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Volume 15  
Number 1 *Symposium: Free Trade and the  
Environment in Latin America*

Article 12

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12-1-1992

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#### Recommended Citation

Glenn Prickett, Roger B. Findley, and Patricia Diaz-Dennis, *Panelists' Comments on Goldemberg's Paper*, 15 Loy. L.A. Int'l & Comp. L. Rev. 139 (1992).

Available at: <https://digitalcommons.lmu.edu/ilr/vol15/iss1/12>

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## Panelists' Comments on Goldemberg's Paper

GLENN PRICKETT\*

It's always a great pleasure to comment on the work of Dr. Goldemberg. I want you all to appreciate having him here today. He is one of the clearest thinkers around today on the environment. If Pete Emerson would nominate Anne Alonzo for President in the United States, I would nominate Dr. Goldemberg for Secretary General of the United Nations. It is a particular pleasure today to comment on his paper because I feel it is a very important one in preparation for the Earth Summit in June. I have often participated in conferences where a whole crowd shows up only to discuss old ideas and go home with nothing new to think about. But I think this paper presents a very strong, positive new idea for the Earth Summit because as Professor Goldemberg pointed out, the preparations for that conference right now mired and very stale, North /South deadlock. I think Professor Goldemberg's simple concept of encouraging developing countries to demand environmentally clean technology is an idea that has not been fully aired yet. The typical dynamic in the onset of preparations has been if we in the North expect you in the South to do X (insert your preferred environmental action) then we must make Y (funds) or technology available to you.

On the issue of technology transfer, the manifestation of that deadlock has been what you might call a supply side or overly supply side focus on intellectual property rights and conceptual funding rather than a focus on the real potentials that exist in the world today for technology transfer when developing countries take an interest in acquiring that technology. So I think it's unfortunate and we're heading for it in the Earth Summit which could be a real missed opportu-

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nity in terms of governments committing themselves to do things in their countries which refer to technology transfer. I think that applies to North and South equally.

There are two points about Dr. Goldemberg's paper that I'd like to elaborate on because I think there are commitments governments could make at the Earth Summit that would help. One is the concept of generating a general demand from within societies for environmentally clean technology which as Dr. Goldemberg pointed out is an expensive proposition as we learned in this country and many European countries learned in the early 1970s, stimulated in great part by the Stockholm Conference. We have to pay more if we expect a clean environment. And what it requires is a society-wide program of environmental education. That's not just simply a school lecture to say that birds and butterflies are important but it's a truly societal effort to understand the hidden costs of environmental degradation to our health and economic well being. The concept is applied equally in developing countries as in this country. What that has to translate into is political momentum from societies in developing countries to urge their governments to undertake expensive programs, to some degree reorder government budget priorities to support indigenous research on science and technology to in some cases demand more expensive products based on their method of production. So that is a very difficult and very real challenge to promote that type of meaningful environmental education and it's not something that we're hearing much about in the Earth Summit process. Again, it's something we'll try to make apply equally to North and South.

One example I would like to use is a bit far a field. But I worked quite a bit in Sri Lanka, a very small country. It's about the size of West Virginia but there are a lot of people there, about 17 million. They're also very literate. They have recognized very quickly the limits of their national resource base. There's incredible public opinion on environmental issues. Fishermen in the south of the country opposed successfully plans for a large nuclear power plant because they were concerned on the effects on the fisheries. Villages all over the country are turning in illegal loggers. So there are a lot of lessons to be learned from a society that can energize itself on environmental matters. We in this country have a lot to learn. I think we're far less literate and far less aware of our environmental challenges. So, promoting that type of societal demand for clean technologies is an important issue.

The second and equally important point that flowed out of Dr. Goldemberg's paper is the need to set the rules of the game in all countries, environmental laws and policies. The benefits there are fairly clear. As Professor Goldemberg pointed out, environmental policies well established and well enforced provide an incentive for multinational corporations to bring their best, cleanest technologies into a country. Without those rules in place, no smart company is going to bring in its best, most expensive technologies. Secondly, going through the economic sectors in various countries, progressive enlightened policies on environment, particularly in the energy sector, are required to encourage electric companies to look at concepts like end-use energy efficiency. We learned that experience over long years in this country that your manager of a particular electric utility, is not about to leap at the concept of conservation program just because he sees a study from somewhere far away. It takes sustained pressure and finally, in this country, it takes state and federal laws and policies to force electric utilities to change their rate thinking.

Similarly, in agriculture and forestry sectors, we're still fighting that battle on forestry in this country. So, support and commitment to develop clear rules of the game is essential for bringing in new technologies. There I define technology very broadly to include the technical practices; in Dr. Goldemberg's paper he refers to it as soft technology. I think that an interesting example there is that this group called the International Tropical Timber Organization which several years ago set down their conception of guidelines for sustainable forest management. To my knowledge, not one country in the world who participates in those to date has actually taken those model guidelines back to their country and implemented them. So there's a clear gap in terms of policy implementation.

This gets to the issue of funding. I think out of the UNCED process I mentioned, this is very deadlocked now and most observers think that at best we will get a new fund. Those of us who are observers from the United States know that fund is not going to be large. I lobbied on federal appropriations issues and the will or the sentiment of Congress right now for any programs is not very high. We're going to have a very small global environment facility or other funds and I think it's very important we take a look at the existing development systems we have out there on the order of \$50 billion in multilateral loans and bilateral grants and ensure that all of that money is going into sectors that are well regulated. The only quibble I have with Dr.

Goldemberg's paper is that he ventures that a new global environment facility should not be based on any form of conditionality. Conditionality stated in this way, is a very dirty word to developing countries. Conditionality looked upon as insisting that new funds go to support well thought out policies, in energy, forests or agriculture, I believe that environmental groups around the world believe this is critical, or a good deal of money would just be wasted.

To sum up, promoting public demand and setting well enforced rules of the game, require that citizen's groups, non-governmental organizations be brought to the table. This is a very real result that could come out of UNCED, for all of the governments of the world to agree to welcome the interests of non-governmental organizations and to set up real processes in national decision making to bring NGOs, citizens groups and other interested members of the public to the table. Freedom of information statutes, procedures for public participation in decision making, etc. I think as we have learned in this country and as many of my colleagues overseas have learned, non-governmental groups are really the engines for developing a conscientious society aware of the costs of environmental problems, and also for pressing for real policy reform. A commitment to open, transparent, participatory decision making could be a real positive result of the Earth Summit, which also at this point is not high on the agenda.

## ROGER B. FINDLEY\*

I am going to be talking about something a little different from the two prior speakers but I think it follows rather nicely. As Glenn Prickett has said, the new funding for improvement of the environment in the developing countries provided from governmental sources directly, or through multilateral financial institutions, is not likely to be large. What I am going to raise is the possibility of new funding specifically for the subject of preservation of rainforests because those are the great sources of biodiversity on the earth: 7% of the land and somewhere upwards of 50% of all the plant and animal species are in the rainforests.

There was an interesting article a month ago in the New York Times and it was about two pharmaceutical companies, one the giant Merck, one a very small new one called Shaman in San Francisco. Each of these pharmaceutical companies is working with shamans or medicine men in tropical countries to tap their knowledge, accumulated knowledge of centuries of life of indigenous primitive people about the medicinal and other useful values of plants. Merck and Shaman are funding extensive research by American researchers working with these medicine men in primitive tribes to gain their knowledge before it is lost because the plants which are utilized or the indigenous cultures are destroyed. There is not a continuous supply of medicine men. What I am saying here, I might say not necessarily originally, is that we should recognize that the developing countries have something which might be viewed as technology which might entitle them to some compensation the way we seek compensation for our patent technology which Dr. Goldemberg thinks should be used in the developing countries. Merck and Shaman are not only financing the research where they are tapping the knowledge of these medicine men, but they are promising to share the profits that they

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gain from new products developed using that knowledge with the indigenous peoples whose medicine men are cooperating.

What I am suggesting is as follows: the possibility of the recognition of intellectual property rights directly in natural genetic resources themselves. Such property rights would be analogous to those now recognized in hybrid plants and genetically engineered organisms. Under existing patent law today, it is not possible to obtain a patent right in a "product of nature." As soon as a scientist goes down, finds a rare plant in Brazil, brings it back to Merck and manipulates it slightly, it is patentable. But the plant in its natural state is not patentable. I ask you, who is it who contributes most to the product Merck comes out with? If Merck merely finds the plant with the assistance of the medicine man and manipulates it a little, should it share profits in that situation as a legal right? Now the fact the species today in a natural state have neither value nor owners has important legal implications and serious conservation consequences. Species cannot be the subject of any kind of transaction, for instance, concession contracts. Exploitation under concession therefore can only apply to individual members of the species, plants or animals, but not to the genetic makeup of the species itself.

Cyril de Klemm of the International Union for the Conservation of Nature made the first proposal for intellectual property rights in species in 1982. He recommended an approach that had three salient elements. The system ascribed a value to species. The property of the species should be vested in the world community. And a global conservation treaty based on reciprocal obligations and providing for sustainable financing of conservation action should be adopted. His idea was that the fund for compensating the world community would preserve the biological diversity and the rainforest. A royalty system would supply the fund. Users of the genetic material would pay into the world fund, which could be the Global Environmental Facility of the World Bank, for example, or a separate, distinct fund. The royalty system would require a formal cooperation between the world conservation organization or fund and national/international bodies entrusted with the administration of pacts to make sure people do not cheat.

In 1989, Roger Sedjo of Resources for the Future proposed a somewhat different approach to establishing and implementing property rights in genetic resources. His plan would not assure universal access to such resources as would be the case if the resources were viewed as being owned by the world community per se. Instead of

vesting the intellectual property in genetic resources in the world community, Sedjo would view resources as the property of the state where they are found. The state of Brazil, for example, or Indonesia, could manage or transfer the property rights as it wished. For example, a public agency or corporation could retain and manage the rights, or the rights could be transferred to private parties including the landowners of the habitats of the species. The owner of rights could act like a patent holder, licensing use of the genetic resources to other persons such as pharmaceutical or seed companies in return for initial payments plus royalties based on commercial earnings for the products incorporating the genetic resources. The license could be exclusive or non-exclusive with prices set by negotiation or competitive bidding. The price could include not just money, but reciprocal licensing of technologies of a different sort from developed countries.

A market for genetic materials could function like markets for other resources. A country with sole ownership of certain germ plasm might choose to behave like a monopolist, demanding very high prices in return for the rights to utilize the product. If the prices were too high there might be no buyers, however, such market behavior would be unlikely because it runs several risks. For example, the same natural germ plasm might then be discovered in another country, thus costing the monopolist its monopoly position. Second, biotechnology may develop in such a fashion as to bypass the usefulness of the particular germ plasm. Hence, by withholding the germ plasm from development, the monopolist would lose its opportunity for negotiating favorable conditions.

Either of these two approaches to property in natural genetic resources offers a mechanism for restoration of balance in the gene trade between the gene rich third world and the gene poor industrial world. Just as plant breeding countries would receive returns on their investments in breeding, gene rich countries would receive returns from their protection of species from extinction and the discovery of useful but previously unknown species. Any system of property rights in wild or unimproved genetic resources would involve significant implementation and enforcement problems. As with patents, the genetic resource must be defined in sufficient detail to distinguish it from similar but different resources. Certainly conflicts will occur. Nevertheless, the property rights system offers some hope of providing an additional tool to induce social behavior to protect the earth's genetic resources.



## PATRICIA DIAZ-DENNIS\*

I want to thank Professor Goldemberg for his optimism. I have seen technology bring answers in my own field, which is telecommunications. When Professor Benson asked me to join this panel, I said I really don't know a lot about environment. I know something about the free trade agreement and I did represent Southwestern Bell Corporation when it was bidding on shares in *Teléfonos de México* and *Telmex*. That was a real life example of technological leapfrogging that will be brought to Mexico where you have less than 6% penetration of telephones in that country. For every 100 households there are only 5.5 telephones. In the United States we have something like 93% penetration. You can see the great disparity. But Mexico will not have to go through what we did here, which is costly and expensive copper wiring of every home to a local exchange. What you will see is a leapfrog of technology. In those remote villages in Mexico which are simply too costly to wire they will be accessed by radio technology much like you have radio technology today here in the cellular. Possibly they will even leapfrog to things we are just talking about in the United States right now, which are called personal communication networks, so that you are not tethered to a place for phone calls anymore. Because we are an increasingly mobile society, you will be receiving phone calls wherever you may be and they will be tethered to people, not to places. So, technological leapfrogging is an answer.

There is one other point I want to make. This is not a plug for Sprint, but it is true. We have in this last year been advertising to get customers by telling them that a percentage of their long distance bills will go to their designated environmental group, whether it is the Sierra Club or Wilderness Society or whatever. It has not been tremendously successful, I must say, in part because I think we need more

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education to the public. But it is something now that is at least beginning to demonstrate that environmental interests are also good business and once that message comes home, of course then we'll see an acceleration of concerns there.

I would also like to point out something that troubled me. There was criticism made in this symposium of privatization. I have been involved directly in a privatization of telecommunications system in the United States. There is something that people do not realize. We have in this country the only system that started out with private ownership of the telephone company. Every other single country in this world began with a telephone system that was owned, operated and regulated by the same governmental agency. Our system, no doubt, has been the best. I am sure that many of you have traveled and tried to use phone systems in other countries. Historically, ours has been the best because it was built by private enterprise. That concept has now been adopted in countries around the world. Privatization is going to help develop an extraordinarily important part of the infrastructure. It is not roads necessarily or bridges and all of that. Telecommunications is going to provide a technological leap to develop countries, because people will be able to be educated over their telephones using modems and hooked into video displays. For example, in France, they have given out terminals to the population so that they can telecommute and do all kinds of things by virtue of their telephone system. Again, Professor Goldemberg, I think there is a very good reason to be excited about the answers that technology will bring. In fact, the only reason why Sprint is in existence is because of technology. There was once a thought that long distance was a natural monopoly and that you could only have one company providing it. Then microwave came along and disproved that theory, and competition was born.

