exchange of ideas between Major Groups and with country delegations. However, while NGOs initially called for these dialogues in the IFF report, many were disenchanted with how this played out in practice, with very poor attendance and a general impression of serving as a side event to the main negotiations. For example, one NGO felt that "the 'improved' MSD was merely a means to promote a sense of 'participation' at UNFF: it provided the illusion of participation while the real negotiations went on as usual" (Caruso and Kru 2004).

NGO discontent with UNFF was also due to the fact that this contrasted with more inclusive approaches taken by other processes that NGOs had access to, namely the Convention on Biological Diversity, where NGOs are able to make interventions within plenary. The CBD was also deemed by many to be of greater consequence, due to its status as a legally binding agreement and its Programme of Work on Forests. It was also seen as a platform that could be used to influence processes that accorded less access to NGOs, such as the WTO.

Second, NGOs came to realize that the UNFF itself was limited in its mandate and its ability to enact change. This was reflected in the low level of engagement of governments (for example, the very poor response rate in National Reporting), its inability to implement the IPF/IFF Proposals for Action, and its inability to

coordinate the actions of other forest-related institutions under the Collaborative Partnership on Forests (CPF).

A major turning point occurred in 2005 when the UNFPP failed to agree on a successor agreement. In a document circulated just prior to UNFPP 5 titled the "International Arrangement on Forests at a Crossroads," WWF stated that "Major Group participation is still felt to be a serious weakness by most NGO participants who believe the UNFPP still treats them like outsiders rather than collaborators or partners" (WWF 2005). Many countries and NGOs alike believed that UNFPP 5 would produce some type of decision regarding the creation of a legally binding instrument, and whether the UNFPP itself would continue to exist. Even though UNFPP 7 reached agreement on a "Non-legally Binding Instrument on Forests," NGO engagement in the UNFPP since 2005 has been decidedly low. By UNFPP 6 in 2006, the *Earth Negotiations Bulletin* reported that yet another factor detracting from the sense of urgency was the paucity of civil society engagement.

Noticeably absent from the agenda that year was the multi-stakeholder dialogue, which in previous years had provided an opportunity for civil society actors to voice their concerns and engage with governments. However, due to a decision made at UNFPP 5, this event was relegated to the status of "side event," and resulted in the lowest level of NGO engagement since [UNFPP] talks began. There has been little or no engagement of key indigenous and environmental groups that played a central role in pushing the forests issue into the international arena in the first place. The process and outcome of UNFPP 6 hold little to entice these groups back on board, especially when they have had better luck pursuing their agenda through MEAs such as the Convention on Biological Diversity, and alternative avenues such as forest certification initiatives such as the Forest Stewardship Council (ENB 2006).

UNFCCC and REDD+: Risk or Opportunity?

Although forests had been addressed within the UNFCCC from the outset, it was only at COP 11 at Montreal in 2005 that the issue of paying developing countries to reduce deforestation and forest degradation (as opposed to increasing reforestation and afforestation) had been given serious consideration. By COP 13, this had come to be enshrined in the Bali Declaration, in what came to be known as "REDD+" (reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries). NGOs innately sensed that this could be of much greater consequence to forests than the IPF/IFF/UNFPP and ITTO processes, backed by much greater political will and larger sums of money. However, there was a sharp division between NGOs that welcomed this newfound attention (and were thus more likely to constructively participate as architects, most notably the BINGOs) and those that were wary of

the risks of large sums of money being given to countries with poor records of governance and human rights abuses.

One result of this concern was the creation of a new coalition of environmental and social NGOs that came to be known as the Ecosystems Climate Alliance (ECA),¹⁰ formed in 2008 at COP 14 in Poznan, Poland, which sought to take a more critical view of REDD+ than had been possible within the larger NGO coalition, the Climate Action Network. ECA's role could be described as that of witness, although its constructive engagement with country delegations occasionally brought it into the role of architect. This was particularly the case where its interests aligned with those of countries seeking to limit donor risk (e.g., Norway, Switzerland, the United States, and others); namely, the pursuit of environmental protection, social safeguards, and monitoring requirements (including of governance, something previously totally unimaginable under other forest-related agreements).

Another coalition that emerged around the same time, known as the "Accra Caucus,"¹¹ represented the views of twenty-six NGOs from developing countries, and urged a rights-based approach to REDD+ that put forest peoples' interests first. This coalition straddled roles, from witness at the outset, to detractor when it looked like their key demands were not reflected in the text being negotiated (for instance, recognition and respect for the rights of Indigenous Peoples and local communities to lands, territories, and resources, and their traditional uses of the forest; and prohibiting the use of carbon offsets/market-based approaches for financing REDD+). By COP 15 in Copenhagen in December 2009, the chant of "No Rights, No REDD!" was frequently heard in the halls of the conference venue, led by members of the Accra Caucus.

Complicating matters was the fact that, at the same time the REDD+ mechanism was being negotiated within the UNFCCC, there were several other related processes actively being developed, including UN-REDD (led by FAO, UNDP, and UNEP), the World Bank's Forest Carbon Partnership Facility and its Forest Investment Program, and the REDD+ Partnership (a process initiated by the governments of France and Norway in the wake of COP 15's failure to reach a decision on REDD+).¹² In addition, hundreds of voluntary "REDD+" projects were initiated around the developing world, without any formal guidance from international rules.

With so many fronts to address, many smaller NGOs' capacity to engage effectively with REDD+ processes has been stretched to the limit. This, combined with the fast pace at which these processes have moved, has resulted in less-resourced NGOs being overwhelmed and unable to respond in a meaningful, informed manner. Bigger NGOs, particularly from the North, have been better able to keep up with demands on time and resources and thus better able to engage as architects, determining what the "REDD+ rules" will look like. This has led to resentment from groups from the South, who fear that BINGOs from developed countries are driving the process, and have frequently opted

instead to "detract" and oppose the whole concept of REDD+ instead of weighing in on particular details.

A decision on REDD+ was adopted at COP 16 at Cancún, Mexico, in December 2011, but much has yet to be decided, such as what types of forest management activity will be permitted, and most importantly, how it will be financed.¹³ The development of these very contentious issues could further separate the NGOs involved into witnesses, detractors, and architects.

Conclusion: The Evolution of NGO Involvement

By all accounts, NGO involvement has evolved significantly over the course of multilateral environmental negotiations since 1992. As the issues on the table have multiplied and become more complex, so too has the number of NGOs participating, and their degree of engagement. Given the lack of capacity that many governments are confronted with (in both tracking issues across many negotiations and in the implementation of commitments made), it is perhaps no surprise that this has allowed NGOs to play a major role. They have become niche specialists capable of influencing processes and ensuring that commitments are fulfilled, and their role has been fine-tuned and has evolved in parallel to international environmental processes. Many NGOs are clearly interested in moving beyond discussing principles, and are increasingly involved in technical aspects of negotiations. As this occurs, some of the differences between NGOs become more apparent. For example, while few NGOs would disagree that "sustainable management" of forests is a good thing in principle, there is very little consensus in practice regarding what this should look like within REDD+, and as such details are fleshed out, it is likely that a greater divergence may be observed.

However, this evolution has not been equal across NGOs—better-resourced NGOs are more likely to act as architects and influence the ultimate outcomes of these processes. The example of the CBD clearly shows how BINGOs shifted their roles over time and were able to take advantage of an opportunity within the CBD's overall work program and bring significant resources to address protected areas. This dynamic has led to tensions between NGOs, some of which are unable to participate constructively due to lack of resources, and some of which have opted to withdraw or oppose a process due to more fundamental substantive concerns. These realities may contribute to their playing the role of observer or detractor.

Over the past two decades, NGOs have clearly embedded themselves in the process with a collective reach that spans from the negotiations themselves through to in-country and on-site implementation. This integration will likely continue as government resources to address environmental problems are increasingly limited and as the complexity and interconnections of those problems grow. Notions about the decline or porousness of the nation state have been amply

discussed in the academic literature. Multilateral environmental negotiations and the participation of NGOs within these intergovernmental deliberations are but one more example of how the traditional roles of state sovereignty are being complemented by other non-state actors.

NGO involvement also lends a sense of legitimacy to environmental negotiations, particularly as groups serve the various roles of witness, architect, and detractor ostensibly in the name of the environment (vs. other political interests). Decisions by NGOs to invest significantly in an issue or, alternatively to withdraw from or boycott negotiations are taken seriously by the broader environmental community. Integration into environmental negotiations and implementation efforts arguably makes the process and governments involved more dependent on those groups, thereby increasing their influence and role as potential architects. Thus the political costs of BINGOs hypothetically withdrawing their support for CBD work on protected areas or of NGOs boycotting aspects of REDD+ to the future success of multilateral environmental processes cannot be ignored and may make states more responsive to trends within the environmental community. For many environmental issues, NGOs now have a number of international venues to "shop" among in pursuing their agenda, and given limited resources (especially smaller grass-roots organizations and those from developing countries), they are able to decide which ones are worth their time and resources, and thus vouch for their legitimacy.

Tactics, drawn from the roles of witness, architect, and detractor, will likely continue to be at the heart of future NGO strategies even as the issues and priorities of those same NGOs, both individually and collectively, evolve over time. Additionally, the roles that NGOs play will continue to change with opportunities in the political landscape as well as their ability to draw on financial, technical, and other political resources. The past twenty years saw the movement of NGOs from the fringe into the center of the debate. Now with an expected and accepted place within environmental negotiations, it remains to be seen how NGOs further integrate themselves into the policymaking and implementation processes as both a complement to and corollary of national governments.

Notes

1 It should be noted that some view the NGO category as also including business, labor, and indigenous/community organizations, as they are clearly not governmental. Given recognition of these other groups in their own right by intergovernmental processes, this chapter will narrow its conception of NGOs to environmentally, socially, and scientifically oriented non-profits focused on advocacy around and implementation of multilateral environmental agreements.

2 It should be noted that IUCN maintains a unique status in international processes as its membership includes both NGOs as well as governmental agencies. It therefore has the ability to advocate at times like an NGO, while also maintaining its status as an Intergovernmental Organization (IGO) in a number of MEAs.

- 3 ITTC Decision 2 (XXXII).
- 4 It should be noted that as far back as 1988, Friends of the Earth attempted an architect role within the ITTO. With the help of the Oxford Forestry Institute, they worked with the UK delegation to ITTO to submit a proposal to ITTO to consider certification and labeling as mechanisms for improving tropical forest management at the seventh ITTC session in November 1989. The proposal was extremely controversial and ultimately rejected by the producer countries, leading Friends of the Earth and others to pursue the certification agenda outside ITTO (Synnot 2005).
- 5 See, for example, www.FSC-Watch.org.
- 6 For the complete texts of the NGO Alternative Treaties, see <http://www.earthsummit2012.org/index.php/earth-summit-history/historical-ngo/99-92-ngo>.
- 7 Major Groups are defined by Agenda 21 as NGOs, women, youth, farmers, scientists, business and industry, indigenous peoples, local authorities, and trade unions.
- 8 The Global Forest Policy Project was a project of the National Wildlife Federation, Sierra Club, and Friends of the Earth—US.
- 9 See Humphreys 2004 for details on NGO proposals that were incorporated into the final IFF report.
- 10 ECA members include the Environmental Investigation Agency, Global Witness, Humane Society International, Rainforest Foundation Norway and UK, Wetlands International, the Wilderness Society, Rainforest Action Network, Nepenthes, and the Australian Orangutan Project.
- 11 For a complete list of Accra Caucus members, see <http://www.redd-monitor.org/2008/12/08/accra-caucus-statement-on-forests-and-climate-change/>.
- 12 See <http://reddpluspartnership.org>.
- 13 For example, there is a growing divide between NGOs that support financing REDD+ by linking it to the carbon market, and those who oppose this, and the latter appear ready to "detract" from the process if it goes in this direction (see FERN et al. 2011).

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