Foreign Control
Watchdog
PO Box 2258, Christchurch, New Zealand
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# MAI: ANTI-DEMOCRATIC INTERNATIONAL TREATY ON INVESTMENT

## - Bill Rosenberg

We are used to listening to rather smug commentaries on the state of democracy elsewhere – most recently in Hong Kong. But do we ever stop to consider what state our democracy is in? We have had upheavals in our voting system, but what if the fault lies not in the form of our elections, but in what our elected representatives can do once they are elected?

After all, the public disillusionment that led to MMP was a result of a succession of governments that went well beyond – or completely opposite to – what they were elected to do.

Despite colourful rhetoric, the broad policies of all five recent governments have been very similar. It seems there are fewer policy choices available. Some economists, businessmen and politicians argue that is true. Politicians have to manufacture apparent differences to get elected – and then are caught out when they do what their "opponents" would have done anyway.

If there really are fewer policy choices available, the real problem is that the politicians we elect have been disempowered, and are willingly disempowering future elected representatives from making the real changes the public want. If that is true, we must realise what a dangerous situation we are in. If elections always led to the same outcome, we have little more than an elected dictatorship. We have confused elections with democracy. We are simply choosing the driver of the steamroller.

A little publicised international agreement the government is currently negotiating illustrates this point radically. Unlike other countries (notably the USA), in New Zealand, international agreements, no matter how important they may be, can be approved simply by Cabinet decision without debate in Parliament, public submission or consultation. Yet they bind future governments and limit their legislative and policy options in highly significant ways. The Law Commission has estimated that 25% of all legislation passed by Parliament is international treaty driven. The Commission, the Clerk of the House of Representatives, and the Ministry of Justice have all warned of the dangers of this use of Cabinet power[1].

The international agreement I refer to deals with foreign investment. It is an initiative of the Organisation for Economic Cooperation and Development (OECD), known as the "rich countries' club". It is called the Multilateral Agreement on Investment (MAI) and is being negotiated

*(cont'd on p.3)*

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*(cont'd from p. 1)*
on the Internet. Only recently[2] were we told anything about the New Zealand government's participation – let alone its (our!) negotiating position. We have never been consulted as to whether the Government's participation or negotiating position were desirable.

Yet the impact of the agreement, if signed, will be profound. It has been described by the head of the World Trade Organisation as part of the "constitution of a single global economy"[3]. It would allow foreign investors to enforce the agreement against the New Zealand government in our own courts, to seek compensation if they believe their rights under the MAI are threatened. This right would extend to actions taken by our elected local bodies – councils, regional authorities, and so on. It gives foreign commercial interests greater rights than New Zealand investors and citizens.

### MAI: all rights and no responsibilities for TNCs

The purpose of the MAI is to restrict a government's right to regulate foreign investment. In 1995 there was heated debate in New Zealand over an amendment to the Overseas Investment Act. Public meetings held throughout the country included one in the Christchurch Town Hall, organised by CAFCA, where Winston Peters and Jim Anderton competed for the strongest stand against the proposed legislation. New Zealanders are especially opposed to foreign ownership of rural land. Foreign investment was an issue in the 1996 election campaign. It resulted in a few weak provisions regarding strategic assets and rural land in the Coalition Agreement.

Our current law is very liberal in its attitude to foreign investment by international standards: only six applications have been turned down since 1987[4]. This state won't be just fossilised by the MAI if the Government signs it. The MAI will bind future New Zealand governments (never mind what the voters want) to weaken our laws even further: "roll back" is the technical term. That shows an astonishing faith in current policy. It assumes that we will never find any fault in this permissive policy, that current policy is some kind of eternal truth. It is also fundamentally undemocratic.

According to the draft, the only way we could get out of it is at five year's notice, and even then existing investors would have an additional 15 years protection. Effectively it binds national and local governments for at least 20 years.

Such policies are especially crucial for New Zealand. New Zealand has the highest level of foreign investment in relation to Gross Domestic Product (GDP) of all OECD countries and, aside from Singapore and Malaysia, foreign investment here is rivalled only by developing countries in severe economic trouble or tax havens[5]. Research I recently completed concluded that half of all operating surpluses of companies operating in New Zealand went to overseas companies[6].

What is particularly notable about this proposed agreement is that it has only the skimpiest economic justification. Proponents of foreign investment like Reserve Bank governor, Don Brash, argue that subsidies are the only risk to gaining benefits from foreign investment[7]. There is an international auction in "incentives" to attract foreign investors which puts any benefits at risk. Surely an investment treaty would rule out such subsidies to prevent this destructive auction from which all countries lose? No, on the contrary, the MAI forces countries to give foreign investors *no less favourable* treatment than local businesses. Anything more is fine.

While in the short run, New Zealand could register "reservations" that protect our exceptionally weak current practice, in the long run even those would have to be "rolled back". New Zealand would have to open up land and fishing quota completely to overseas ownership, and would have to cease offering assets to Maori to settle Treaty of Waitangi grievances without offering them to everyone – including of course foreign investors.

You might think that to balance all these privileges, the foreign investors would be subject to some obligations – a code of conduct for example. No: even "performance requirements" keeping them to promises to provide more jobs, introduce new technology, increase exports or use local content, are ruled out by the agreement.

Such provisions have led to it being described as an international bill of rights for transnational corporations. It may benefit perhaps a hundred or so New Zealand companies which invest overseas, but those investments are worth only a quarter of inward investment[8], so it is the effects of the MAI on inward investment that must be of foremost concern.

One then must ask the serious and fundamental question: if all foreign investment is so good for us, why do we need to sign a treaty at all? Everything in the MAI protecting foreign investment in New Zealand we could achieve by our own law without outside agreement, without having to take on new obligations. We don't want our law to be like that though, because we want to protect the ownership of our land, our fishing resources, and other national interests. So the only function of the MAI is to force us to act against our own interests.

Why should we undermine the powers of our elected representatives for such a flawed piece of international law – one that is so transparently made for powerful private vested interests?

Rather than accede to this withering of democracy, we should, as New Zealand has in the past, be resisting these pressures, debating such treaties openly, and finding new and better alternatives. As the new French Minister of the Environment, Dominique Voynet, said recently: "What's the point of changing governments if you don't change policy?"[9]

*For details of the MAI, see the following article by Jane Kelsey.*

[1] E.g. *Independent*, "Too many pacts for Parliament", 23/5/97, p.5; and October 1996 briefing paper to the Minister of Justice

by the Ministry of Justice.

[2] A Cabinet briefing paper was released in May 1997.

[3] Renato Ruggerio, in speech delivered at WTO Singapore Ministerial conference, December 1996.

[4] Overseas Investment Commission statistics.

[5] *World Investment Report 1996: Investment, Trade and International Policy Arrangements*, United Nations, New York and Geneva, 1996, pp. 261-273, and "International Investment Position: 1995/96" in *Hot Off the Press*, Statistics New Zealand.

[6] In the forthcoming "Foreign Investment: The New Zealand Experience", editor P. Enderwick, 1997, Chapter 6, "Foreign Investment in New Zealand: The Current Position".

[7] E.g. "Foreign Investment in New Zealand: Does it threaten our prosperity or our sovereignty?", by Don Brash, November 1995, p.10.

[8] "International Investment Position: 1995/96" in *Hot Off the Press*, SNZ.

[9] *Press*, "Greenie enrages French", 11/7/97, p.13.

**What Can You Do?**

* Ring talkback radio; write letters to newspapers. Alert people as to the contents and consequences of the MAI.
* Contact your local MP, and any list MPs you think will listen. Say you want international agreements treated the same way as a change in law, with public debate on the Government's negotiating position and on final acceptance, and votes in the House of Representatives. Say you want this one canned as it is too dangerous to democracy and our living standards.
* Alert local body politicians – community boards, councils, regional authorities – to the consequences for local government. Point out that their plans for local development initiatives and their wish to maintain local control of utilities such as water, electricity and rubbish collection will be at risk. Suggest they declare their district a MAI free zone.
* Raise the issue with other groups such as unions, groups opposing the commercialisation and privatisation of our electricity, health and education systems, beneficiaries and State house tenants, environmental and conservation groups. Point out that this will lead to the undermining for ever of our ability to control the biggest and most dangerous transnationals that come to Aotearoa/New Zealand.
* Alert iwi and their supporters fighting for land rights. Point out that the MAI has grave ramifications for rights of tangata whenua and obligations under the Treaty of Waitangi.
* Ask CAFCA or GATT Watchdog (**Box 1905, Christchurch**) for more information if you need it. If you have access to the Internet, you can also find information there. Try these: http://www.citizen.org/gtw http://www.essential.org/monitor/mai/contents.html http://www.geocities.com/athens/3565/nomai.html http://www.islandnet.com/plethora/ http://www.policyalternatives.ca/mai.html, http://www.tao.ca/earth/lk97/

*(NZ Herald, 22/5/97)*

# MULTILATERAL INVESTMENT AGREEMENT

- Jane Kelsey, Law Faculty, Auckland University

A binding agreement designed to remove restrictions on foreign investment is being secretly negotiated at the Organisation for Economic Cooperation and Development (OECD) in Paris.

The OECD multilateral agreement on investment (MAI) has been described as a charter of rights and freedoms for transnational corporations (TNCs) and international investors, which they will have the right to enforce against governments. It imposes no corresponding responsibilities on investors.

These negotiations began in late 1995 and were due to be completed by May 1997. It has taken longer than expected to finalise the details and there are still some major points of disagreement. Formal acceptance of the agreement has been delayed for several months, and possibly until May 1998. The commitments each government has made to liberalise foreign investment will then be locked in for at least 20 years.

A draft of the MAI, dated 9 January 1997, has been leaked to critics of unrestricted foreign investment in Canada. The following analysis was prepared following discussions with officials at the OECD and the World Trade Organisation (WTO).

### Main issues

The stated goal of the agreement is 'to ensure a high minimum standard of treatment for foreign investors and their investments' and prevent discrimination in favour of local investors or investment. Governments must lodge a list of precise reservations which sets out all the areas where its policy does not conform. These reservations are subject to 'standstill and rollback'. That means no new restrictions can be added by future governments and current reservations are expected to be reduced and eventually eliminated.

These objectives are irreconcilable with the general principle set down in the 1996 coalition agreement 'that it is desirable that the control and ownership of important New Zealand assets and resources be held by New Zealanders'. Governments cannot withdraw from the agreement at all for five years. If they later withdraw, commitments to existing investors continue for another 15 years. While investors are given extensive rights in this agreement, no responsibilities or obligations are imposed in return. There is no reference even to the OECD voluntary Guidelines for Multinational Enterprises. Investors are given legal standing to take action against governments for breaching the agreement, including enforcement of the MAI as if it was domestic law.

### The Background

OECD ministers agreed to begin negotiations on an MAI at their annual meeting in May 1995. Earlier attempts to secure such an agreement during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) met with strong resistance from poorer countries and resulted in a more limited agreement on Trade-Related Investment Measures (TRIMS). The European Union (EU) proposed developing a multilateral investment agreement (MIA) within the new GATT organisation known as the World Trade Organisation (WTO). This was approved at the first ministerial meeting of the WTO in Singapore in December 1996.

Other major powers, especially the US, believe any WTO agreement will be too weak and have decided on developing a multilateral investment agreement (called the MAI, to distinguish it from the WTO proposal) within the 'rich countries' club' of the OECD. Once enough support has been gained for the OECD version, it is expected to be flicked on to the WTO, thereby minimising ability of poor countries to influence the text.

### The Negotiations Process

The MAI is being negotiated by representatives of all 29 OECD member governments, with the assistance of drafting and expert groups. New Zealand's main negotiator is a Treasury official seconded to our delegation at the OECD. The Business and Industry Advisory Committee (BIAC) and the Trade Union Advisory Committee (TUAC) of the OECD are consulted, but have no direct influence. Once finalised the MAI will be open for all OECD members to sign, although they are not required to. Others can sign on later, with the approval of the original parties. The New Zealand government intends to sign on immediately. Non-OECD countries are excluded from the negotiations, but they will be allowed to sign on to the MAI if the existing members approve.

### The Ratification Process

The negotiations and drafts of the agreement are secret. Only the OECD, member governments and those whom they choose to consult are entitled to know the content until final agreement has been reached. The draft agreement is only publicly available because it was leaked. There is no guarantee that future drafts will be made available. Cabinet papers released to the Alliance indicate there is no intention to consult even the National and New Zealand First caucuses on the agreement or New Zealand's list of reservations, let alone Parliament or the Crown's Treaty partners.

The New Zealand government has already tabled its list of

reservations. Ministers claim these are consistent with the coalition agreement, but they are not prepared to release the document for scrutiny. Recent disputes over the meaning of key elements of the coalition agreement provisions, such as privatisation, undermine such assurances. Similar concerns apply to promises to protect Treaty of Waitangi entitlements. Some governments must submit the agreement and their reservations to their legislatures for final approval or ratification. This will be the first time there has been any debate on the agreement. At that stage there is little they can do: the negotiations will be complete, the government's commitments have been tabled, and changes would mean reopening the whole deal.

The New Zealand government does not even need to submit the agreement and their reservations to Parliament for ratification. It is treated as an act of State which Cabinet can decide secretly on its own. Parliament would only debate the issue if changes were needed to bring New Zealand laws into line with the agreement. New Zealand now has one of the most open foreign investment regimes in the world. The Government will have promised to maintain that regime. They may also have agreed to a process which would reduce restrictions in the future, but which does not require legislative action now. Future governments will be bound by commitments made by this government. Standstill and rollback means they will be prevented from imposing any new constraints, and will be expected to reduce the few restrictions which still remain— irrespective of economic conditions, public opinion, Treaty of Waitangi obligations, or social, environmental and employment concerns.

## Basic Principles

Underpinning the MAI are two basic principles:
*'national treatment'* prevents governments from giving preference to their local investors over the individual or corporate investors of another country which has signed the agreement. This guarantees *at least* equal treatment; governments can still treat foreign investors *better* than locals.

*'most favoured nation status'* (MFN) requires governments to extend any preferential arrangements which it has with one country to investors from all the countries which have signed the agreement.

Governments must also ensure that all payments relating to an investment can be freely transferred in and out of the country, in a freely convertible currency. These include initial capital, returns, payments under contracts, proceeds of sale, compensate or settlement awards.

## The Scope of the Agreement

The agreement covers the rights to set up, acquire, expand, operate, manage, maintain, use, enjoy, sell or otherwise dispose of investments.

*Investments* are defined as: 'Every kind of asset owned or controlled by an investor', including
an enterprise (specifically seen to include research institutes and universities)
stocks and shares
bonds, debentures and loans
rights under contracts
intellectual property rights (including cultural 'property')
concessions, rights and permits (including pollution permits)
claims to money (this may not include government debt unless the transaction has the characteristics of an investment)
rights over property (some want real estate left out).

## Key Provisions

Detailed rules are proposed in a number of specific areas. In January 1997 the wording of many provisions had yet to be agreed and several options were included in the text. Those which are of particular concern include:

*performance requirements*:
Foreign investors can't be required to use a set amount of local content, transfer technology to local companies, export part of their production, hire a certain proportion of local workers, or achieve a certain level of investment, production, employment, or research and development.

*movement of capital*:
No limits are allowed on moving investors' capital, profits, proceeds of sale or compensation into or out of the country

*privatisation*:
While a government is not required to privatise, the agreement applies to anything they do privatise, unless they have made specific reservations. There are several definitions of privatisation. Some would apply only to assets and enterprises; others would apply to all functions of government, including contracting out of policy advice and service delivery. Some countries want to allow measures like a Kiwishare, share giveaways to local consumers, or management buyouts. The US wants those to go too, with each country having to spell out these restrictions in its reservations, to be rolled back over time.

*immigration*:
Where an investor has committed, or is in the process of committing, 'a substantial amount of capital' they or their senior managers would have automatic rights to enter and reside in a country temporarily (probably between one and three years). So would their spouse and family. No labour market or economic needs tests, or quota limits, could apply.

*rights of local companies*:
Local company law could not allow companies to discriminate against foreign investors, limit the nationality of their directors, require their managers to be of a certain nationality, or create different voting rights for local and foreign shareholders.

*secondary boycotts*:
Governments would not be allowed to discriminate against companies because of their activities in another country. This would rule out the investment boycotts adopted by a number

of governments against local branches of companies which were active in apartheid South Africa.

### Enforcement

The agreement can be enforced against governments by other governments or by foreign investors who claim they have been disadvantaged in actual or planned investments. This is a major new development.

Governments, or people who are affected, have no rights under the agreement to take action against investors for how they behave, unless they are in breach of a domestic law. Enforcing local laws against large and complex transnational enterprises is notoriously difficult.

*Disputes between governments:* If these can't be resolved by consultation, they can be submitted to specially constituted international tribunals for binding arbitration. Ultimately there is no way for one government to make another government comply; this is seen as the ultimate exercise of sovereignty. But only the most powerful states can do that with impunity. In reality, New Zealand would suffer enormous economic and political damage if it refused to comply with a decision.

*Disputes between investors and governments:* Investors have the option of enforcing the agreement in the domestic court of the government they claim is in breach. This raises a difficult constitutional question, as international treaties are only binding in New Zealand courts if they have been formally incorporated into domestic law. That suggests there would need to be some separate move to do so before the courts would enforce the agreement by issuing a declaration or awarding compensation

### The Treaty of Waitangi

The MAI has grave ramifications for rights of tangata whenua and obligations under the Treaty of Waitangi .The Government continues to disregard the right of its Treaty partner to full and equal participation in the international arena, including the negotiation of international treaties. While the MAI provides limited exceptions for protection of human and animal life, and the environment, there's absolutely no recognition of the intrinsic rights of indigenous peoples or of any prior obligations to comply with any treaties. Depending how national treatment is interpreted, a foreign investor could claim that preference to Maori is a breach of MAI, even if other local investors were also discriminated against. Hence, the MAI would prohibit all claims by Maori for priority rights over taonga, knowledge, inshore and offshore fisheries, control over mining, pollution and environment, forestry, and even land.

Any new regulations to protect Maori interests or give Maori preference, for example in response to a Waitangi Tribunal report, and which foreign investors claim will disadvantage them, could lead to claims for compensation or restitution for actual or potential loss. This raises doubts about exercises such as the current consultations on intellectual and cultural property laws.

Special rights attached to privatisations may also be at risk if rights to give special treatment to local communities are prohibited. These can be addressed in the Government's reservations. According to the Deputy Prime Minister there is provision for measures giving 'special treatment' to the Treaty Partner. However, the exact nature of these reservations is not known.

Interpretation of Treaty rights is heavily contested, and the current government's view is very conservative. The National government's reservations in the GATT services agreement (GATS) merely retained the ability of government to give preference to individual and groups of Maori (not even a reference to Iwi/Hapu). It gave Maori no rights; it just authorised the Government to act if it so wished. Whatever reservations this government has proposed will continue to apply for the next 20 years, despite changes in interpretations of the Treaty, Waitangi Tribunal reports, or government policy. Even these reservations will be subject to standstill and rollback; ie. future governments are expected to reduce them in time.

### Social, Labour and Environmental Concerns

The MAI confers extensive rights and benefits on foreign investors and investments, especially transnational corporations (TNCs), but imposes no responsibilities on them. Governments claim they cannot impose any obligations on TNCs because they are not a party to the agreement; this is an agreement between states. So they can confer benefits, but not impose responsibilities. Accompanying this is a distinct lack of will.

In 1976 the OECD agreed to a set of voluntary Guidelines for Multinational Enterprises (MNEs) to accompany a Declaration on International Investment and Multinational Enterprises. There is no reference to these in the agreement. Some governments are prepared to see them referred to in the preamble and annexed to the agreement. New Zealand does not support even that.

Nor does it support moves to include protections for workers or the environment. According to the Cabinet paper: '*There have been concerted efforts to work labour and environmental references into the Agreement. This is contrary to New Zealand policy on what is appropriate to address in an economic agreement of this type and we have stood out against these moves.*'

Currently, the only reference to environment relate to measures necessary to protect human, animal or plant life or health, or conserve living or non-living exhaustible natural resources. These measures must not be arbitrary, must be justifiable and must not act as disguised restrictions on international trade and investment.

Environmental groups have expressed concerns that governments will be restrained in their ability to pass stricter environmental laws and that the MAI will conflict with, and potentially override, multilateral environmental agreements. The World Wildlife Fund has called for a comprehensive

assessment of the environmental implications before negotiations proceed. Similar concerns arise in the area of labour laws and instruments of the International Labour Organisation (ILO). Any reference to the MNE guidelines, or labour or environment provisions, would still depend on governments or investors themselves to enforce, as noone else has any standing to bring a dispute under the agreement.

### Constitutional Concerns

In response to parliamentary questions from Jim Anderton and in media interviews the Deputy Prime Minister, Winston Peters, has conceded that the process is constitutionally untenable. However he is not prepared to change it to ensure that this agreement to parliamentary or public scrutiny, despite the extended time frame for the OECD negotiations. That reticence undermines confidence in assurances that the agreement and government reservations are benign.

Mr Peters claims there are too many international agreements to debate and ratify each one. Mike Moore recently suggested that Parliament set aside one morning a year to debate such treaties, which Mr Peters considered eminently reasonable.

That position is unsustainable in the face of growing calls for open and effective debate on these agreements. The anti-democratic process for treaty negotiations has been criticised in recent years by the President of the Law Commission, now Court of Appeal Judge, Sir Kenneth Keith; the Clerk of the House, David McGee; and the Justice Department in its 1996 post-election briefing papers. A similar process in Australia has drawn criticism from the Senate there.

A number of moves are currently before the house: A recommendation from the Clerk of the House for parliamentary debate of international treaties is before the Standing Orders Committee. Private member's bills from the Alliance and from ACT are in the ballot. The issue is on the Foreign Affairs, Defence and Trade Select Committee agenda for consideration.

This is an issue which calls for a cross-party response. While New Zealand First's leader has vehemently defended the current situation, some of his colleagues must feel deeply compromised. The Alliance has strongly criticised both the process and the substance of the agreement, and alone so far has sought to force a public debate. ACT supports the goals of the MAI, but has strong concerns about the process for negotiating international treaties; however, it has so far remained silent in relation to the MAI. While Mike Moore appears to support the Peters position, the views of others in Labour remain unknown and there appear to be clear conflicts with Labour's commitments in the 1996 election manifesto.

Parliaments and peoples in a number of OECD and non-OECD countries have began to express similar concerns. For example, on 14 April 1997 an MP in the British Columbia Parliament moved:

That this Assembly request the Government of Canada to immediately withdraw from any further negotiations on the proposed Multilateral Agreement on Investment until the Government of Canada has (a) convened a public meeting of first ministers to discuss any such agreement and (b) has completed a process of public consultation with industry, labour, small business and any other Canadians who are concerned about the impact of such an agreement on the future of the country.

Irrespective of views about foreign investment, the Multilateral Agreement on Investment has such far reaching implications that it must be subjected to full, open and democratic debate within parliament, with its Treaty partner and with the general public. The delay in finalising the agreement allows time for this to occur. If the Government is confident in the assurances it has given, it has nothing to lose by doing so, and the constitutional process has everything to gain.

# THANKS, BRIAN

Several years ago *Watchdog* faced a rude awakening. No longer was it possible for mates to print it at mates rates on other people's borrowed antedeluvian printing presses. So we had to find a commercial printer and pay the going rate. To our great good luck, we came across Brian McKay of Addington Print. He gave us 100% and more in the years he printed *Watchdog* - he kept his rates dirt cheap, he always provided plenty of extra copies at no extra charge, he sorted out layout corrections and he delivered for free. At great cost to his leisure time, and probably his health, Brian worked round the clock, seven days a week from his freezing old shed next door to Addington Prison, kept company only by his old black and white TV and several tough stray cats. It was common for him to deliver late on the Saturday night, or even the Sunday morning, before a Sunday mailout. Nothing was too much trouble for him. He took a personal interest in *Watchdog's* content, and always commented on interesting stuff he found in it.

*Watchdog* became his single biggest job, and by 1997, it was too much for a sole printer. He counted himself out of contention, saying that he would take at least a month to do it. That is too long, so by mutual agreement we went elsewhere. Brian continues to do smaller jobs for us, such as the covers and letterheads. He still slogs his guts out but at least he's moved from the freezing shed into the shopfront.

Not only has Brian printed *Watchdog* for several years, but two of the books CAFCA has published - Murray Horton's "In Deep Water?" and "Clearcut" - plus innumerable flyers and leaflets for CAFCA and related groups. In that time he also became the printer for the Philippines Solidarity Network of Aotearoa's *Kapatiran (Solidarity)*. Both CAFCA, and the broader movement, offer heartfelt thanks for years of a job done extremely well.

# TOUR THE GLOBAL ECONOMY (WITHOUT LEAVING CHRISTCHURCH)

In recent times CAFCA and GATT Watchdog have been working closely together. We helped GATT Watchdog organise the 1996 Trading With Our Lives Alternative Forum On Free Trade; in 1997 we jointly organised the Telecom Exposed! A Critical Forum (report elsewhere in this issue) and are jointly organising, along with Corso, the first Roger Award for the Worst TNC in NZ. (Also elsewhere in this issue for details).

To mark the third doleful anniversary of the signing of the Uruguay Round of GATT (ominously entitled the Final Act), we jointly organised a bus tour with a difference - an afternoon spent visiting and learning about sites representative of the "global economy" that we are told so much. As April 12th fell on a Saturday this year, the trip took place on the actual anniversary. And, yes, the bus came from a locally owned company.

We're pleased to report that it was a great success. We started with a 45 seater bus, then had to get a 49 seater, which we completely filled with paying passengers ($10 per head), with a few extra paying to stand for the four hours. We had to turn people away. It caught the imagination, not only of our own members but the wider public. A significant percentage of those on the trip were strangers to us. It had been highlighted in the *Press Community Calendar* (despite the *Press* being one of our main stops), and we picked up several people from that.

The trip aimed to show a sample of different sectors of the economy which are dominated by transnationals - we walked around Victoria and Cathedral Squares, to look at banks, finance companies, insurance companies, hotels, the media and Telecom. On the bus trip proper we also took in manufacturing, retail, airlines, entertainment, pharmaceuticals, food, supermarkets, breweries, orchards, among others. Scenic highlights included closed down factories and a Metro Refuse Plant (to illustrate the possible privatisation of Christchurch's rubbish systems, with Waste Management keen to grab the smelly prize).

Bill Rosenberg wrote the excellent detailed script and Murray Horton kept up a virtual nonstop commentary (not aided by the bus microphone not working. They never do). Aziz Choudry of GATT Watchdog also provided commentary at various stops. The trip wasn't confined to CAFCA concerns - Bob Leonard and Warren Thomson of the Anti Bases Campaign explained the workings of the US military base at Christchurch Airport when we stopped there. And both Warren and Aziz concluded the journey by pointing out the Security Intelligence Service office, strategically located opposite that hotbed of revolution, the WEA.

The participants found it depressing, just realising the extent of transnational ownership and power in their own home town. But they found it both enlightening and fascinating, and proof of the old adage that the first requirement for any social change is "Know they enemy". In at least one case it led to a personal fightback against the TNCs - one participant decided to forego his family's Waste Management wheelie bin. It's the first bus trip run by CAFCA and/or GATT Watchdog (Campaign for Peoples Sovereignty did an equally popular 1993 Peoples Bus Tour of Christchurch, which had a broader focus). CAFCA has run several central city "Who Owns Christchurch?" walking tours in recent years.

We recommend this to activists in any NZ city or town. Find examples of the "global economy" in your backyard (they're not hard to find), and take locals on a tour of them. It's an excellent educational and consciousness raising exercise. Plus you can make a few dollars out of it.

# "CLEARCUT" & "COST OF FREE TRADE"

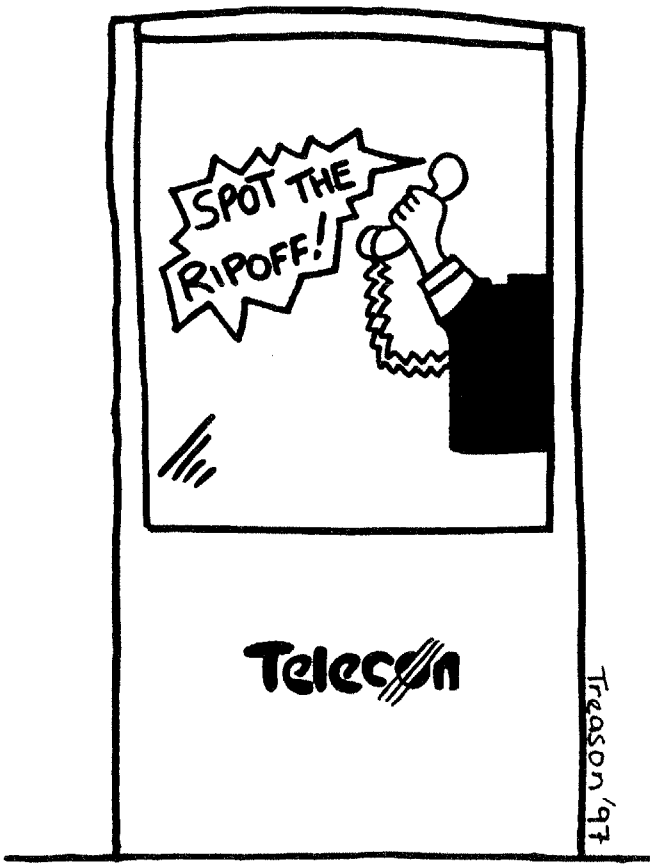
## Last Few Copies Left

CAFCA has a handful of copies left of the two books it has published in recent years - Murray Horton's "Clearcut: Forestry In New Zealand" (1995), and Dennis Small's "The Cost Of Free Trade: Aotearoa/New Zealand At Risk" (1996). At the time of writing, there are 20+ copies left of "Clearcut" and less than 20 of "The Cost Of Free Trade". So get in quick. There are no plans to update or reprint either book.

Sharp eyed readers may have noticed that *Watchdog* has been advertising "the last few" copies of "Clearcut" for several issues now. The explanation is simple - the original 300 are long sold. But our printer, Brian McKay of Addington Press, very generously ran off a large number of spare copies at no extra cost. Those are what we have left.
*"The Cost Of Free Trade" is $20, or $15 to CAFCA members. "Clearcut" costs $10, or $5 to CAFCA members. Make cheques to CAFCA, Box 2258, Christchurch, NZ.*

# A NEW SPOT ON THE LANDSCAPE

## LAUNCH OF THE SOCIETY FOR PUBLICLY OWNED TELECOMMUNICATIONS




Telecom Exposed! A Critical Forum was held in Christchurch on May 23 and 24. It was organised by CAFCA, GATT Watchdog and Corso. Speakers included MPs Marian Hobbs (Labour) and Laila Harre (Alliance); Tony Rimel of the Engineers Union, and scientist Neil Cherry. Groups represented included political parties, Telecom workers, independent Internet service providers, communities fighting cellphone towers, and beneficiaries.

A large amount of common ground was established, and those present concluded that the litany of complaints about Telecom had one root cause - that telecommunications in New Zealand must be returned to public ownership and control.

An ongoing campaign, comprising a wide range of groups and individuals, was launched and named SPOT- the Society for Publicly Owned Telecommunications. As a first step, SPOT has launched a national petition calling for the immediate return of Telecom to public ownership *(a petition is included with this Watchdog).*

We speak for the overwhelming majority of New Zealanders on this issue, as evidenced by an April 1997 *NBR/Consultus* opinion poll that established that 59% of those surveyed still opposed the sale of Telecom, seven years after the event!

SPOT will employ a range of tactics in its campaign. Nor will it be confined to Telecom. We don't carry a flag for Clear, BellSouth or any of the other transnational pirates that have profited from the dismembering of this vital sector of our national economy. But obviously Telecom will receive most of our attention, as the biggest and meanest of the telecommunications transnationals.

And our campaign to return Telecom to public ownership is made all the more urgent by the Government's covert complicity in pushing through the Multilateral Agreement on Investment (MAI), a planned international treaty to override all national laws on foreign investment and cement into place the transnationals' dominance of both the global and New Zealand economy. The MAI is aimed at making it difficult, if not impossible, to return public assets such as Telecom to public ownership. The New Zealand people are being deliberately being kept in the dark by this latest move to sell them down the river *(see articles on the MAI elsewhere in this issue. Ed).*

**Copies of all papers from Telecom Exposed! are available for $10. Send the cheque to CAFCA.**

Some quotes from the Forum:

"Latterly Telecom's profits have been 'disappointing', but only by its extraordinary standards. It continues to make an annual profit which works out at **over $1.5 million per day!**" (Murray Horton, CAFCA).

"Labour Party policies. Recognise that Telecom was sold. Now trying to rectify the consequent problems for those most hurt by the price rises and costs of having a telephone" (Marion Hobbs MP).

"The Alliance would use the price setting powers of the Commerce Act to impose a 30% reduction ($2.50 per week) in the residential line charge" (Laila Harre MP).

"We have faced the hostility of Telecom in negotiating a new collective contract. After ten months of industrial strife and contract negotiation we have only managed to get collective contracts for about half of our membership - or about 1/4 of the company's workforce" (Tony Rimel, Engineers Union).

"Members claim that using the dominance it has in other areas, Telecom seems to be extending this dominance to the Internet, using methods such as cross-subsidisation and predatory pricing to eliminate its competitors" (Internet Service Providers Association of NZ, quoted by Robert Hunt).

"Strong evidence also exists to link low level chronic exposure to cell site radiation, within a few hundred metres, to cancer including brain and breast cancer but especially leukaemia in children and adults" (Dr Neil Cherry).

"Having the phone on for myself and thousands of other beneficiaries and low income people, has become a luxury many can no longer afford" (Madeleine Burdon).

# TELECOM

## A textbook example of a predatory transnational

### A licence to print money

Telecom's 1990 sale price of $4.25 billion has proved a licence to print money for its new owners. Bell Atlantic Corporation and American Information Technologies Corporation (Ameritech) own a controlling 49.6 per cent of Telecom (24.8 per cent each), but more than that is now overseas owned. In addition, shares are held by advocates of privatisation such as Freightways (chairman Alan Gibbs) and Michael Fay and David Richwhite.Those boys have personally done very nicely out of the flogging off of Telecom and other public assets. For example, Fay and Richwhite interests have made a profit of over $500 million from the sale of Telecom and NZ Rail (now Tranz Rail); Gibbs' interests got $300 million profit. "These figures are staggering particularly as the two parties invested only a minimal amount to achieve these massive profits" (*NZ Herald*, 24/5/97: "Road to privatisation full of potholes"; Brian Gaynor).

Telecom is now valued at $13.1 billion, an increase of $10.6 billion since the sale. Of that, the Government has collected $1.8 billion (17%); Bell Atlantic and Ameritech $4.5 billion (45%); Fay, Richwhite and Gibbs interests $0.6 billion (6%); overseas shareholders $2.3 billion (21%); and local shareholders $1.1 billion (11%). "The massive transfer of wealth to offshore sources has been to the detriment of the New Zealand economy, as studies have shown that domestic wealth creation has a positive impact on consumer confidence and spending" (ibid).

Telecom's bosses have looked after themselves very nicely. Despite a 23% fall in profit for the 1996/97 financial year, chief executive officer Rod Deane was given a pay rise of $300,000 per year, up to $1.5 million, making him the highest paid executive in the country. In addition, he holds 750,000 Telecom shares. Deane is paid nearly $30,000 per week. Alliance leader, Jim Anderton, said: "Every week Rod Deane is paid as much as the average annual wage. He is paid 50 times more than the average New Zealand worker" (*NZ Herald*, 18/6/97). Seven other Telecom bosses each earn between $330,000 and $760,000 a year.

### Super profits - limitless greed

The latest Telecom financial results graphically show who benefited from the sale. In the 1996/97 financial year, Telecom made a net profit of $581 million - and this was one of its lowest ever profits! At one point, there had been talk of an $800 million profit, later scaled back to $730 million. There were several reasons for this "poor" result. Firstly, Telecom lost over $100 million on Pacific Star, its Australian subsidiary and is now selling all its Australian holdings. Things have got so bad that Telstra, the Australian phone TNC, has told Pacific Star to pay its debts or service will be cut off. (But Telecom is not abandoning the rest of the world - it is increasing its stake in Telecom Cook Islands from 40% to 60%). Secondly, the "Year 2000 computer software millenium bomb" has cost Telecom, the country's biggest computer user, over $50 million so far (and it estimates a total cost of $87 million to rectify it before the turn of the century). And thirdly, "restructuring" (ie getting rid of workers) cost over $40 million. If these one off "abnormal" costs, totalling nearly $190 million are added in, the profit is actually higher than that of 1995/96 (which was over $700 million). Right throughout the 1990s Telecom has posted record profits, totalling hundreds of million of dollars per year. It makes so much money that profit is now announced quarterly rather than annually.

And the great bulk of that profit goes overseas, avoiding any "trickle down" in New Zealand. It has a policy of paying out more than 70% of its net profits to its shareholders; in fact over 95% have been paid out rather than reinvested in the company. The trend to not spend money on reinvestment is being accelerated. At its 1997 AGM, Rod Deane announced that Telecom has cut at least $50 million from its $800 million capital expenditure budget for the year, and may well cut it further. Telecom has one of the highest (if not the highest) rates of profit payout and repatriation of any transnational operating in New Zealand. Its greed for profit is limitless.

In 1995, for every $6 Telecom made in profits, it paid out much less than $1 in wages and other staff costs – around

$77 million. Its profits grew by 17 per cent, but its staff costs went down. Its accumulated profits have been so huge that it is now buying back $1 billion of shares from its shareholders – giving them a windfall payout. The aim of this is to produce even more revenue for its American owners without them losing any ownership - under the terms of the Kiwi Share "imposed" by Labour when it sold Telecom, Bell Atlantic and Ameritech are restricted to a total of 49.6% ownership. Bell Atlantic has recently demonstrated its loyalty by changing its place of tax registration from NZ to the tax haven of Bermuda.

Latterly Telecom's profits have been "disappointing", but only by its extraordinary standards. It continues to make an annual profit which works out at **over $1.5 million per day!**

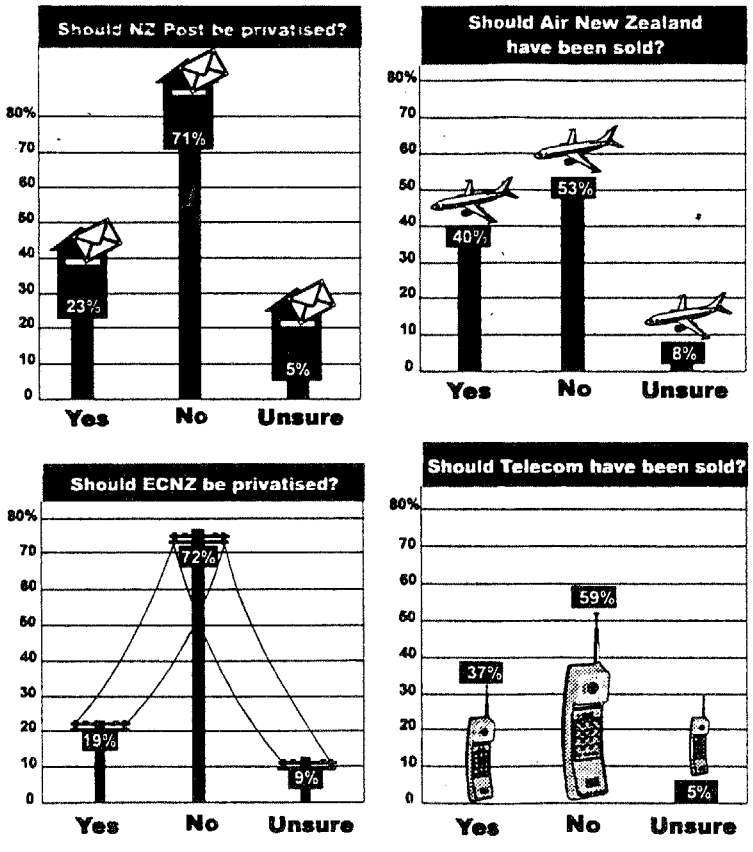
### Mass unemployment; cut wages and conditions

In 1993, Telecom announced that it was going to lay off 40% of its staff (several thousand workers) over a five year period. It also said that its continuing record profits were dependent on those very staff cuts. The former Post Office was one of the biggest employers in NZ, when it was a Government trading department, with a staff of 39,000. When Telecom was split off from NZ Post in 1987, it employed 25,500. Now less than 8,000 workers are left and Telecom is still busy laying off its employees, creating more unemployment. Admittedly it does employ many contractors but these are frequently former employees it has made redundant. It has shifted the risks of the ups and downs in the economy to those former permanent staff. Contracting out is continuing - in June 1997 it engaged GEC Alsthom NZ (a British/French TNC) to maintain 30% of its Christchurch phone network, for three years.

Not content with creating mass unemployment, Telecom has actively and aggressively sought to substantially cut both wages and conditions of its existing staff. It has tried, with limited success, to deunionise its staff as a matter of course. Only 3,600 Telecom workers are members of the union. Since 1994, Telecom workers (most latterly represented by the Engineers Union), have engaged in a protracted industrial struggle to get new contracts settled. This struggle has seen strikes, lockouts and pickets. By contrast, the last time phone workers in the former Post Office went on strike was in 1970. The way Telecom treats its workers can be gauged from the fact that Christchurch phone operators have to notify a supervisor before they can go to the toilet. The operators have compared their status to battery hens.

### Service deteriorates

Central city exchange crashes and thousands of households going days without phones have become commonplace. The reasons for the deterioration in service are simple - it has sacked too many skilled and experienced staff; become totally dependent on temperamental and untried computer systems (and has to fork out nearly $90 million to fix just one computer software problem); exported profit to foreign owners, rather than reinvesting it in mundane essentials like cables; and put the emphasis on commercial, rather than residential customers. Even business customers complain bitterly about Telecom's charges and the fact that it lags behind the rest of the Western world in advanced telecommunications technology.




It is a constant refrain from Telecom and its apologists that it runs things so much better than the old Post Office. Nonsense. It is useful to remember that the Post Office was a massive enterprise. In 1986, it had assets of $4.5 billion and revenue of $1.5 billion. Consider just this one fact: in 1990, under the old regime, Telecom reinvested $666 million on improving its infrastructure. The new owners have only equalled or exceeded that figure three times in the following seven years and have usually been well under it. The emphasis has been on exporting profit, not capital investment and network improvement (source: graph, "Telecom: Capital Investment Trends"; *Listener*; 17/5/97; cover story; "Tough Calls"; Gordon Campbell. That one article is an excellent source for hard facts on, and critical analysis of, Telecom).

Despite Telecom's much touted $5 Weekends and the like, NZ ranks as the most expensive OECD country (out of 12 surveyed) for international tollcalls and the third most expensive for national calls (source: *TUANZ Topics*, May 1997, Joel Cayford; Telecommunications Users Association of NZ). And Telecom keeps increasing a range of charges that impact most on those least able to afford them, such as local coinphone rates, wiring

*Graphs: PSA Journal May 1997*

maintenance, line rentals, etc. Most recently, it has announced that it is thinking of charging residential customers for local calls and directory assistance. It has offered them $10 off their monthly line rental in return for paying 20c per local call. This is definitely the thin end of the wedge. The Alliance has said that Telecom is making so much money that it could afford to abolish line rentals altogether; Telecom has rejected that idea. Quite the opposite - line rentals went up a further 2.9% in August 1997, which Telecom justified under the Kiwi Share, which uses the Consumer Price Index as a guideline. Since 1987, the residential line charge has nearly doubled; a business phone service costs $24 more per month than in 1987. And while it is true that national toll prices have fallen by 82%, fully three quarters of that fall occurred before 1990 - when Telecom was still publicly owned.

And Telecom definitely does shoot itself in the foot when it comes to public relations. In April 1997, the Southern Cross building in central Auckland had to be evacuated when a suspected letterbomb (which whirred and had "beware" written on the envelope) was delivered to a legal secretary who works there. As well as the building, several city streets were blocked off for 90 minutes and the university capping parade had to be diverted. It was actually a Telecom promotional mailout (sent to 3,000 Auckland and Northland businesses). Several law firms who were forced out of the building, while the police, firefighters and bomb disposal experts checked it out, announced that they would bill Telecom for lost work hours. Teleco could only say it was "deeply sorry", not to mention grossly embarrassed.

But sometimes the little people do win one. Elsie Locke, renowned Christchurch author and activist, is not one to let TNCs get one over her. In June 1997 she told Telecom that she was now being charged 90c per month for an extension bell that enabled her (and her late husband Jack) to hear the phone ringing when she was in the garden. The bell had been installed decades earlier by the Post Office, and it had never charged the Lockes for it. She asked for a refund. In July, Telecom agreed and apologised - Elsie (an octogenarian widow but woe betide anyone who treats her as a little old lady) would get a refund dating back to 1988, totalling $64.80. Three cheers for Telecom - despite their profit falling to a mere $581 million, they can still afford to refund $64. Who said they've got no heart.

### Abuse of monopoly

Telecom remains a monopoly for domestic telephone services. Its competition is overseas owned: Clear Communications for toll calls, Bell South for cellular phones. And they have had to negotiate a legal maze to secure any sort of access to Telecom's network (see previous *Watchdogs* for details of this). The fighting is still going on - since February 1997 Clear has been withholding 10% of the interconnection fee that it pays to Telecom, whilst trying to renegotiate aspects of the interconnection deal. Telecom responded with further court action; Clear counter sued both Telecom and the Government for, respectively, not abiding by, nor enforcing, undertakings.

The Telecommunications Users Association of NZ (TUANZ) has called on the Government to significantly toughen up the laws on competition. "New Zealand has achieved worldwide renown for having the most deregulated telecommunications industry in the OECD, but what is less wellknown is that our competition law enforcement is amongst the weakest in the Western world" (*TUANZ Topics*, June 1997; "Competition Law Needs Force", Dr Joel Cayford).

TUANZ secured 1996 Treasury and Ministry of Commerce papers in which competition law was debated - they agreed that insufficient competition in telecommunications was costing the economy up to $250 million per year. Treasury estimated that Telecom's monopoly accounted for $500 million of its annual profits. Commerce added that the export of Telecom profits to overseas owners "could represent significant losses to the New Zealand economy over and above the losses identified by Treasury" (*NZ Herald*, 4/7/97).

The rival phone TNCs are not standing still - in May 1997, Clear entered the local business call market. Speculation was rife that it would do a deal with BellSouth to enter the cellphone market. Telstra aims to pick up 10% of large corporate customers within three years. And, in June 1997, American cable TV TNC, Saturn Communications, signed an interconnection agreement with Telecom (the Telecom-Clear interconnection took years, court cases and millions of dollars). Saturn plans to use its cable network to launch a residential phone service, challenging Telecom in the one market where it has a complete monopoly.

Telecom's Internet subsidiary, Xtra, has been aggressively signing up new customers, having secured 51,000 by mid 1997. So aggressively that it has been treading all over the independent Internet service providers. 12 of them jointly complained to the Commerce Commission that Xtra had breached the Commerce Act by setting below cost pricing. The Commission rejected their complaint, so they took it to Maurice Williamson, Minister of Information Technology. The Internet Service Providers Association of NZ (ISPANZ) said: "We'll be asking for the Minister to intervene in this matter, as clearly the anti-trust laws in New Zealand are ineffective. The issue is the dominance of Telecom in New Zealand. We believe that history shows Telecom is in a position to abuse its power - there is case after case of it" (*Northern Advocate*, 4/6/97). Meantime Telecom has settled its dispute with Voyager, one of its largest Internet rivals. Voyager had filed a court case charging restraint of trade, and sought an injunction stopping Telecom from charging it more for wholesale 0800 access than Telecom charges Xtra. The terms of the settlement were confidential.

Telecom's cable TV subsidiary, First Media, is forging ahead, laying its fibre optic network in Auckland and Wellington (the target is 75,000 households). It is also examining providing Internet access via subscribers' TV sets. Already both it and Saturn (which is concentrating on Wellington) have run into residents' objections to visual pollution - it's cheaper to run cables overground rather than underground. The TNCs who

own the power companies, such as Wellington's TransAlta, are happy to sell rights to their power poles. But the cables are slung at different heights to power and phone lines, and Australian city dwellers have already complained vociferously about their visual impact. First Media has stopped installing its odd looking junction boxes on Remuera footpaths after residents complained. Of more concern to Telecom is the real prospect that cable TV will be a flop. Nigel Keats, media director of HKM Advertising, said: "There's not room for both operations in New Zealand (ie Telecom and Saturn). Someone's got to go" (*Northern Advocate*, 22/5/97). And Telecom CEO, Rod Deane, has conceded that First Media's budget projections had been substantially revised. Hence the likely shift of focus from straight TV to using First Media to supply a variety of services.

### Cellphone towers

This is the area where Telecom (and the other phone TNCs) have got right up the public's nose. *Watchdog* has chronicled the various community struggles for years. There have been court cases all round the country - for example, in June 1997, the East Coast Bays Community Board, in Auckland, rejected Telecom's application to install cellphone towers in Campbells Bay. This followed numerous objections from residents. Telecom announced that it would take the Board to the Environment Court.

Nowhere have these struggles been more intense than in Christchurch. The Shirley Primary School Board of Trustees spent all of 1996 locked in battle with Telecom, which had purchased a cellphone tower site from the Masonic Lodge, next door to the school. At one point, there were serious moves by parents to shut down the school by a mass withdrawal of their kids. At the end of the year, a compromise was reached - Telecom would spend six months looking for alternative sites; the school would stay open. This standoff put the Board under great pressure to reach a deal - for instance, at the last minute, they pulled out of supplying a speaker for CAFCA's Telecom Exposed! Forum, in May 1997, so as not to jeopardise their negotiations with Telecom. It was all for nought - 14 organisations turned down Telecom's approach to be the alternative site. So the TNC announced, in June, that it was going ahead with the original one, next to the school. The Board announced an appeal for tens of thousands of dollars to fight it in the Environment Court (CAFCA made a modest donation).

That same month residents in Sumner were startled to discover that Telecom had actually installed an operational cellphone tower in their midst, on a site purchased from the RSA. The Christchurch City Council had deemed that only immediate neighbours need be consulted - as they were all commercial premises, no householders were asked. The result was uproar, with a heated public meeting to denounce Telecom, the Council and the RSA. Residents were even more incensed to discover that a BellSouth cellphone tower had been operating from the Post Office roof for three years. They vowed to fight both.

The City Council has an inconsistent and confusing policy on tower sites. It approved the Sumner one but, in April, refused a BellSouth application to install cellphone antennae on the roof of the QE II stadium. Elected councillors, in a split decision, went against the advice of Council staff and turned down the application (elected councillors weren't involved in the Sumner decision).

Various community groups and the Environment Protection for Children Trust called upon the Council to incorporate the New Zealand standard for cellsite emissions into the City Plan, Christchurch's planning blueprint. The Canterbury Regional Council has been more proactive. Led by Councillor Neil Cherry, a longtime scientific expert and activist on cellphone site dangers (he spoke at Telecom Exposed!) it has earmarked $20,000 to investigate the health risks. The need for such research is urgent - Telecom now has 19 Christchurch cellsites; BellSouth has 16.

Cellphones are the biggest single profit earner for all the phone TNCs. So this is a battle that they will go to any lengths to win. In doing so, they are trampling all over ordinary New Zealanders, the very sort of people who rarely directly experience transnational power. But once they do, they get angered, they get organised and they fight back hard. Which is what Big Business fears the most.

### We're still crazy after all these years

It's worth noting that, seven years after Telecom's sale, 59% of those surveyed in an April 1997 *NBR/Consultus* poll still opposed it. So, when we're asked: "What is your mandate for calling for the return of Telecom to public ownership?", we just point them at that survey, one carried out by the *National Business Review*, the veritable Bible for NZ Big Business. It was a result that infuriated both the magazine and ideologues such as Roger Kerr of the Business Round Table. They came to the conclusion that Government hadn't sold the message well enough and/or New Zealanders were too stupid to see the "benefits" of privatisation. On the contrary, New Zealanders can see the reality of privatisation all too clearly. So remember that, we speak for 59% of the people, a landslide majority under any electoral system, and a figure verified by the staunchest supporters of Telecom and its American owners.

And the strangest people get involved in the battle. None other than ACT leader, Richard Prebble, the Labour Minister who sold Telecom in 1990, has launched a campaign to save parts of Wellington's green belt from Telecom. It holds 25 ha of green belt, for transmission towers. Prebble, who has no sense of irony (or shame), said that Telecom's plan to subdivide some of the land was "wicked...there are some things that should always be in public ownership" (*Press*, 18/6/97).

Nor are New Zealanders alone in rejecting the "benefits" of privatisation. In May 1997, the Legislative Assembly of El Salvador, a country just emerging from a genocidal reign of terror and a supposed showcase of the global triumph of

capitalism, rejected a plan to privatise the country's telecommunications (BellSouth was one of the bidders). So if a Central American banana republic can do it, so can we.

Telecom is only one example of the transnationals who dominate both the global economy, and the New Zealand economy. But it is a particularly outrageous one and one well worth singling out for special attention. Always remember the old truism - the bigger they are the harder they fall.

# CONTROLLING HUMAN CONSUMPTION

## Nestle Replaces The State

## - Dennis Small

A basic human right is to get an adequate and appropriate food supply for the sustenance of a healthy life. This right is obviously fundamentally connected to the most important right of all - the right to life. Access to water can be included here as an essential ingredient of these rights. According to the New Zealand government the best mechanism and guarantee of the right to food and so life itself is the "free" market.

### Corporatising Government

At present, even the corporate free market has to function within a formal framework of supposedly government mandated rules. Today, of course, the motto of the NZ government is very much along the lines of *"He who has the gold makes the rules"*. It has explicitly signalled this commitment by its appointment of the chairman (and former chief executive) of the board of ***Nestle*** New Zealand to the Australia New Zealand Food Authority (ANZFA) based in Canberra (*NZ Herald*, 17/5/97). ANZFA is the outfit which, under the Closer Economic Relations (CER) programme with Australia, has replaced what was formerly NZ's own national system of food regulation. NZ is more or less relegated to the status of an Australian state like South Australia or Victoria.

In my book, "The Cost of Free Trade: Aotearoa/New Zealand at Risk" (CAFCA, 1996), a lot of attention was paid to the NZ government's dispossession of public control over food in the interests of transnational corporations (TNCs). The Government's appointment of a Nestle representative as one of the two permanent NZ representatives on ANZFA confirms only too well the analysis and predictions made in "The Cost of Free Trade". A representative of the world's biggest food TNC has been appointed as the representative of our own country - a graphic illustration of the implications of the globalisation process and its subversion of democracy and national sovereignty. The international corporatisation of government is under way as foreign control becomes an ever more evident reality.

Nestle's tentacles can reach out round the globe, gaining representation and influence through such governmental and intergovernmental bodies in a multitude of nations. Members of Nestle can thus help negotiate trade matters and trade rules between purportedly independent sovereign states, acting on both/all sides of the negotiations! Through this and other means, TNCs are now rapidly swallowing into their gaping maw what remains of any democratic control of the world's food trade and standard setting for food safety.

Under the World Trade Organisation (WTO - the former GATT), what is called the Codex Alimentarius Commission is the international ruling body for *national* food standards and so Australia and NZ must conform with Codex requirements. Even before the institution of the WTO, Codex was heavily influenced by TNCs. A research study for a number of non-government organisations (NGOs) - including the UK National Food Alliance - of the workings of Codex, had clearly revealed the enormous extent of this influence. During the last full session of the 1989-91 period studied, participants comprised representatives from 105 countries and 140 TNCs. Nestle sent 38 representatives in total to Codex committee meetings, more in fact than most countries ("The New Protectionism: Protecting The Future Against Free Trade" by Tim Lang and Colin Hines, Earthscan, 1994, p. 101).

The Government's appointment of the boss of Nestle NZ as a representative of NZ on ANZFA demonstrates how Nestle can gain influence in such bodies as ANZFA, and ultimately Codex, not only directly through its explicit company role but even through provisions for its executive members to act as the purportedly *national* representatives of certain countries. TNC power is thus pervasive and all-embracing.

### Consuming Humans

Nestle has been a prime culprit on the world scene in flouting standards set for the preservation of human rights. The most notorious example of this has been its role in the baby food scandal. Back in 1973, the *New Internationalist* (no. 6, August 1973) published articles on what it called "The Baby

Food Tragedy": TNC promotion of artificial baby "milks" was killing babies in Africa, Asia and Latin America. Research had demonstrated that "the way in which these artificial baby milks are advertised and sold, misunderstood and misused, in poor and often illiterate communities can lead to earlier malnutrition. And there is no doubt that malnutrition in the first few vital months of a child's life can inflict permanent mental and physical damage" (p. 8). Contaminated water could be added to the milk substitutes; and these baby foods, for example Nestle's Lactogen, were being promoted at the expense of breast feeding. Nestle has been, and ***IS still*** guilty of this sort of activity.

Under pressure back in 1973 from the Nigerian Society of Health and Nutrition, Nestle at the time modified its advertising policies but apparently only in Nigeria, not in the rest of Africa. Indeed, the activities of Nestle and co. sparked off an international protest movement. The British aid agency, War on Want, published a booklet called "The Baby Killers" and people working in British aid agencies and churches formed the Baby Foods Action Group (*New Internationalist*, no. 33, November 1975, p. 14; see also *New Internationalist*, no. 25, March 1975, pp.13-15). This group exchanged information with contacts in Third World countries and drew upon the expertise of doctors, nutritionists and other medical/ health workers in gathering evidence and lobbying for change. The American Inter-Faith Centre on Corporate Responsibility also took up the campaign.

In Switzerland, groups in the Arbeitsgruppe Dritte Welt network produced a German adaptation of "The Baby Killer". This led to a historic legal battle with Nestle. "Nestle Kills Babies" was the title of the Swiss version of War on Want's publication. The TNC responded in June 1974 by suing the Arbeitsgruppe for defamation (*New Internationalist*, no. 50, April 1977, p. 20).

Meantime, various other organisations in the international campaign for TNC accountability on this issue were busy getting more evidence on the damage inflicted by the unethical marketing of the baby foods. They included the US Consumers Union. At the same time, US church groups were filing shareholder resolutions with milk companies requesting specific information. The church groups got support from the Ford and Rockefeller Foundations in their request for information from the Bristol-Myers Company which was disclaiming any responsibility for misuse of its products. Later, a report from this particular TNC was roundly condemned by both health experts and by church and Foundation staffs.

### Pushing the White Powder

In January 1975 a dossier on Nestle was submitted to a Berne court by Arbeitsgruppe. By this stage the Nestle court case was arousing great interest around the world. The milk companies were prompted into implementing a more active public relations strategy to counter the growing concern. TNCs involved in the controversy formed the International Council of Infant Food Industries and in 1975 issued a vague 'Code of Ethics'. Abbott Corporation refused to join this Council. "Promulgation" of the code did not, of course, stop the abuses nor the protests against them.

Then, in June 1976, Nestle won one libel charge against Arbeitsgruppe but dropped three. The charge won by the company was that against the title of the book - "Nestle Kills Babies". Again, this particular case once more highlighted the problems faced by NGOs and individual citizens in tackling TNCs which can marshall vast resources in resisting any democratic accountability; and which can continually use the resources they command to actually shape statute, legal practice, and government policy. The recent finding in the McDonalds libel case in Britain is an up to date illustration. Moral victories are not enough to count for real change. But the court case did not go all Nestle's way by any means - as indicated by its dropping of three of the charges made. The judge only obliged the members of Arbeitsgruppe to pay nominal fines and he also had strong words for Nestle. After a review of the TNC's advertising techniques, the judge stated:

"Hence, the need ensues for the Nestle company fundamentally to rethink its advertising practices in developing countries as concerns bottle feeding, for its advertising practice up to now can transform a lifesaving product into one that is dangerous and life destroying. If the complainant in future wants to be spared the accusation of immoral and unethical conduct, he will have to change its advertising practices".

Church-based campaigns continued in the US and in January 1977 INFACT (Infant Formula Action Coalition) was formed to step up efforts to change the practices of Nestle and US companies. Hearteningly, some campaign victories were achieved in 1977 with Borden and Abott corporations phasing out certain objectionable promotion techniques for baby foods. INFACT started a nationwide boycott of Nestle products. At a hearing of the US Senate Subcommittee on Health and Scientific Research, the president of Nestle Brazil opened his testimony by declaring the hearings "unfair" to Nestle and "an indirect attack on the world's free economic system".

Nestle was certainly the main focus for the international movement to try and get TNC accountability on the baby foods issue. This TNC had an estimated 50% share of the worldwide infant milk market and was often very prominent in advertising and marketing activity. "Despite the Nestle libel suit and the world wide sense of outrage it generated", Nestle continued to market unimpeded (*New Internationalist*, no. 50, April 1977, p. 22). Profits in the developing Third World market were lucrative enough for Nestle and co. to brush off criticisms as well as work round various restrictions placed on them by a number of concerned governments, e.g. Nigeria, Algeria, Guinea-Bissau, and several in the Caribbean.

### Milk and Murder

*New Internationalist* continued to monitor the performance

*Remil Kapo*

*New Internationalist, no. 50, April 1977*

of Nestle and co. For instance, an article in its September 1978 (no. 67) issue was forthright in its denunciation, referring to the Swiss-based food company's "callous and deliberate sacrifice of the health and lives of Third World infants for the sake of profits" for its infant formula division (p. 28). It aptly added that: "Nestle, like other companies selling infant formula, has been aggressively promoting bottle feeding in Third World countries, hoping to make up for the drop in sales that has accompanied declining birth rates in the industrial world" (p. 28). Widespread malnutrition and infant mortality had resulted. An early editorial analysing Nestle's defence to charges against it had been titled "Milk and Murder" (*New Internationalist*, no. 8, October 1973, p.1). In the words of one activist, the issue had become a "key example of economic and cultural imperialism".

A list published in 1977 of the major manufacturers of processed dairy products used for infant feeding included Abbott; Borden; Bristol-Myers; Glaxo; Heinz; Nestle; Reckitt & Coleman; and Sandoz (*New Internationalist*, no. 50, April 1977, p. 21). "The manufacturers split into two categories: food industries and pharmaceutical industries . . . this has led to a double dosage of promotion in developing countries" ("The Baby Killer Scandal: a War on Want investigation into the promotion and sale of powdered baby milks in the Third World", by Andy Chetley, War on Want, 1979, p. 57). In recent years, some such food and pharmaceutical TNCs have merged into even bigger conglomerates, e.g. Sandoz and Ciba-Geigy to form Novartis.

In 1979, War on Want produced a new report, "The Baby Food Killer Scandal" which documented how abuse was persisting in the face of global concern and attempts to control it. But the World Health Organisation (WHO) and the United Nations Children's International Emergency Fund (UNICEF) had now been persuaded to draw up a list of recommendations, a code of practice for the sale of dried infant formula for the TNCs to put into the practice. WHO's International Code of Marketing for Breast Milk Substitutes was instituted in 1981 as a voluntary code for TNCs to follow.

War on Want's 1979 study contrasted Nestle's purported claims, e.g. its claim that it had long promoted "breast feeding is best", with its actual advertising practices. Nestle was repeatedly caught with egg on its face. It was also revealed to be willing to grease a greedy palm.

"In July 1978 the American television network, CBS, produced a documentary on infant formula entitled 'Into the Mouths of Babes'". During the course of their investigations in the Dominican Republic, they uncovered a massive 'kickback' scheme. The scheme involved Abbott, Bristol-Myers, Nestle and the local subsidiary of Wyeth, all of whom had formed a pharmaceutical association which had an agreement with the Dominican Republic Medical Association that guaranteed a certain percentage of sales of all pharmaceutical products, including infant formula, to the doctors' association. In other words, the doctors' association received a kind of 'sales commission' every time a product was sold" ("The Baby Killer Scandal", p. 94).

### Corralling the Cowboys?!

By 1980 the baby food issue had "spawned hundreds of action groups, several court cases, 1,500 newspaper editorials, a US Senate inquiry headed by Edward Kennedy, and an international boycott of Nestle products" (*New Internationalist*, no. 86, April 1980, p. 6). By this time, too, however, tens of thousands of babies were thought to have died as a result of mothers abandoning breast feeding "in favour of artificial milk-formulas which they can neither afford nor safely use" (p. 6). WHO Director General, Dr. Halfdan Mahler, was even moved to declare that the campaign against bottle feeding advertisements was far more important than the campaign against smoking advertisements (p. 6). In this context, it is interesting to note that Codex, as an intergovernmental body, is run jointly by the UN's WHO and its Food and Agriculture Organisation (FAO). Nestle and other TNCs seem to have WHO and Codex more under control these days!

Three months after the TNCs' announcement that they would abide "not just by the letter of the law but also the spirit", reports were coming in of the same old pattern of abuses. For example, "nurses" wearing uniforms, but without any medical training, were still being employed by Nestle to promote its products in South African clinics. Similarly, in Malaysia, Nestle was distributing baby care booklets advertising bottle feeds. In testimony before a US House Subcommittee in February 1980, a Nestle attorney proclaimed that "we're not certain that any changes need to be made ("*New Internationalist*, no. 86, April 1980, p. 6).

About a quarter of a century after the start of the baby food controversy, UNICEF has reported that "a number of multinational companies, including Nestle and Novartis, were putting infants' lives at risk by aggressively promoting breast milk substitutes" (*The Press*, 16/1/97). Mead Johnson, Nutricia and Wyeth (Home Products Corp.) were (are) among the other TNCs involved. UNICEF called on the companies to prove their compliance with the voluntary code adopted by WHO. However, the abuses are still going on 16 years since the code was first adopted. An international study backed by UNICEF as "a careful and sound analysis" found that the code was being violated in Bangladesh, Poland, Thailand and South Africa, putting "the health and lives of great numbers of infants at risk". The report endorsed by UNICEF is titled "Cracking the Code" and was published by a coalition of churches, academic bodies, health experts and development groups.

International campaigning went on. In 1991, the General Synod of the Church of England voted for the first time to back a boycott of a commercial product - Nescafe (*New Internationalist*, no. 225, November 1991, p. 29). The Synod motion called on Nestle to "end the promotion of breast milk substitutes by means of free and subsidised supplies to Third World hospitals and maternity wards". Nestle retaliated by marshalling some of its formidable clout. It sent out 14,000 letters to members of the clergy attacking the Synod decision and calling for it to be rescinded. The Synod asked the British government to ban the advertising of the babyfoods in the UK and to support stricter legislation on exports to developing countries. Baby Milk Action continued to coordinate the international boycott campaign against Nescafe, substitute milks and other Nestle products into the '90s. It has indicated that unsafe bottle feeding kills a baby every 30 seconds (*New Internationalist*, no. 261, November 1994, p. 29).

Perhaps we can yet take something positive from all of this. Despite the huge frustrations, setbacks and difficulties, NGOs and supporters have persisted in campaigning on the issue. These people have not given up. We are in for the long haul but should always keep in mind the bigger they are, the harder they fall!

### Part of a Bigger Picture

As the *New Internationalist* once pointed out in an editorial on the failure of the TNCs to accept any real responsibility for the infant deaths and malnutrition (no. 25, March 1975, p. 1): "Companies like Nestle have taken advantage of the lack of government controls in most developing countries to evade this responsibility - with disastrous consequences". This was all part of the "profits before people" approach with the operations of the food TNCs being a particularly clearcut example of the process at work. There was a vacuum of countervailing power to the corporate agenda - a vacuum that has now become a yawning chasm. Indeed, more and more, the TNCs are actually writing and policing their own rules, whether in ANZFA or Codex itself, or similar trade/investment forums.

The Director General of Nestle, Helmut Maucher, presides over the European Round Table of industrialists, the elite club of 47 companies operative in this particular region. He is known as "an implacable opponent of the European Social Chapter", which tries to ensure some obligations on the part of big business for labour and society in general. As *Le Monde Diplomatique* (April 1997) has well indicated, Nestle and co. make up an emerging ***"global government of the multinationals"***, an unprecedented and increasing concentration of wealth and power with a corresponding totalitarian grip on political and economic life. *(Nestle's attitude to its workers is shown clearly in the Philippines, where a months long 1997 strike has been met with mass sackings and physical violence by the company. Filipino unions have called for an international boycott of Nestle products. Ed).*

Currently, Nestle is looking to muscle more heavily into the NZ dairy scene (*The Press*, 26/2/97). It was the so called "Porter" report which made a summary but significant comparison between the Dairy Board and Nestle that then encouraged further pressure from the Business Roundtable and its agents for the privatisation of the assets of this particular producer board (see "Upgrading New Zealand's Competitive Advantage" by Graham Crocombe et al., Oxford University Press, 1991, especially p. 60). Since the Dairy Board, according to the TNC incited argument and its perverted criteria, is not performing as well as Nestle, the board should therefore be privatised. In reality, of course, this would mean that Nestle or some other TNC would take it over, and the gist of this self interested argument is often nakedly obvious.

Nestle has been on an extraordinary global roll of conglomeration and this has included gobbling up enterprises in Australasia like Pacific Brands and the Regina confectionery business. Expansion into NZ is programmed into its agenda and the new seat on ANZFA gives it another lever in designing future market outcomes tailor made to corporate requirements. Its activities coincide with the worldwide corporate grab for power under the auspices of the WTO.

### The Cost of Coffee

The Porter Report did make a frankly revealing observation when it noted that NZ industry lacked "broadbased advantages in the development and marketing of branded and specialised products. Foreign multinationals, which have advanced marketing skills and distribution networks, have been able to extract profits and place tremendous pressure on producer prices" (p. 60). In other words, the giant commodity TNCs have been able to screw Third World peasant farmers and can do much the same to NZ farmers, particularly small and medium farmers.

Susan George, an incisive analyst of the food TNCs, once indicated how Nestle can manipulate coffee markets:

" . . . by comparing the tonnage of soluble coffee which Nestle said (in a PR document) it had bought in the Ivory

Coast with the UN trade statistics on this item, one could determine that Nestle controlled 89% of all Ivory Coast's exports. It was also possible to establish that the company had grossly underpaid when compared to world prices. But companies are rarely so obliging with basic data that leads to real information" (*New Internationalist*, no. 81, November 1979, p.10).

It should be emphasised that this example is only an illustration of the multitude of means of market manipulation at the disposal of the TNCs. One other vitally important point should be noted here too. The free flow of information is the lifeblood of any democracy. But TNCs can apply rigorous ***protectionism*** to shield their own information resources under the guise of commercial confidentiality while having free access to governmental information - information that is yet screened in secrecy from the ordinary citizen. Requests under the Official Information Act (OIA) are regularly disallowed on the grounds of the confidentiality of trade/ investment negotiations. This is a major way in which TNCs are subverting democracy and any public accountability.

Bad news hit the Western world in 1997 with dire reports of a rise in coffee prices. As usual, the corporate media were mostly silent on the ramifications of such a rise (and pricing in general) for the people who actually produce the coffee in the Third World. Incidentally, just one twentieth of the price you pay for your instant coffee reaches the people whose lives are spent growing and harvesting it (*New Internationalist*, no. 271, September 1995, p. 18). If certain results were reported at all it was in fairly superficial and flippant terms (e.g. *The Press*, 18/3/97). Reportage was mainly construed from the perspective of the poor Western consumer. Coverage of the issue in an item on Television One typified this (6pm news, 23/5/97). A combination of disasters and problems had hit a number of Third World countries, constraining supply. Of course, when coffee prices fall drastically through over supply it is all good news for the Western consumer. Again, the outcomes for producers are ignored, or glossed over.

However, by mid 1997 not only were coffee prices tipped to fall once more (*The Press*, 17/6/97), even the previous gloom had had a silver lining. A headline in *The Press* said it all: "Nestle shares flourish against odds" (26/3/97). While coffee prices had leapt so had Nestle shares. Sales of instant coffee account for about a quarter of Nestle's profit. Yet, despite the sharp increase in the world price of coffee, the TNC's shares had apparently benefited from the operation of several factors, among them the weakness of the Swiss franc. In this connection, the chief executive of Nestle has gloated that the firm's "numerous production units all over the world" enable it to transfer production from one plant to another, allowing it to offset or milk currency movements (*The Press*, 5/5/95). Nestle, like other very large TNCs, can exploit many advantages, and pull many strings.

Some years ago, I managed to obtain a Cabinet paper under the OIA which showed that Treasury, and subsequently the Government, was opposed to any international coffee agreement between producing and consuming countries that would lead "to higher coffee prices than would otherwise have been the case". Any such agreement would be "manifestly not in the interests of New Zealand". This position obviously applies as well to cocoa, tea, tin or whatever other commodity comes largely from the Third World. About 20 TNCs control the bulk of the planet's agricultural trade. The NZ government is very much on the side of Nestle and co. in TNC administered exploitation of poor countries and also, ironically enough, increasingly on the side of TNCs in the exploitation of NZ's own people and resources.

### Contriving Consumables

Camille Guy in an article in the *NZ Herald* (17/5/97) has presented one of those rare mainstream media items which actually takes a close look at the assault on democratic control of food. She points to the fact that NZ has decided to "purchase its food regulations from a Canberra quango", and asks whether the Government has "given away important decisions on food safety, just as the issue of genetically modified foods makes headlines". Her article aptly pinpoints some of the key issues covered in "The Cost of Free Trade". As Guy indicates, the NZ Ministry of Health (MoH) has three objectives that can be considered as contradictory: "to protect the public health, to avoid unnecessary restrictions on trade, and to take into account New Zealand's international obligations on free trade". ANZFA is cast in the same mould as the MoH with conflicting obligations to protect public health and safety as well as to promote trade and commerce. Officials, of course, deny there is any conflict at all. They are simply serving the Orwellian dictates of their real masters, the TNCs.

Genetically modified foods are unregulated at present and public concern has resulted in a flood of submissions to ANZFA, requesting either a total ban or full disclosure on labels. The long term effects of genetically engineered foods are unknown and have the potential for disastrous consequences. Already, there have been some disturbing indications, e.g. "the mutant beta casein A1 milk protein, selectively bred into cows, and later identified as triggering diabetes". TNCs want the freedom to foist on peoples and environments a dangerous new technology. ANZFA is suggesting in a draft standard that "genetically modified foods are prohibited, unless specifically permitted - with applications considered on a case by case basis". Proper labelling is to be required only under certain conditions. These suggested provisions are very inadequate and nothing short of a total ban should be implemented at this stage of scientific knowledge.

TNCs push genetic engineering for their own narrow profit blinkered interests:

"Large companies can afford to pay for global liaison independently, in trade associations and in sector 'clubs'. In Europe, for example, one such club is the Senior Advisory Group on Biotechnology, which includes six of the world's top ten drug companies, chemical companies such as Dupont,

ICI and Monsanto, as well as food giants such as Nestle and Unilever. Small companies and consumers can only lobby regionally or globally on a shoestring, if at all" ("The New Protectionism", p. 41).

TNCs work to guarantee all the options open to them. For instance, if ever somehow TNCs began to lose their control of pricing for Third World agricultural commodities, then they have a range of substitute products potentially lined up. Nestle, Unilever and co. are researching and trialling factory produced biotech substitutes to replace cocoa and other tropical crops. At present, they have helped force poor countries to grow luxury crops for affluent overseas markets while making them more and more dependent on essential food imports from the West. At the same time, they can continue to experiment with new "artificialised" foods on consumers everywhere.

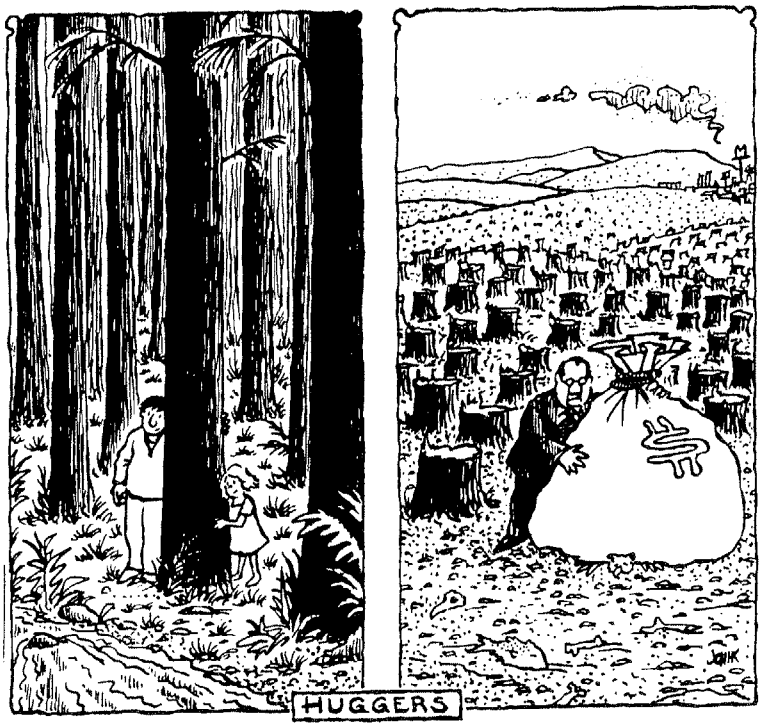
### Countering Corporate Consumerism

In contrast to Camille Guy's good journalistic review of the genetic engineering controversy, an unattributed article in the "Health" section of *The Christchurch Mail* (24/2/97) gave the propaganda line on food modification so often promoted through the mass media by the TNCs. Lowering of NZ food standards now permits manufacturers and importers to introduce a wider range of products with vitamins and minerals added. Previously, much concern had been expressed about the health effects of so called "fortification" of food. This was an issue examined in some detail in "The Cost of Free Trade". "Fortification" means the addition of extra vitamins and minerals to food products. Kelloggs has been the big player in this particular game of undermining our national food standards.

It must be acknowledged that Guy's questioning approach is not simply that of a lone voice in the mass media. For instance, Janice Bremer in the "Nutrition" section of *The Press* well observes that: "It seems as if the food industry in New Zealand has taken over nutrition education in New Zealand. Nutrition debate is healthy, but advertising knows the subtleties of manipulation" (21/1/97). Her article is headlined, "Demise of 'real food'". She says that after 2000, she "will still want wholesome breakfast cereals without added minerals and vitamins..." Reinforcing Bremer's warnings about fortification, an Australian public health report has indicated the lack of any proof of benefits from extra minerals and vitamins when given in amounts in excess of normal dietary intake (*The Press*, 4/2/97). Some such supplements have in fact been shown to be harmful. The old wisdom of eating plenty of fruit and vegetables is the best nutritional method of staying healthy and properly fed.

*The Christchurch Mail* (24/2/97) claims that: "Nutritionists generally welcome the concept of fortification. Dr. John Birkbeck, medical and scientific director of the New Zealand Nutrition Foundation, says persuading people to make healthy food choices is the preferred way of improving nutritional health". But the newspaper does not tell the public that this impressive-sounding Foundation is actually a public relations body funded by the food industry! The Foundation's views are strongly at odds with those of the Safe Food campaign and other NGOs. Moreover, "The American Dietetic Association advises the United States public to ignore nutritional messages that are not endorsed by independent health professionals" (*The Press*, 21/1/97). TNC propaganda and pressure is unfortunately subverting the MoH and the supposed political guardians of the nation's food supply; and it is set on track to do more insidious damage.

Commerce Minister, John Luxton, Labour Minister, Max Bradford, and other Government members keep up their criticism of what they regard as monopolies. Regardless of ritual public posturing on petrol pricing and similar token gestures, their commitment to the TNC agenda and foreign monopoly ownership has long been glaringly clear. Hypocrisy is pervasive throughout the free market. Governmental facilitation of TNC takeover is the real agenda. But it can all fall apart. It certainly will at some stage. Our job should be to help counter the influence of Nestle and co., and facilitate constructive alternatives - otherwise the eventual outcome is not going to be pretty.



# SEAFARERS FIGHT BACK

## And Win One

One of the most bitterly fought laws of the 1993-96 National government was the Maritime Transport Act, which deregulated coastal shipping, opening it up to foreign crewed ships. Only now is the full impact being felt by New Zealand seafarers. Christchurch based South Pacific Shipping is shedding five ships (which means 100 jobs go); Union Shipping NZ removed one vessel in June; Tasman Pulp and Paper is reviewing its shipping service. Some shipping companies have gone bust eg Searoad. As well as seafarers' jobs, deregulation adversely impacts on shore based businesses, such as dry docks and suppliers.

Not only has coastal shipping been opened up to foreign crews but, for the first time since the 1930s, the Tasman has been opened to cross traders ie Asian crewed foreign ships which carry trans Tasman cargo as an add on to their regular global routes. They are not subject to the New Zealand levies and taxes that local companies have to pay.

But the Seafarers Union is not one to take adversity lying down. It has a long and honourable history as a militant union, one of the last of the old school. In June 1997, it launched a campaign of pickets against cross traders. Shipping

lines and union pickets don't keep office hours - this one started at 4.45 a.m in a winter southerly, at Lyttelton. Among the picketers were some of the 24 union members already laid off by South Pacific Shipping. Veteran union president, Dave Morgan, said: "It is serious right now. Our jobs are at stake and we are not going to lie down and let it happen...if the police are going to be used they should realise they are being used against New Zealanders fighting for their jobs" (*Press*, 18/6/97).

That picket ended peacefully, but the campaign stepped up in intensity. In July, 27 seafarers were arrested at the Wellington container terminal and charged with trespass - they were picketing a Blue Star Line ship, crewed by Filipinos and Britons. But the pressure paid off. Later that month, the Pacific International Lines shipping company announced it was pulling out of the New Zealand-Brisbane run, citing an "orchestrated campaign" by the media, rival companies and the Seafarers Union had undermined confidence in its service. Dave Morgan, saying that Pacific International was "spitting sour grapes" (*Press*, 21/7/97) claimed a victory. He said the union would continue its campaign against other cross traders.

The Seafarers have shown the simple and direct way to confront the shipping transnationals. They have also taught us the valuable lesson that it is possible to beat them. All that it requires is a little backbone and plain old fashioned pigheadedness. In the immortal words of *Dad's Army's* Corporal Jones: "They don't like it up 'em, sir".

# CRUCIFIED ON A GOLDEN CROSS

## American TNC Leaves Coromandel With a Toxic Orphan

*Watchdog* has documented the shabby saga of American mining TNC, Coeur d'Alene, which bought Coromandel's Golden Cross goldmine from Cyprus Minerals in 1993. The mine might more appropriately have been named Poisoned Chalice, because what Coeur inherited was a huge tailings dam which is leaking toxic waste and sliding away down the Waitekauri Valley. Coeur has filed a multi million dollar suit against Cyprus, in the US, basically claiming that it was sold a pup, and is trying to retrieve the money it paid to buy the mine. Cyprus has counter sued Coeur for defamation. Not that Coeur should be mistaken for any sort of an environmentally responsible company. In 1996, the US Government sued Coeur for its share of $US980 million worth of damage to Idaho rivers.

It became apparent that Coeur could do nothing to fix Golden Cross. In 1996 it wrote off the entire $US53 million value of the mine, and tried some corrective measures. All up it has spent over $25 million but to little effect. A drainage tunnel was stopped, after only two thirds had been dug, because it struck tricky soil. The contractors have gone back to Australia and the tunnel project has been abandoned. 600,000 cubic metres of fill was put into the wrong place, accelerating the slide (5mm per day). The company has now realised that it would have to put in several million cubic metres of fill and to relocate the Waitekauri River, but doesn't want to do so, because that would require consents under the Resource Management Act, consents which would be opposed by its bete noire, Coromandel Watchdog of Hauraki.

All sides agree that it could cost over $100 million to fix the problem, which would involve building a new, stable, tailings dam and relocating the contents of the current unstable one. But Coeur has put up bonds totalling only $12.1 million, to Environment Waikato and the Hauraki District Council. This is manifestly inadequate (the scale of damages claims likely can be seen by the fact that Guyanese affected by the catastrophic 1995 collapse of the Canadian owned Cambior mine, which destroyed the Omai River, have filed suit in Canada for $C69 million, plus the costs of reparations). Meantime, Coeur is not suffering too much financially - in June 1997, it received a $US10 million insurance payout for business interruption and property damage caused by the ground movement.

The Waikato Regional Council and Hauraki District Council have passed resolutions demanding that Coeur relocate the tailings to a new dam. The company has simply thumbed its nose, and reiterated that it considers that the tailings are in the best possible site now, and they aren't going anywhere. Whereupon the local bodies have wrung their hands and proclaimed that they can do no more, not even demand a bigger bond. What's more, Coeur is speeding up its moves to abandon both the mine and New Zealand. Golden Cross was originally scheduled to last until 2001. Come 1997, it was talking about leaving in 1998, and laid off 39 workers (a quarter of the staff). But by June 1997, it was saying that Golden Cross will cease operations by the end of the year.

So what role does Government have in ensuring that toxic TNCs clean up their mess? None, according to Bill Birch, Minister of Finance. He wrote to Coromandel Watchdog (14/4/97):

"Under the Crown Minerals Act 1991 and the Resource Management Act 1991, responsibility for reviewing mining licence conditions, including the bonds, for mines in the Coromandel has been devolved to the Waikato Regional Council. These Acts do not provide for central government to intervene directly in what is essentially a local government issue. Under the conditions imposed upon Coeur Gold by its licence, it is responsible for rehabilitating the site...

"If Coeur Gold and its parent companies were found to be either liable but unable to pay (eg, due to bankruptcy), or not liable, for the rehabilitation of the site, then it is likely to be considered an **orphan contaminated site**. The regime for addressing orphan contaminated sites is still under consideration by the Government. The location of responsibility and funding for rehabilitating such sites is to be addressed under this regime..."

So there you have it. Nothing to do with the Government, local bodies can look after such monstrous orphans. Coromandel people need go no further than nearby Te Aroha to see firsthand just such an "orphan contaminated site" - the Tui Mine, abandoned in the 1970s and leaking toxic waste into a vital local stream ever since. Environment Waikato would like mining companies to clean it up as a PR exercise. Strangely enough, none of them have accepted the challenge.

In 1990, CAFCA toured Roger Moody, British mining expert and author (of the 900 page encyclopaedia of mining companies, "The Gulliver File"), through the country. He got greatest interest in Coromandel, climaxing with an extraordinary public meeting in Waihi. Having read *Watchdog* 84, Roger e-mailed us to say: "...Reading the Golden Cross piece reminded me of that public meeting in Waihi - shall I ever forget it? - when I challenged those from the industry to promise that a tailings containment would never fail. .." And, of course, industry representatives at that 1990 Waihi public meeting swore black and blue that such a system was foolproof. Never mind, Coeur can decamp back to the US and leave the people of Coromandel, and New Zealand, to live with its toxic legacy.

But Coeur is not out of the woods in the US either. The latest legal move against it is a shareholders class action suit alleging

misrepresentation, between January 1995 and July 1996, of the extent of the Golden Cross problems and effect on promised gold production. Coromandel Watchdog said:

"Coeur d'Alene already faces a US$1billion lawsuit by the United States government for mining pollution in Idaho. Now they face this class action by angry investors. Coeur's share price has fallen sharply since the revelation of the troubles of the Golden Cross Mine. If the Government and Council had listened to Watchdog in early 1996, they would have had financial guarantees in place by now. Quite clearly there won't be the money to clean up the massive environmental problems Coeur have created in NZ.

"If this eventuates, then NZ taxpayers will have to foot the multi-million dollar bill, and Mr Upton (Minister of Energy), Regional Councillors and Officers responsible for such negligent inaction should resign immediately" (press release, 4/7/97; "Coeur accused of fraud over Golden Cross Mine").

### Otago Local Bodies Show More Backbone

As far as goldmines are concerned, attention tends to focus on the Coromandel. But a huge Australian owned goldmine operates in Otago, and is seeking a $120 million expansion. Macraes Mining wants to get at another 300,000 ounces of gold in the next eight years - the environmental price will be a waste rock stack 100 metres high and three kilometres long, covering 200 hectares. Included would be a 60 metres high and 700 metres long tailings dam.

But, unlike their northern counterparts, the joint Otago Regional Council - Waitaki District Council panel considering Macraes application was not overawed. In fact, ORC staff recommended that 43 of the consents sought by Macraes be rejected, and Waitaki staff recommended that the remaining two be rejected also - all 45 were deemed environmentally unsound because of the sheer size of the proposed expansion. The staff report cited concerns about land stability, toxic tailings, etc. This display of backbone is not unprecedented - it was the Otago Regional Council which put paid to the plans of Chinese forestry TNC Wenita to build a medium density fibreboard plant on the Taieri Plains.

Naturally, Macraes made standard noises about its whole presence hanging in the balance. It has not been averse to throwing its weight around in the tiny Macraes Flat community - property owners who sold to the company also signed away the right to object to company activities or to make submissions on any mine expansion. It has also leaned on Macraes Community Incorporated, trying to stop it making submissions to the hearing by saying that it had no legal right to participate in the resource management process. To its great credit the community group was not intimidated - it did front up, and it did not shut up.

Coromandel Watchdog's Mark Tugendhaft drew the obvious lesson: "Waikato Regional Council need to take lessons from their colleagues in Otago. Down there they have shown the courage to face up to their responsibilities and recommend tough action to protect the environment - even if this means halting a $120 million project. It just reinforces our view that we have drawn the short straw when it comes to having a competent Regional Council, and why the Government must step in and take whatever action is necessary to protect the environment and NZ citizens from liability" (press release, 21/4/97).

Ironically the expansion has been put on hold - not because of any annoying residents or bolshie bureaucrats. No, because there's not going to be enough money in it. The reason for that is simple - 1997 has seen the global collapse of the price of gold. Australia's Reserve Bank played a major part in this by suddenly selling two thirds of its gold reserves, saying that it saw no reason to keep a lot of gold lying around in a modern economy. Mines and companies around the world are staring down the barrel of closure and bankruptcy. The Big Boys will be alright but smaller players like the New Zealand industry are in big trouble. The market has spoken - gold is rapidly becoming obsolete.

### Tape On Golden Cross & Macraes - Available For Hire

In April 1997 TVNZ's *Assignment* screened an excellent programme on the goldmining TNCs in both Coromandel and Otago. Fronted by Rod Vaughan, it also visited Coeur d'Alene's home territory in Idaho and looked at the mess there. And it looked at Macraes' plans to build a giant new mine in West Coast bush near Reefton. Despite all their bluster about being misunderstood, neither company would allow TVNZ into either Golden Cross or Macraes. *This tape is available for hire, for one week, for $10, including postage. Make cheques to CAFCA.*

# JANUARY TO APRIL 1997 OVERSEAS INVESTMENT COMMISSION DECISIONS[1]

**Bill Rosenberg**

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# January 1997 decisions

## *Barenbrug of the Netherlands buys Agriseeds*

**Barenbrug Holdings BV** of the **Netherlands** has approval to acquire up to **74%** of **Agriseeds Holdings Ltd**, which breeds, produces and markets seeds, for a suppressed amount. Both companies specialise in grass seeds. Barenbrug is owned **73.8%** by **H.J.M. Barenbrug**, **8.8%** by **B. and F. Barenbrug** (the three of whom are all Dutch residents), and **17.4%** by **ABN AMRO Participates B V** of the Netherlands.

According to the *Press* (25/2/97, "Agriseeds firm purchased", p.29) Agriseeds was already 29% owned by Barenbrug and the shareholding was only increased to 51%. Barenbrug's involvement had "turned from a technical alliance into an equity one", according to Agriseed's managing director, Selwyn Manning. The remaining shares were held by New Zealand staff and management, Barenbrug having bought out shares owned by Swedish and Australian companies. Barenbrug is "one of the top two forage breeding companies in the world" (*Canterbury Business Monthly*, March 1997, "Seed company goes Dutch", by Paul Morrison). "Agriseed was formed in a management buy-out from part of the Arthur Yates seed company in New Zealand shortly before the 1987 sharemarket crash" (ibid). The company is based in Darfield, Canterbury, where it has 25 staff. It has another 40 staff and subsidiaries in Australia and Argentina and its annual turnover is over $30 million. Yates itself is now owned by Brierley Investments Ltd's former Australian subsidiary, Industrial Equity Ltd (now Australian owned), and recently combined (80% Yates) with the U.S. company Seminis Vegetable Seeds to create Australasia's largest commercial vegetable seed company (*Press*, 11/1/97, "Yates joins with US firm", p.25).

The seed industry in general is going through a period of restructuring and, in significant part, sale overseas. Yates is mentioned above. Watkins Seeds is a subsidiary of Skellerup's, now 84% owned by Goldman Sachs of the USA. An American investor who recently emigrated to Canterbury, Jay Scanlon, owns a majority of the shares in the old established Canterbury firm, A.B. Annand, which supplies grain, seed, pulses, potatoes and onions, and he has also taken a shareholding in Agricom (New Zealand), which develops forage seed. This has led to the announcement of an "alliance" between the two companies (*Press*, 13/2/97, "Annand, Agricom combine", p.26).

## *AAPC of Australia buys Novatel Auckland and Holiday Inn Queenstown*

**Tourism Asset Holdings Ltd**, a public company listed in **Australia** whose majority shareholder is **AAPC Ltd** of **Australia**, has approval to acquire **Raffles New Zealand Ltd** which owns the **Novatel Auckland** hotel, and **Raffles Queenstown Ltd**, which owns the **Holiday Inn, Queenstown**. The prices paid are suppressed. The Auckland hotel is being bought from **Probo Pacific Ltd** of **Sweden** and **Royal Worldwide Pte Ltd** of **Singapore**. The Queenstown hotel is being purchased from **BLE Capital Ltd** and **Raffles South Island Ltd**.

These companies are all related. In May 1996 we reported that Probo Pacific Ltd, registered in Singapore but wholly owned by AB Catena of Sweden, had exercised an option to take a 50% shareholding in both Raffles South Island Ltd and Raffles New Zealand Ltd for $2 each. The two Raffles companies were both wholly owned by Royal Worldwide Pte Ltd of Singapore which is owned by the brothers, R. and A. Kumar. Raffles South Island bought a 60% interest in the Holiday Inn Hotel in Queenstown in 1994 from Alpine Properties Ltd of Aotearoa, and 100% of Novatel Hotel in Auckland in 1993 (then called the ParkRoyal) from the DB Group for $23 million. On both occasions, "the purchase was partially financed by Probo Pacific, who at that time entered into an option agreement to acquire 50% of the shares in Raffles." In 1994, the other 40% of the Queenstown hotel was owned by BLE Capital Ltd, 44.44% owned by Westpac, 44.44% by AMP, and 11.12% by 3I International Holdings

Ltd of the U.K.

When the Kumar brothers took over the ParkRoyal, the hotel was to be managed by French company, Accor Asia Pacific Ltd (AAPC) under the Novatel brand. At that time, Accor managed 2,098 hotels worldwide. The Auckland hotel had been difficult to sell while it was on leasehold land, but the Kumars had "got in quickly" when the land had changed to freehold in a deal with the Auckland City and Regional Councils which gave the Councils some adjoining buildings in return (*Sunday Star-Times*, 24/4/93, "Over the moon at ParkRoyal purchase", p.C13).

The current deal is part of an Australasian sale of six hotels all owned by the Kumars (the "Royal Brothers" after their company Royal Brothers Pte of Singapore) for a total of $A184 million ($NZ210 million). The Australian hotels are the Novatel Brisbane (and adjoining car park); the Mercure Hotel, Brisbane and an adjacent office building to be redeveloped as an Ibis hotel; Mercure Hotel, Perth; and Princes Hotel, Perth. AACP manages more than 120 hotels in Australasia, but listed Tourism Asset Holdings Ltd early in 1996, retaining a 40% shareholding with its own shareholders owning a further 20%. TAHL, which took over 18 of Accor's Australian hotels, is looking for further hotels to add to its collection (*Press*, 3/1/97, "Queenstown, Auckland hotels sold to operator", p.19; 4/1/97, "Aust hotel firm keen on more purchases", p.48).

## Cerebos Gregg's and Rio Beverages Ltd set up New Juice Ltd

**Cerebos Gregg's Ltd**, of **Japan**, and **Rio Beverages Ltd**, of indeterminate pedigree, have approval to set up **New Juice Ltd** with a 50% shareholding each. Their valuation of the new company is suppressed but *Reuters* put it at **$4.2 million** with a turnover of $32 million a year (*Press*, 11/1/97, "Cerebos-Rio merger", p.24). Cerebos Gregg's is owned 50% by **Cerebos Pacific Ltd** of **Singapore**, which in turn is **84%** owned by **Suntory** of **Japan**. The acquisition of the 50% shareholding by Cerebos Gregg's "is the result of Cerebos Gregg's and Rio Beverages combining their resources and expertise in the production, packaging and distribution of fruit beverages." In other words they are merging their fruit drink and juice businesses.

## Morgan and Banks of Australia buys remaining 65% of Aotearoa branch

**Morgan and Banks Ltd**, an **Australian** public company, and its Aotearoa subsidiary **Maldon Holdings Ltd**, have approval to acquire **100%** of **Morgan and Banks Ltd** of Aotearoa. The Australian company had previously owned **35.5%** of the Aotearoa company through Maldon Holdings. They describe their business as "human resource services".

## Sitel of the U.S.A. buys Telebusiness New Zealand Ltd for $14 million

**Sitel Asia Pacific Holdings Pte Ltd**, which is incorporated in **Singapore** but owned by **Sitel Corporation** of **Omaha, U.S.A.**, has approval to acquire **Telebusiness New Zealand Ltd** for **$14,395,000** worth of shares in Sitel Corporation. "Sitel has business experience and acumen in the teleservicing marketing field and ... such experience is likely to increase the productivity of Telebusiness New Zealand Ltd and introduce the benefit of global networks to the company."

## CBD New Zealand Ltd buys Jetset Centre, Auckland, for $12,500,000

**CBD New Zealand Ltd**, owned by **Westpac Banking Corporation** of **Australia**, and **New Zealand Guardian Trust Company Ltd**, has approval to acquire the **Jetset Centre, 48 Emily Place, Auckland**, for **$12,500,000** from **Aral Property Holdings Ltd** of **Singapore** and **Hong Kong**. It will be managed by **CBD New Zealand Management Ltd**. "CBD New Zealand Ltd has been established to target investment in quality commercial properties in Auckland, Wellington and

Christchurch... it is proposed to publicly float CBD New Zealand Ltd later this year at which time it is likely to cease being an 'overseas person'".

## *Waihi gold mining companies buy more land for the Martha Hill Mine*

As in February, March and October 1996, more land is being acquired for the **Waihi Gold Mine** in and around Waihi. The purchase of a **35 hectare** block of land has been approved from two private individuals for **$200,000**. The purchases are all by **Waihi Gold Company Nominees Ltd** of **Australia**, which "holds rural and urban land in and around Waihi as trustee for the participants in the Waihi Gold Mining joint venture." It is owned **28.35%** each by **Waihi Mines Ltd** and **Welcome Gold Mines Ltd**, **27.84%** by **AUAG Resources Ltd**, and **15.46%** by **Martha Mining Ltd**. All of these companies are Australian owned except AUAG Resources, which is owned in Aotearoa.

> "... the land subject to this application is directly adjacent to the existing tailings dam used for the Martha Hill mine and the acquisition of the land will allow for the construction of a diversion drain to prevent water run off from surrounding land entering the dam itself. A secondary use will be for stockpiling of materials for the rehabilitation of the mine and associated works. A large proportion of the property will be replanted in pines by the applicant company to provide a natural buffer to the mining operations.... The construction of the diversion drain will extend the life of the mine for an additional six years after the current estimated life of the mine of 1999, and will result in continued employment for the 150 people employed in the operation."

This is a different purpose from previous acquisitions, which were to extend the mine itself. Those would have allowed 165 people to continue employment; despite the land purchases it looks like 15 people have already lost their jobs.

## *Izard Irwin of the U.S.A. buys 28 ha. of land by its Wellsford factory*

**Izard Irwin International Ltd**, a subsidiary of **The Irwin Company Inc**, in turn owned by **American Tool Companies Inc** of the **U.S.A.**, has approval to buy **28 hectares** of land for **$530,000**, adjoining its **Wellsford, Auckland** manufacturing plant and factory.

> "Izard Irwin is a specialist in the production and manufacturing of high precision cutting tools. ... [it] has been based in Wellsford for a number of years, in which time they have operated a manufacturing plant and factory within the region and are renowned for being one of the largest employers within the Wellsford area. The property being acquired adjoins land currently owned by the company and is being acquired for the purposes of expanding its present business operations. The applicant proposes to on sell the balance of any of the acquired land not required for the factory operation."

## *Singapore company buys Foxton land occupied by BTR Nylex*

**Scottie Holdings Ltd** owned by **Mr William Cheng** of **Singapore** has approval to buy **eight hectares** of land in **Foxton** from **Oakstone Land Investment Ltd** for **$4,000,000 plus GST** for commercial property leasing. The land, on the corner of **Duncan Street** and **Ladies Mile**, is leased by **BTR Nylex Operations (NZ) Ltd** which employs over 200 people in Foxton.

## *Coca-Cola Amatil buys one hectare of land to expand its Auckland Head Office*

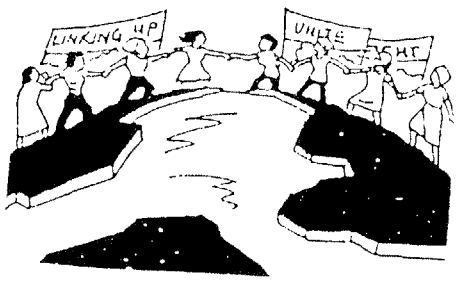
**Coca-Cola Amatil (N.Z.) Ltd**, owned by **Coca-Cola Amatil Ltd** of **Australia**, has approval to buy **one hectare** of land on the corner of **Waipuna Road** and **The Oasis, Mt Wellington, Auckland**, for **$1,100,000**. The land "is adjacent to that already owned by CCANZ which is used as its Head Office for its New Zealand operation". It is "predominantly vacant" and the company has "a view to expanding their operations". The land, together with CCANZ's existing site, exceeds five hectares.

## *Land for forestry*

**Rayonier New Zealand Ltd**, a subsidiary of **Rayonier Inc** of the **U.S.A.**, has approval to acquire **7.5 hectares** of forestry cutting rights in **Southland** for an amount "yet to be determined". "Rayonier is acquiring the Forestry Right for the purpose of protecting its right to the timber it has agreed to buy as part of their ongoing business operations within New Zealand."

## *Other rural land sales*

Two residents of **Germany** who "intend to reside permanently in New Zealand and also plan to establish an orchard on the property, the produce of which they intend to market locally", have approval to acquire **ten hectares** of land on the corner of **Ormiston Road** and **Waipu Caves Road, Waipu** for **$190,000** for "lifestyle" purposes.



## February 1997 decisions

### *Brierley buys TNT out of Union Shipping, merges it with Groupe Bollore*

**Brierley Investments Ltd** has its first appearance since it was officially recognised as being an overseas controlled company and had its exemption from Overseas Investment Act regulations dropped (see Watchdog 84 for full details). It is an important transaction too. Its subsidiary, **NZ Maritime Holdings Limited**, has approval to buy **TNT Group** of **Australia** out of the major regional shipping company, **Union Shipping Group Ltd**, for $79,667,810. The two previously each had a 50/50 ownership split. The sale includes **two hectares** of leasehold land on the foreshore at **Greta Point, Evans Bay, Wellington.**

Brierleys **is described by the OIC as "a New Zealand public listed company which is approximately** 20% **owned by** Malex Industries Berhad, **a Malaysian based consortium and approximately** 6.4% **by interests associated with the** Singaporean Government**".**

According to the OIC, "as a consequence of the acquisition, a conditional agreement has been reached with **Groupe Bollore Technologies** of **France** to form a maritime pool." A second decision this month approves the formation of a "**Maritime Pool Joint Venture**" to be owned 50% by BIL and 50% by **SCAC Delmas Vieljeux of France** (a Bollore subsidiary), which will acquire assets from the two shareholders. "The parties to the Maritime Pool Joint Venture have agreed to the establishment of a Maritime Pool for the operation of a trans Tasman liner trade. The Maritime Pool will be created by the combining of various shipping assets owned by the parties to the Joint Venture". The consideration for the combination has been suppressed.

Groupe Bollore owns one of Union Shipping's main competitors, the Australia New Zealand Direct Line (ANZDL) which has its headquarters in Long Beach, California and operates seven vessels between the USA and Australasia, operating its trans Tasman routes by riding on that trade. According to news reports, the deal is that BIL's Australian subsidiary, Australian Consolidated Investments Ltd, is buying Union's trans Tasman shipping assets for $US18 million ($NZ26 million), and then selling half the operation to Bollore. Bollore is also buying half of ANZDL's assets for $US30.9 million. A company 50/50 owned by BIL and Bollore will then run the operation which will focus on the trans Tasman routes, with 30-40% of that trade. Union Shipping has three roll on/roll off ships and ANZDL has seven container ships on the route.

ANZDL has been heavily involved in the politics of trans Tasman shipping. According to Kevin Hart (*New Zealand Herald*, "Brierley deal charts smoother waters", 11/1/97) "in the past few years, [it] has quietly but aggressively spearheaded the undermining of the trans Tasman union accord". The accord guarantees that seafarers from Australia and Aotearoa get the jobs on ships on the trans Tasman trade, and hence protect their jobs, pay and working conditions from cheap labour competition. Recently Australian unions have backed down on the accord, but the Union/ANZDL merger led to claims by the Australian Transport Minister that the accord was dead, and denials by the New Zealand Seafarers' Union.

ANZDL itself arose from the Australia New Zealand Container Line, part of New Zealand's State owned Shipping Corporation (which was itself fully privatised by the 1984-1990 Labour government in 1989), merging with the Pacific Australia Direct Line (PAD) in 1987. It was bought by Bollore subsidiary, Delmas, in 1988. Bollore was a bidder for the Australian National Line (ANL) when the Keating government tried (unsuccessfully) to sell it. And Union Shipping itself has been the beneficiary of an Australian privatisation: in 1996 it acquired the remaining 50% of Coastal Express Line it did not already own, from ANL. Coastal Express Line operates ships between Tasmania and mainland Australia. Union Shipping, which was owned for many years by the huge British P. and O. shipping group, formerly had a virtual monopoly on trans Tasman trade. Bollore in recent years was one of its main competitors, leading to speculation that Union Shipping was running at a loss when TNT sold its share to BIL. BIL's 1996 Annual Report is unusually quiet on the company.

The Union Company was until 1917 (almost unbelievably from today's viewpoint) a New Zealand owned international shipping company. It was then taken over by P. and O., despite the sale being described as a "disaster" by the Minister of Marine at the time. In 1971, by which time Union controlled much of our coastal shipping, P. and O. sold the company to TNT of Australia, but only after widespread public protests led by the Seamen's Union. Government intervention allowed the sale to proceed, but with an equal split in shareholding between TNT and a consortium of companies with interests in Aotearoa ("Takeover New Zealand", by W.B. Sutch, Reed 1972, pp.90-93). It was the latter shareholding that BIL eventually got hold of. It is yet another irony in Union's story that it was TNT that in the end sold out – but to another overseas owned company.

(Refs: *Press*, 4/12/96, "Brierley buys rest of Union Shipping from TNT", p.41; 8/1/97, "BIL in new shipping line", p.21; 7/2/97, "Brierley and Bollore agree on merger prices", p.29; 8/3/97, "Seafarer officials deny accord dead", p. 8; http://www.anzdl.com/WhatIsANZDL.htm; http://www.anzdl.com/HistoricalTimeline.htm.).

### *Skellerup/Maine Investments sells Lime and Marble/DML Mining*

Skellerup Group, another former BIL subsidiary which is now owned by **Maine Investments Ltd** is selling yet another asset. Maine, which is **84%** owned by Goldman Sachs of the U.S.A., is selling **Lime and Marble Ltd** and **DML Mining Ltd** to **Auriferous Mining Ltd** for **$4,600,000**. This includes "approximately" **102 hectares** of freehold land and **297 hectares** of leasehold land in **Westland**. Auriferous is incorporated in the tax-haven, the **British Virgin Islands**, and is owned equally by three companies. They are **Tangent**

**International Ltd** whose major shareholder is **Werner Muller** of **Switzerland, Campanie International Holdings Inc** whose major shareholder is **Kwok Wai Chiu** of **Hong Kong**, and **Rysaffe Trustee Company (CI) Ltd** as trustee for **Geoff London** of the **U.K.** The OIC says:

> "Auriferous is a newly incorporated company which has been established specifically to invest in international alluvial gold mining business. ... Auriferous intends to devote significant financial resources to the development of its mining business in New Zealand. It is stated that Auriferous sees the proposal as enabling the Company to establish a presence in New Zealand along with the ability to capitalise on significant mining opportunities available in New Zealand. ... The Commission is also advised that at present the current shareholder of Lime and Marble and DML Mining is not funding working capital requirements. It is stated that without the involvement of Auriferous the outlook for the business is at best a severe reduction in the size of the business or at worst its failure."

Since its management buyout and sale to Maine Investments in March 1996, Skellerup has sold CablePrice Ltd to Hitachi of Japan, its half share in Dominion Salt to Ridleys of Australia, Levene Paint Manufacturing Ltd to ICI Australia, and the North Wiri Quarry (owned by subsidiary DML Resources) to Milburn of Switzerland. The above comment reported by the OIC indicates that Maine Investments is simply asset stripping it, and not investing further in its subsidiaries' operations. Recently there have been questions asked about the reason for the falling price of Skellerup's remaining shares on the New Zealand Stock Exchange.

Lime and Marble was originally an independent Nelson based company quarrying (you guessed it) lime and marble, which branched out into mining. During the 1980's, part of it became Mintech New Zealand and was owned by Newmans and Transport Nelson, before being sold to AG Pluess-Staufer of Zurich, Switzerland. The remainder became part of DML Resources, owned by Skellerup. (Ref: *Press*, 19/04/97, "Unusual rural business holds industry together", p.27.)

## *Lion Nathan sells NZ Wines and Spirits assets to Australian Liquor Marketers*

**Lion Nathan Group** is selling the "business assets and undertakings" of its subsidiary **New Zealand Wines & Spirits Ltd** to **Tasman Liquor Company Ltd**, a subsidiary of **Australian Liquor Marketers Pty Ltd** of **Australia**, for an amount "to be advised". Australian Liquor Marketers is owned **50%** each by **Davids Ltd** and **Foodland Associated Ltd** and claims it is

McKale USA

> "one of the largest liquor wholesalers in Australia and wishes to extend its business into New Zealand ... New Zealand Wines & Spirits Limited will retain the exclusive agencies which it has for various liquor products and in addition the applicant intends to expand the range of products."

Foodland owns the Farmers (FTC: 52 stores) and Deka (81 stores), James Smiths Department Stores Ltd (four stores), and the Toy Warehouse chain (11 stores), a total of 148 variety stores in Aotearoa making it probably the biggest such chain in Aotearoa. It owns the Venture Stores chain of 53 department stores in Australia. It is also big in food retailing, controlling Progressive Enterprises Ltd through its 57% ownership. Progressive owns the Countdown, Supervalue, Foodtown and 3 Guys supermarket chains, the Georgie Pie restaurant chain (recently largely sold off to McDonald's), and grocery wholesaler and retailer, Rattrays. In 1993 this included 83 supermarkets with 34% of supermarket sales in Aotearoa.

Lion Nathan itself is now officially an overseas company (letter to CAFCA from the OIC, 18/3/97), its 1996 Annual Report having revealed that only 48.05% of its shares were then held by Aotearoa residents. Perhaps only coincidentally, at about the time of the takeover of New Zealand Wines & Spirits, there was widespread speculation that Lion Nathan's CEO, Douglas Myers, had sold his 16% interest in the company to giant U.S. tobacco and brewing transnational, Philip Morris, the tenth biggest company in the *Fortune 500*

whose revenue is comparable to the national income of Aotearoa. This led to inquiries by the Australian Securities Commission and intense annoyance (and denials of any intention to sell) by Myers.

## *Agroforestry sells remaining 25% share of Mangamuka Forest to China*

**Fortknox Investments Ltd**, which is owned by the **Government of Foshan City, Guang Dong, China**, has approval to acquire the remaining 25% interest in the **Mangamuka Forest** (approximately **560 hectares**) in **Northland**. It is buying it for **$1,050,000** from **Agroforestry Development (NZ) Ltd** which is owned by "Messrs Chua, Lee, Chan and Sim" of **Singapore**. "The vendor has different aspirations and philosophy for the future of the forestry operation from those of Fortknox". Fortknox will continue to develop and replant the property and proposes "to process at least some of the existing timber from the forest at its timber factory at **Tuakau**" south of Auckland, prior to it being exported.

In April 1994, Agroforestry Development (NZ) Ltd sold 75% of its shares to Fortknox for $5,855,000. Before the transaction, Agroforestry, and its subsidiary Sweetwater Nurseries (NZ) Ltd, transferred two pieces of rural land they owned to Cambridge Nursery Ltd, set up for the purpose and owned by Messrs W.C.S. Chua and K. G. Lee of Singapore, the former owners of Agroforestry. The land was a 58 hectare block at Awanui, Northland, owned by Sweetwater Nurseries (NZ) Ltd sold for nil, and a 95 hectare block in Maungatautari Road, Cambridge for $1,500,000. In July 1994, Fortknox bought a 75% direct interest in the Mangamuka Forest for $5,850,000 from Agroforestry.

In March 1992, Agroforestry was given approval to buy a piece of Crown land being sold "in terms of the Government's policy to sell non-forest properties which are surplus to requirements". The land was a 95 hectare rural property on Maungatautari Road, Cambridge, sold for $925,000. Agroforestry said it intended to use it for growing "chestnut products", paulownia (tree crop) for timber, and herbs, all for export. In July 1993, Messrs Chua and Lee got permission to buy the Mangamuka property for approximately $4 million. "They propose to selectively log the 380 hectares currently planted in pine and also propose to plant the rest of the property as well as replanting the areas logged". The vendor was Whangarei Hotel Ltd. In October 1993, Sweetwater Nurseries (NZ) Ltd (whose minority shareholders included C.C.Sin [sic] and W.K.Chan) acquired a 30 hectare rural property at Awanui, Northland, for "approximately" $160,000. The property was a "former forestry development nursery which is currently owned by the New Zealand Forestry Corporation", although it "has not been used as a nursery for some years and is in need of redevelopment". The property was "being acquired to establish a nursery for propagating forestry trees, which will be used principally to plant, and where appropriate, replant forestries recently acquired in Northland".

## *Australian trust and Fulton Hogan buy Howick land for subdivision*

**Howick Parklands Limited** has approval to buy **20 hectares** of land at **Point View Drive, Howick, Auckland**, for residential subdivision, for **$7,850,000**. Howick Parklands Ltd is 100% owned by the trustees of the **Lambie Trust**, the ultimate beneficiaries of which are members of the **Jamieson family** "originally from Australia", and a joint venture comprising **Fulton Hogan Limited** which is owned **36.5%** by **Shell New Zealand Holdings Limited** and **Dannemora Holdings Limited** of **Aotearoa**. "It is the applicants' intention to divide the property into two equal parcels and for Howick Parklands and the Fulton Hogan/Dannemora joint venture each to proceed to develop their parcels independently but cooperatively."

In November 1994, February 1995 and May 1995 a joint venture between what was then referred to as Danne Mora Holdings Ltd and Fulton Hogan Ltd gained approval to buy 64 hectares, 31 hectares, and two 13 hectare blocks of land (respectively) at Howick/East Tamaki, also to develop into a residential subdivision. The November 1995 purchase included Airlie Lodge.

## *Neil Construction of Malaysia buys Massey land for subdivision*

**Neil Construction Ltd**, which is owned by **Neil Holdings Ltd**, a **Tiong family (Malaysia)** company, is buying another **14 hectares** of land for subdivision in **Auckland**, this time at **Lincoln Park Avenue and Triangle Road, Massey**, for a suppressed amount.

> "Neil Construction proposes to add this property to its existing portfolio of subdivisional land in the Auckland region ... the acquisition of this parcel of land enables Neil Construction to maintain a balanced portfolio of subdivisible land stock throughout the Auckland region and to meet the demand for residential sections in this locality."

## *Clear leases four hectares in North Shore City for new headquarters*

**Clear Communications Limited** has approval to lease **four hectares** of land in **Takapuna, North Shore City, Auckland**, for a suppressed amount. It is part of a 20 hectare block owned by **Betty Leila Holdings Ltd** which appears to be owned by the **Smale family** who

> "have decided to develop the property into an office park. ... Clear has entered into a lease agreement for a purpose built twin tower office building and associated car parks within the proposed office park complex. ... Clear proposes to establish its corporate headquarters in the building."

Clear is 50% owned by overseas interests and 50% owned by New Zealand interests (Television New Zealand Ltd and The Todd Corporation Ltd). The overseas interests in Clear are held by **MCI Financial Management Corporation (25%)**, a corporation incorporated in Delaware, **U.S.A.**, and **Newgate (NZ) Holdings Limited (25%)**, a wholly owned subsidiary of **British Telecommunications PLC** of the U.K.

## *Religious retreat established by Thai Buddhists with "business acumen"*

The **Dhammakaya International Society of New Zealand**, a charitable society formed by **The Dhammakaya Foundation of Thailand**, has approval to acquire **424 hectares** of land at **Parekura Road, Oneriri, RD 2, Kaiwaka, north of Wellsford, Northland** for **$2,250,000**. The land adjoins the foreshore and "the Society proposes to establish a forestry operation on 80% of the property while the remainder will be used for cattle grazing and the establishment of a religious retreat". Not just your average Thai monks though: "The Commission is further advised that the Trustees have business experience and acumen and that this is evidenced by the manner in which The Dhammakaya Foundation's existing worldwide investments are carried out and managed." Claimed benefits include those everyone makes for jobs, investment, and exports for this kind of project, but also "the creation of a substantive religious retreat for use by New Zealand Buddhists which would otherwise not be available". Eat your heart out Carter Holts! Of course the official investment criteria do not allow for such benefits as spiritual uplift: it is just as well they can show off their "business acumen" or the OIC would have had to reject their application.

## *RII Marlborough and Rayonier form joint venture in Northland*

**RII Marlborough Limited**, which is predominantly owned by pension funds and non-profit, charitable and educational institutions based in the **USA**, and **Rayonier New Zealand Ltd** of the **USA**, are forming an unincorporated joint venture to own Rayonier's **Pouto** and **Waitangi** Crown forestry licences. The **Northland** forests cover approximately **5,397 hectares**, and all the assets and trees associated with those licences are also part of the sale. The price, and the shareholding of each company in the joint venture, have been suppressed.

## *Other land for forestry*

**Evergreen Forests Ltd**, which is **60%** owned by **Xylem Fund L.L.P.**, a limited partnership which is an investment vehicle for the **Public Employees Retirement System of Ohio, USA**, has approval to buy the **1,703 hectare Te Kuri Station, Kaipara, Northland**, from **Landcorp Farming Ltd** for a suppressed amount. Some 484 hectares of Te Kuri Station is planted in radiata pine and Evergreen intends to plant the balance of the property from June 1997. The operation at Te Kuri Station will be run in conjunction with Evergreen's existing forestry operation in the region known as "Pouto Forest Farm".

Deborah **Miller** of Brookfields, Auckland, is busy again. This month she has organised the sale of **37 hectares** of land in the **Mahuri Forest, Mangamahu, Wanganui**, to two residents of **Taiwan** for **$143,491**. As usual, the land was sold by the **New Zealand Forest Group Ltd**, and "New Zealand appointed agents" will continue to operate the forest.

**Old Mill Forest Partners**, a limited partnership owned by the **Paulus** family of the **USA**, has approval to acquire "approximately **536 hectares**" of land known as **Braeside Forest**, at **State Highway 2**, 36 km from **Gisborne**, for a suppressed amount, for forestry. This is not their first such purchase: the OIC notes "the establishment of commercial forestry operations on two other properties in the Hawkes Bay/Gisborne region". In January 1996, forestry developer, Roger Dickie (NZ) Ltd sold 342 hectares of land known as Grand Vue and Pine Park Forests in Gisborne to Old Mill. The price was $739,390 and the land was to be used "by converting pasture and scrub land into a genetically superior managed radiata pine forest". The land was to be developed as part of "the larger 900 hectares Craills Brothers Forestry development".

**Carter Holt Harvey Forests Ltd**, a subsidiary of **Carter Holt Harvey Ltd**, itself approximately **51%** owned by **International Paper Products** of the **USA**, has approval to buy "approximately" **347 hectares** of land at **Pohokura Tutira Road, Hawkes Bay** for **$1.1 million** for forestry.

**Rayonier New Zealand Ltd**, owned by **Rayonier Inc** of the **USA**, is buying **50 hectares** of land in **Southland** from the **Benmore Partnership** of 15 people. The price paid has been suppressed.

**Craigpine Timber**, which is owned **50.5%** by **Bowker Holdings No. 14 Limited**, owned by members of the **Black Family** (residents of the **United Kingdom** and **Australia**) and **49.5%** owned by **Donaghy's Limited** a New Zealand public listed company, has approval to acquire forestry, cutting and harvesting rights over two blocks of land in **Southland**. The first is **38 hectares**, the rights being sold by **J.S. Robertson and the Trustees in the Estate of H.E. Robertson** for "approximately" **$140,000**, and the second is **185 hectares**, the rights being sold by **Brunel Peaks Partnership** for "approximately" **$200,000**. "Craigpine view the acquisition of the forestry right as a natural extension to its forestry related activities in the Southland region. ... the acquisition of the forestry cutting rights will assist in the continuation and enhancement of Craigpine's existing sawmill operation at Winton (Southland)." The Black family and Craigpine also own farms and a sawmill in Canterbury.

The shareholders of **Wenita Forest Products Ltd** are restructuring their interests. **Sinotrans (NZ) Ltd**, a subsidiary of **China National Foreign Trade Transportation Corporation** which is owned by the **Chinese Government** and formerly had **45%** of the shareholding, is acquiring **10%** more shares for a suppressed price. The other shareholders are **Togen Enterpises (NZ) Ltd** of **Hong Kong** (45%) and **Chen Weng Dong** of **China** (10%). It is not clear what the new

shareholdings will be. What is interesting though is the extent of Wenita's forestry interests. The OIC lists **5,796 hectares** of freehold land comprising Wenita Forest Estate at: **Mt Allan Forest (Mosgiel), Brock Forest (Otago Coast), Waronui Forest (Milton), Rosebank Sawmill and Allanton Processing Plant**, all located in **Otago**. Wenita also holds **Crown Forest Licence** over **23,695 hectares** of land at **Berwick** and **Otago Coast, Otago**.

### *Other rural land sales*

**W. H. Holdings Ltd** whose directors and owners reside in **Singapore**, has approval to purchase **273 hectares** of rural freehold land and **17 hectares riverbed leasehold land** in the **Hundalee Survey District, Marlborough** for **$1,000,000** for the freehold land and **$1,250** rent on the leasehold interest, for beef farming. "The acquisition will enable the establishment of a joint venture with **Te Mania Angus Stud** of New Zealand (which will have a majority New Zealand ownership) and the expansion of the Te Mania Angus Stud and finishing operation".

**Lichfield Nominees No. 49 Limited**, which is owned by **Mr Hans Barkell-Schmitz**, a **United Kingdom** citizen residing in **Hong Kong** who "is proposing to take up New Zealand permanent residency", has approval to buy **214 hectares** of land known as **Randolph Downs, in Ram Paddock Road, Amberley, Canterbury**, for **$950,000**. The land is currently used for sheep and cattle farming. "The applicant has identified an area of approximately 40 hectares which has a micro climate and soil type suitable for development of a vineyard of a size sufficient to sustain its own winery operation. The balance of the land will be suited for deer production following significant capital expenditure in the way of fencing and other improvements". In November 1995 we reported that Lichfield and Barkell-Schmitz had consent to acquire 30 hectares of land in North Canterbury for $65,000. He was then "seeking permanent residency" and wished "to acquire the property to erect a residence for his own use and to develop a tourist lodge on the property. It is also proposed to plant forestry on about half the land. The Commission is further advised that the lodge would cater for approximately 30 guests and that Mr Barkell-Schmitz intends to target South East Asian tourists utilising his existing business contacts in the region. The Commission is also advised that the land is part of a larger former farming property which has been progressively subdivided for development into rural residential blocks".

## March 1997 decisions

### *Bunge and Goodman Fielder both get approval to take over Defiance*

Two decisions this month reflect an international struggle for the ownership of **Australian** owned, Christchurch-based, **Defiance Food Industries**, the second biggest baker in Aotearoa. The first is for **Bunge Foods Queensland Pty Ltd** to buy Defiance, which is a subsidiary of **Defiance Mills Ltd** of **Australia**. The price is "to be advised". Bunge Foods Queensland is a subsidiary of **Bunge Industrial Pty Ltd** which is an Australian registered subsidiary of **Bunge International Ltd** of **Brazil**.

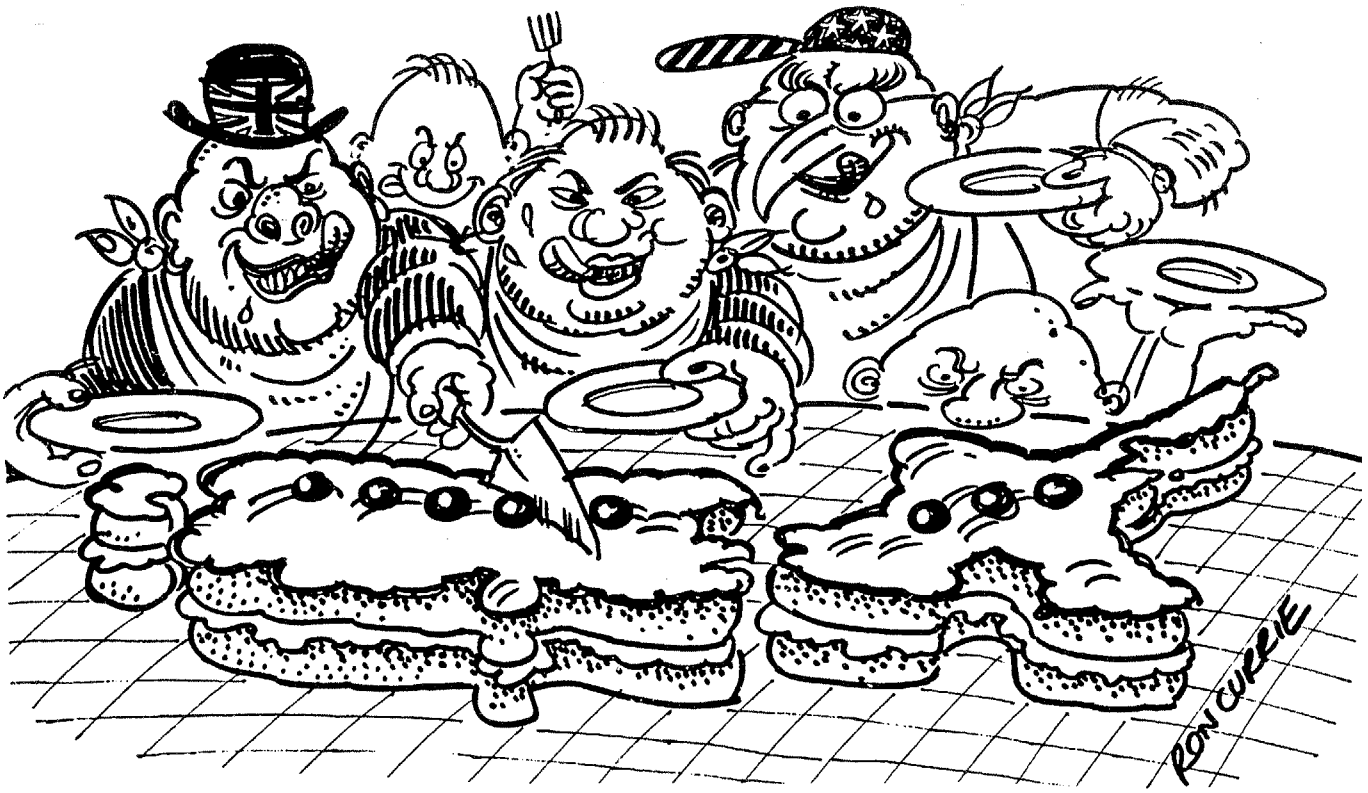
> "Bunge International Limited is a major global oilseed processor, the leading wheat miller in South America and its Australian subsidiary is one of Australia's largest wheat exporters employing over 2,300 people. ... the proposal will allow Defiance Food Industries Limited access to the Bunge Groups' resources and technologies".

The second decision gives consent to **Quality Bakers New Zealand Ltd**, a subsidiary of **Goodman Fielder Ltd**, a public listed company incorporated in **Australia**, to buy Defiance. The price is **$48,000,000**.

Defiance entered Aotearoa by taking over the Ireland Group. It owns Country Fare Bakeries and its Christchurch mill is considered to be the best in Aotearoa. Its parent, Defiance Mills, based in Queensland, has been subject to internecine conflict between members of the controlling O'Brien family.

Goodman Fielder was formed from the Australian Fielder group and the then Aotearoa owned Goodman and Watties groups. It sold Watties to Heinz in January 1993 to pay for growing interests in Europe, Asia and elsewhere. Ironically, Goodman is now selling out of some of these European interests. At about the same time it was bidding for Defiance, it was announcing plans to sell its European milling and baking business, Meneba NV to the Dutch group, CVC Capital Partners BV, and use the $A300 million raised to treat shareholders to a share buyback (*Press*, 10/3/97, "Share buyback an option for Goodman", p.35). It owns Bluebird Foods, Quality Bakers, and Champion Flourmills, and Aotearoa operations contribute 20% of its operating profit, with a turnover of over $560 million (*Press*, 7/2/97, "Goodman Fielder revamp", p.28). It has 40% of the bakery market (including the Nature's Fresh, Mollenberg, Country Split, Vogel's, Reizensteins, and McGregor's brands) and more than that in milling. Farmers were concerned at the prospect of it taking over Defiance because it would mean the largest buyer of wheat swallowing up the second-biggest (*Press*, 8/3/97, "Defiance Food sold to Goodman's", by Alan Williams, p.25).

Initially the Commerce Commission, in an unusually decisive decision, rejected the Goodman bid. It said it had identified 15 markets affected by the proposal and was concerned that Goodman would strengthen its dominant position in the markets for making and acquiring industrial bulk and bagged flour in the South Island, making and acquiring retail and premium pastry flour in both islands, and making and selling packaged bread in the South Island. Combined market share would exceed 80% in some cases, and there was a lack of competition to constrain the group. Despite this and the apparent success of the Bunge bid, Goodman appealed the rejection in the hope of a renewed bid. Returning to its usual lapdog role, the Commerce Commission agreed, on condition Goodman sold its Champion flour mill and retail packing plant




The Gatecrashers Spot the Party food

in Christchurch. Goodman obliged, arranging the sale to the third participant in the flour oligopoly, Allied Foods. (*Press*, 15/4/97, "Commission rejects DFI sale, but Defiance still hopeful", p.16; 10/5/97, "Goodman files appeal against bid rejection", p.26.; 18/6/97, "Goodman gets DFI go ahead", p.27).

Until the current takeover, flour production in Aotearoa was dominated by three companies: Goodman Fielder, Defiance Food Industries Ltd, and Allied Foods who together were estimated to have up to 85% of New Zealand flour milling sales and are the top three bread bakers (*Press*, 8/3/97, "Defiance Food sold to Goodman's", by Alan Williams, p.25). The first two were Australian owned; Allied is owned by George Weston Foods of the U.K. (*Press*, 18/6/97, "Goodman gets DFI go ahead", p.27). In October 1996, Goodman Fielder's and Defiance's bread baking subsidiaries, Quality Bakers New Zealand Ltd and Country Fare Bakeries Ltd respectively, were each fined $150,000 by the High Court for fixing the price of bread in the South Island (*Press*, 18/10/96, "Bakeries pay $300,000 for fixing prices", p.1). The Commerce Commission took action against them after discovering that two senior company representatives met at the 1993 AGM of the Baker's Association and discussed the high level of discounting in the South Island. They then sent instructions to their South Island management specifying maximum discounts. This lasted only a short time – until they heard the Commerce Commission was investigating them.

Bunge had the first success in the takeover because the Goodman bid was ruled out of order by the Commerce Commission. However Bunge then cheerfully sold the Aotearoa subsidiary on to Goodman, leaving everyone happy but for the small matter of farmers and consumers in Aotearoa.

This had a feeling of déjà double vu: not only had Goodman and Defiance got into trouble in Aotearoa, but Bunge and Goodman abandoned a proposal to merge their Australian milling operations in May 1996 after the Australian Competition and Consumer Commission opposed the deal (*Press*, 6/3/97, "Bunge left to dangle by Defiance Mills", p.28). That is presumably why Goodman had bid only for the Aotearoa arm of Defiance.

Bunge, which took over the entire Defiance group through its Australian parent, is based in Brazil and is one of the world's five leading food transnationals. It is controlled by the Hirsch and Born families, and is a leading exporter of soya beans. George Monbiot, writer, broadcaster and academic, and author of "Amazon Watershed" on the causes of deforestation in the Brazilian Amazon, gave evidence on this issue in the marathon trial against McDonald's in the UK. He said:

> "Directly, significant areas of forest are cleared each year for soya fields ...Indirectly, soya plantations have displaced enormous numbers of peasant farmers. The soya farmers have expelled the peasants by a number of means: gunmen have been sent into their villages to drive them away; their houses have been burnt down; titles to their land have been obtained by fraudulent means; the agroindustrialists have monopolised supplies of agricultural credits and funds for infrastructural development. The land of the peasants is ploughed for soya

production, destroying the diversity of microhabitats they protected and replacing them with uniform fields.

"The peasants are left with two options: to move to the cities or to move to the rainforests. The western Amazonian states of Rondonia and Acre are crowded with peasants driven out of southern Brazil (over 1.5 million arrived in the 1980s) by agroindustrialists. Many I interviewed told me that their land had been taken for soya production. Once in the Amazon they are constrained to try to survive by clearing the forest and planting crops. This has an enormous ecological impact: small farmers are the most intractable of the causes of deforestation in Amazonia.

"All the significant soya production enterprises in Brazil use land that was once either forested or in the hands of peasant farmers: there is, therefore, not likely to be any major soya farm in the country that has not had an important ecological impact. Soya in Brazil is produced principally for export, for cattle feed in Europe and the United States. Brazilian soya is an important ingredient in the diet of beef cattle throughout Britain and Europe: Brazil provides approximately one third of Europe's soya needs. The principal exporters of Brazilian soya include Cargill USA, Continental Grain USA, **Bunge USA**, Dreyfuss France and Toepfer." (http://muu.lib.hel.fi/McSpotlight/people/witnesses/environment/monbiot_george.html).

Bunge succeeded in taking over Defiance after a drawn out tussle in which disgruntled O'Brien family members who didn't like their relatives' management of the company, took the opportunity to get out. The initial price offered by Bunge was rejected, but when it raised the offer, the O'Brien family's Defiance Holdings, 39% shareholder, accepted despite chairman Tom O'Brien being defiant (*Press*, 17/4/97, "Defiance family split as Bunge increases offer", p.27). Other shareholders stuck out for a higher price after Price Waterhouse said the Bunge offer significantly undervalued the company. The final reported price was A$2.00 (A$2.05 benefit), compared with an original A$1.70, later raised to A$1.95. Even the final price was well below the A$2.39 to A$2.85 "fair value" Price Waterhouse determined. But it was forced on the company by the acceptance of the O'Brien family dissidents. (*Press*, 28/4/97, "Family split hands Defiance to Bunge", p.28; 1/5/97, "Defiance talks Bunge into better price", p.29) .

The final act had a comic twist. Preference shareholders in Defiance were paid out their dividends in June despite having sold their shares to Bunge. Bunge then had to write to each of them asking them please to return it. One Dunedin sharebroker however, while advising people they should repay, also cannily commented that this was a situation in which possession was nine tenths of the law. With about $350,000 at stake, it seems unlikely Bunge would either miss it in the context of the takeover, nor would it be worth its while taking legal action to recover so little from so many. (*Press*, "Bunge double up: 'possession is nine tenths of the law'", 17/6/97, p.25).

## *Prudential of the U.K. buys NZI Life from General Accident of the U.K.*

Life insurer, **Prudential Corporation Holdings Ltd**, which is registered in the **U.K.**, has approval to buy **New Zealand Insurance Life Ltd** from **General Accident Plc** of the **U.K.** for **$163,313,973**.

General Accident bought NZI in 1989 and offered the operation, the third largest life insurance company in Aotearoa, for sale in February 1997 "based on General Accident's global strategy to concentrate on building its fire and general insurance business in markets where it has a significant presence and is market leader" according to its head office in Scotland. General Accident claims to be the market leader in fire and general insurance in Aotearoa. It sold New Zealand Guardian Trust to Guinness Peat subsidiary, Tyndall Australia, in 1994 (*Press*, 21/2/97, "General Accident in talks to sell NZI Life", p.18).

Prudential is the third largest insurer in the U.K, though NZI Life was bigger than Prudential New Zealand. Prudential claims the merged company will be the leader in Aotearoa in terms of new annual premium income and third in terms of funds under management. It will have 300,000 clients and $2.3 billion funds under management.

Prudential drew the interest and concern of the local investment fraternity when it announced it would move the management of its combined investment portfolio from Wellington to Sydney. The prudence of this was questioned by David van Schaardenburg of Auckland research house, IPAC Securities, saying it would put Prudential "out of the information loop when you get beyond the leading stocks". NZI's portfolio had been managed by Guardian Trust, making up about half of its $2.7 billion managed funds, but the contract for that was to expire in June 1997. Van Schaardenburg put the merged group at fifth by total funds managed, behind AMP, National Mutual, Tower and "probably" Southpac (*Press*, 27/3/97, "Prudential buys NZI Life for $163.3m", p.18; 29/3/97, "Prudential plans to run NZI funds", p.21).

The consequences of the merger hit home in April when Prudential cut 148 jobs "as a result of streamlining its operations in New Zealand and Australia". Although there would be no further redundancies for another six months,

the company was still "working through the integration of the two companies' operations". Financial sector union, FinSec, said the entire staff of NZI Life in Aotearoa faced an insecure future, with the jobs of those remaining guaranteed for only six months (*Press*, 25/4/97, "More than 270 jobs lost", p.3).

## *Viaduct Basin land sold by Turners and Growers to Heng Holdings of Singapore*

**Turners and Growers Ltd** has sold just over **two hectares** of land in the **Viaduct Basin** in the Central Business District of **Auckland** to **Heng Holdings S.E.A. (Pte) Ltd** of **Singapore** for "approximately **$17 million**". Heng Holdings is a subsidiary of **Tong Nam Contractors Pte Ltd** which is **90%** owned by **Heng Hiang Boon and Heng Boon Heng** and **10%** by **Mrs Tan Leng Cheng**, all of **Singapore**. "Heng Holdings is primarily in the business of property development and investment. ... It is proposed to undertake a multi purpose development on the land, which will include tourism, leisure and entertainment, commercial and residential facets".

In 1994, Guinness Peat Group of the UK, controlled by Ron Brierley, bought the Turner family's 25% shareholding in Turners and Growers, and later raised its holding to 28%. GPG's main interest in Turners was the five hectares of land it owns in Viaduct Basin, which are next to the proposed America's Cup headquarters, and were expected to rocket in value for the cup challenge. According to NZPA (*Press*, 8/3/97, "Viaduct Basin land nets $17m for Turners, Growers", p.27), this sale almost completes the sale of the five hectares, bringing total proceeds to $24.1 million. All that remains is the Seamart building, worth about $3 million. Since the value Guinness Peat put on Turners in 1994 equated to about $30 million for the whole company, the Viaduct Basin sale will return it a very tidy profit. GPG paid approximately $7.4 million for its initial 25%.

NZPA puts the current sale at 2.4 hectares, whereas the OIC approval is for 2.2766 hectares. It includes the Old Market Buildings, the New Market Building, and the Jaybell car park. Heng Holdings plans a $350 million development using overseas loans (mainly from Singapore) including a 300 room five star hotel, leisure and entertainment centre, housing and shops.

## *Kiwi Income Properties buys Hong Kong Bank House, Queen St, Auckland*

**Kiwi Income Properties Limited**, which is **50%** owned by **FCMI**, a public company from **Canada**, and 50% owned by residents of Aotearoa, has approval to acquire the **Hong Kong Bank House, 290 Queen Street, Auckland**, including **0.0977 hectares** of land, for "**approximately $18,250,000**". Kiwi Income Properties Ltd "acts as agent and manager" for **Kiwi Income Property Trust**, a New Zealand listed unit trust which has "less than 15% of the units held by various overseas persons". The building is being acquired from **Sintau Limited**.

> "FCMI has significant experience as a manager and advisor to various funds primarily in North and South America. The applicant states that all the directors of Kiwi Income Properties Ltd are New Zealand residents. Kiwi Income Properties Ltd acts solely as the manager of Kiwi Income Property Trust which owns a number of commercial, industrial, retail and rental properties throughout New Zealand".

## *Australian company buys Timeout Northlands in Christchurch*

**L.A.I. Asia PTE Limited**, a wholly owned subsidiary of **Steinberg International Pte Limited** of Singapore, which in turn is ultimately owned by **Aberdee Pte Limited** (as trustee for the **MD Steinberg No. 3 Trust**, the beneficiaries of which are **M D Steinberg and his family**) of **Australia** has approval to acquire up to 50% of **Timeout Northlands Ltd** for **$8,000,000**.

> "It is stated the core business activities of L.A.I. and Timeout are similar. To this end the acquisition will enable Timeout to join forces with an international company, enabling it to further develop its market share and as a consequence a greater level of products and services will be available to its customers in New Zealand."

## *Carter Holt buys forestry rights on 19 ha. at Brightwater, Nelson*

**Carter Holt Harvey Ltd**, **51%** owned by **International Papers** of the **USA**, has approval to acquire the **forestry rights** to **19 hectares** of land at **Wairoa Gorge Road, Brightwater, Nelson** for **$1.00 plus GST** per annum. The afforested land was sold to the current owners by Carter Holt because it was surplus to their requirements. The right expires on 31/3/2005.

## *Application to buy land for lifestyle purposes on Great Barrier Island refused*

The OIC has refused another application. It refused one in 1996, the first since 1990. Perhaps this is now becoming an annual event. This month's refusal was for a resident of **Germany** to acquire "land exceeding 0.4 hectares on **Great Barrier Island**" for "lifestyle purposes". The area of the land and proposed price are not revealed.

## *Other rural land sales*

The **Uruiti Trust** whose trustees are a resident of **Switzerland** and two of **Aotearoa**, has approval to buy the remaining **75.1%** of **Northern Projects Ltd** that it does not already own, for **$525,700**. Northern Projects owns **53 hectares** near **Russell** in the **Bay of Islands** which it is intended will be subdivided for "tourist related ventures". The other

shareholders in Northern Projects are not able or willing to fund the project.

**CDL Land New Zealand Ltd**, a subsidiary of **CDL Hotels New Zealand Ltd**, of **Singapore**, has approval to acquire **18 hectares** of land in **Sturges Road, Henderson, Auckland** for **$5.5 million** for residential subdivision.

"CDL is seeking to further strengthen and grow its business both by the acquisition of further strategic land parcels and by broadening its activities beyond the pure land development. CDL advise it is their intention to subdivide the land into more than 175 residential sections and offer them for sale on the open market. It is envisaged that the project will be developed over a period of approximately two and a half years."

CDL Hotels New Zealand Ltd is described as "the largest hotel owner-operator in New Zealand" and is owned by "**City Developments Ltd** a public listed company of Singapore which is the largest listed property developer in Singapore." The land is being purchased from **AC Nola and Sons Ltd**.

**Puna Pty Ltd**, owned by Mrs M.L.Treweeke, a resident of **Australia**, and her son, Mr R.Treweeke, who is resident in Aotearoa, has retrospective approval to buy the assets of **Market Ltd**. The assets acquired include a **514 hectare** farm at **Waerenga** in the **Waikato** for a "nominal" amount. Puna is the corporate trustee of the **Molley Treweeke Family Trust** whose beneficiaries are Mrs and Mr Treweeke and three daughters of Mrs Treweeke.

> "The acquisition by Puna represents a reorganisation of the financial affairs of Mrs M. Treweeke whereby the interest in the Waerenga farm property is no longer purely for her benefit, but also for her children ... it is intended to continue to own and operate the property under the management of Mr R. Treweeke."

A resident of the **USA** has approval, subject to a special condition, to acquire **five hectares** of land on the foreshore in **Research Orchard Road, Appleby, Waimea, Nelson**, for **$500,000** for "lifestyle purposes". The special condition is that

> "within twelve months of the date of consent the area of land adjoining the foreshore be subdivided from the property and vested in the Tasman District Council or the Department of Conservation. The width of the land to be vested in the Tasman District Council or the Department of Conservation is to be 20 metres wide and must follow along the entire water boundary of the property. If such vestment was undertaken prior to the acquisition consent to the acquisition would not have been required. However, timing issues have prevented the subdivision prior to the acquisition".

## April 1997 decisions

### *Britomart Group consortium buys historic central Auckland land from Council*

Auckland's controversial Britomart project resurfaces with the **Britomart Group** consortium being given approval to acquire **3.46 hectares** of land in 25 parcels in the heart of **Auckland's Central Business District** from the **Auckland City Council** for "**approximately $56 million**". The land "includes land subject to a heritage order under the Historic Places Act 1993". The Group, which was established to carry out the "Britomart project", is "ultimately owned by various consortiums from **Malaysia, Singapore, Thailand, Japan, Australia and New Zealand**". It comprises **Pacific Capital Assets Limited, Britomart Properties Limited, Britomart Developments Limited** and **Britomart Investments Limited**.

### *Computershare of Australia buys Registry Managers, share register*

**Computershare Ltd**, a company registered in **Australia** but listed on both the Australian and New Zealand Stock Exchanges, has approval to buy **Registry Managers (New Zealand) Ltd** for **$19,500,000**.

> "Computershare Limited is a software house specialising in share registry operations (the maintenance of company share registers) and the provisions of computer bureau services. Computershare Limited see the acquisition as an extension of its existing world wide share registration system. Furthermore it is stated the acquisition will enable an electronic linkage of Australian and United Kingdom listed companies and/or subsidiaries in New Zealand. ... Computershare are a market leader in their specialist field... "

### *CBD NZ buys Gosling Chapman Centre and DDB Pinnacle, Auckland*

**CBD New Zealand Ltd**, owned by **Westpac Banking Corporation** of **Australia**, and **New Zealand Guardian Trust Company Ltd** (in turned owned by Guinness Peat subsidiary, Tyndall Australia), has approval to acquire the **Gosling Chapman Centre, 63 Albert Street, Auckland** for **$16,125,000**, and the **DDB Pinnacle, 80 Greys Avenue, Auckland**, for **$10,070,000**.

The Gosling Chapman Centre was owned by **National Mutual**

**Superannuation Master Trustee Ltd**, a subsidiary of **The National Mutual Life Association of Australasia Ltd**, which is ultimately **51%** owned by **AXA** of **France** which, with its recent merger with fellow French insurance company, UAP, has become the second largest insurer in the world (*Press*, 20/5/97, "Nat Mut parent to deal in China", p.28; 3/6/97, "NatMut's parent's rating lowered", p.35).

The DDB Pinnacle was owned by **Grand Central (NZ) Ltd**, a subsidiary of **Hotel Grand Central Ltd** of **Singapore**. Grand Central is part owner of the James Cook Hotel in Wellington (with the Government of the State of Johor Malaysia through its investment arm, the State Economic Corporation), Plimmer City Centre, Wellington, the Central Tower and Cashel Street Car Parking Buildings, Christchurch, the Grand Central Building in Manners Mall, Wellington, the DB Tower, Auckland, and the Auckland Airport Hotel in Manukau City.

In January 1997 we reported that CBD had approval to acquire the Jetset Centre, 48 Emily Place, Auckland, for $12,500,000 from Aral Property Holdings Ltd of Singapore and Hong Kong. In all cases, the properties will be managed by CBD New Zealand Management Ltd. "CBD New Zealand Ltd has been established to target investment in quality commercial properties in Auckland, Wellington and Christchurch."

## *Singaporeans buy Kaiapoi land adjoining historic place, for cattle breeding*

**W. H. Holdings Ltd** (WHH), whose directors and ultimate owners are **Mr Wong Chun Win** and **Mr Hoon Bee Teck** of **Singapore**, has approval to acquire **four hectares** of land at **175 Main North Road, Kaiapoi, Canterbury** for **$485,000** from **Ambreed N.Z. Ltd**. The land adjoins "a dwelling (**The Cream House**) entered on the New Zealand Historic Places Trust Register (3741)".

> "It is intended that WHH will lease the property which contains four buildings, housing reception and office facilities and facilities for the collection, storage and distribution of semen to **XCell Breeding Services Limited**, who will operate the property as a breeding centre... the property would be available for use by WHH and the joint venture that WHH intends to establish with Mr T.Wilding, principal of **Te Mania Angus Stud** – one of New Zealand's largest and most successful cattle breeding operations and the largest supplier of Angus bulls to the South Island. In addition, it is stated that through the use of the breeding centre located on the property, the joint venture will be able to operate a complete breeding package of a stud together with collection, storage and distribution facilities for semen".

## *Retrospective approval to Morgan & Banks for share of local namesake*

Between April 1995 and August 1996, **Morgan & Banks Ltd** of **Australia**, through its subsidiary **Maldon Holdings Ltd**, acquired **35.47%** of the shares of **Morgan & Banks Ltd** of Aotearoa, for **$2,119,125** without the required approvals. It has been given retrospective approval for the purchase. Morgan & Banks provide "human resource services" in Auckland and Wellington.

## *CBA bank buys Leaseway Transportation Ltd*

The **Commonwealth Bank of Australia (CBA)** has approval to acquire **Leaseway Transportation Ltd** from **Australasian Holdings Ltd** for a suppressed amount.

> "It is stated that CBA is Australia's largest retail bank, providing a full range of personal lending and deposit products to over 6 million customers... CBA advises that the acquisition of Leaseway will enable it to maintain and enhance the management services currently provided by Leaseway Australia to their existing customer base."

## *Korean company buys five ha. in Manukau City for factory/warehouse*

**Kiwi NZ Properties Ltd**, owned 64% by **Sungkyong Ltd** of **Korea**, and 36% by **Michael Carajannis** and **David Bartlet** of Aotearoa, has approval to acquire **five hectares** of land at **189 Roscommon Road, Manukau City, Auckland** from **Diesel Propulsion (NZ) Ltd** for **$2,295,000**. The stated intention is "to build a factory/warehouse/office complex on the property enabling the ability to enhance their current business operations in New Zealand".

## *U.S./China consortium increases interest in Richina Pacific by 10.73%*

The former Mainzeal Group is now called **Richina Pacific Ltd** after the main company in the consortium controlling it, which until this decision had a **56.27%** ownership. The consortium may now increase that by **10.73%** for a price "to be advised". "The increased shareholding is a result of a private placement and the underwriting of a rights issue by The Consortium which will assist in financing the construction and operation of an aquarium in Beijing".
The Consortium "comprises from time to time **Richina Enterprise Holdings Limited**, which is ultimately owned by **Richina Equity Trust I** of **China**, **Anaconda Partners L.P.**, which is ultimately owned by **Junction Advisors Incorporated** of the **USA**, **Chemical Asian Equity Associates L.P.**, which is a limited partnership of which **Chemical Banking Corporation** of the **USA** is a partner, **R. E. Rainwater**, **Ziff Investors Partnership L.P. II**, **T F Frist II**, **W R Frist**, **P C Frist**, and **E. Metz**, all of the **USA**, **J.M.R. Syme** of New

Zealand, **W.A. Caughey** of New Zealand and **T.J. O'Boyle** of New Zealand". It appears unchanged since September 1996 when the consortium, which then owned 50.95% of Mainzeal Group Ltd, gained approval to increase its shareholding by another 5.32% for "approximately" $15.41 million.

## *Universal Homes of Singapore buys more land in Auckland for subdivision*

**Universal Homes Ltd** of **Singapore** has approval to buy two **one hectare** blocks of land in **Blanes Road, Weymouth, South Auckland** for housing development. One block is being purchased from **Polyhedron Projects Ltd** for **$337,500**, the other from Coralie Sue Murphy for **$480,000**. "Universal Homes is a predominant player in the Auckland housing market. The land, the subject of this application is adjacent to a development project currently being undertaken by Universal Homes, known as '**Waimahia Road**'". In the second case, approximately 0.1249 hectares will be transferred back to Ms Murphy following subdivision. In September 1996, we reported that:

> "Universal Homes Ltd, which is owned by HTP Holdings Ltd of Singapore has approval to acquire just under three hectares of land in Guys Road, East Tamaki, South Auckland for $1,030,000 for residential subdivision and construction. The land adjoins 15 hectares the company already owns, and six hectares designated for reserve purposes which is being acquired by the Manukau City Council. The company is 'a predominant player in the Auckland housing market and is continually searching for land for residential development'. The land will be developed into 35 sections over the next 18 months to two years, building houses in the 'mid-cost market bracket'. In March 1996, the same company was given approval to buy nine hectares of land at Weymouth, Manurewa, Auckland for $3,320,000 for the same purpose, creating 100 sections. HTP was then described as 'HIP Holdings Ltd, a Singapore public listed company which is 27% owned by The Peoples Republic of China'".

In July 1996, Universal Homes acquired SBSA Mortgage Investments Ltd, which is engaged in mortgage financing, for $100.

## *Wilbow Corporation buys four hectares for subdivision at Tauranga*

**Wilbow Corporation (NZ) Ltd** which is owned by the **Bowness Family Investment Trust**, the beneficiciaries of which are **William Donald Bowness,** and **Maxine Rose Bowness** of **Australia**, has approval to acquire **four hectares** of land for a suppressed amount, at **Te Papa, Tauranga** for residential subdivision:

> "Wilbow has extensive experience in the residential property development sector (which to date involves a number of properties in the Auckland area)... Wilbow propose to undertake a residential subdivision development on the land".

## *Milburn buys further 18 hectares from Crown for Auckland quarry*

**Milburn New Zealand Ltd** which is "**approximately 72%**" owned by **Holderbank Financiere Glaris Ltd** of **Switzerland**, has approval to buy **18 hectares** of land in the "**Maungatawhiri Parish**", **Auckland**, from "**Her Majesty the Queen**" (presumably the **Crown**) for **$285,000**. It will be used for a new access road to its existing quarry of approximately **308 hectares**.

## *Land for forestry*

**Craigpine Timber** has approval to acquire forestry, cutting and harvesting rights over **19 hectares** of land in **Southland** for "**approximately $88,000**". Craigpine is owned **50.5%** by **Bowker Holdings No. 14 Ltd** which is owned by members of the **Black Family** who are resident in the **UK** and **Australia**. The other **49.5%** is owned by **Donaghy's Ltd**, a New Zealand listed public company. Craigpine, which was established in 1923, has a sawmill at **Winton**, Southland, and the purchase extends Craigpine's existing forestry activities in Southland. We previously reported purchases by Craigpine in February 1997 when we recorded that it had an approval to acquire forestry, cutting and harvesting rights over two blocks of land in Southland, one of 38 hectares for "approximately" $140,000, and the second 185 hectares for "approximately" $200,000. The Black family and Craigpine also own farms and a sawmill in Canterbury.

## *Other rural land sales*

A resident of **Malaysia**, **Mr Chan Pong Lam**, who has New Zealand permanent residency status, has approval to acquire **five hectares** of land for residential subdivision at **Whitemans Road, Kawakawa, Northland** for **$46,000**. "It is envisaged that the property will be divided into approximately 46 residential sections aimed at the medium cost housing market".

**Joan Elizabeth Roth** of **Canada** and **W. E. Roth Construction Ltd** of **Canada**, which is owned by **William Roth**, are buying a **90%** interest in the **776 hectare Caledonian Station, Flat Point Road, Flat Point, Carterton, Wairarapa**, for **$900,000**. The other **10%** will be owned by their daughter and son in law in Aotearoa who will manage the farm. "The applicants intend to invest significant capital in the property by improving the productivity of the farm and developing forestry and farmstay ventures". It appears to be used

currently for sheep and beef farming.

A resident of **Japan**, **Dr Etsuro Yamanishi**, who "is a man of considerable wealth" and owns hospitals around Osaka, has approval to buy "approximately **998 hectares**" of land in **North Canterbury** for beef farming, for **$2,550,000**.

> "It is Dr Yamanishi's intention to acquire the property for the purpose of establishing a feedlot and raising beef cattle for processing and export for utilisation in the hospitals Dr Yamanishi owns around Osaka, (approximately 10,000 meals per day). In addition, the Commission is advised Dr Yamanishi proposes to introduce Waghuu semen to the farming unit for breeding purposes. It is stated Waghuu is the main Japanese cattle breed. For the purposes of the breeding programme the services and expertise of a veterinary surgeon will be engaged to oversee the programme".

**Tegel Foods Ltd**, a **Heinz-Wattie Ltd** subsidiary (owned by the **Heinz Group** of the **USA**), has sold **46 hectares** of land at **Leeston, Canterbury** to a company, **Gallina**, owned by its Pensions Plan and is leasing it back for **$350,000** a year until 31 March 2002. The "primary business activities" of Tegel, which is reportedly up for sale,

> "include the breeding, rearing, growing and processing of chicken and chicken based products. Furthermore, Tegel owns outright various sites throughout New Zealand from which it undertakes its diverse business operations... the land, the subject of this application, is currently owned by Tegel. Tegel have entered into a contractual agreement with Gallina to sell and then lease back the land ..., enabling Tegel to continue its business activities. The transaction represents a financial arrangement which enables Tegel to free up capital which Tegel states can be better utilised in pursuing its core business activities, i.e. the breeding, rearing and processing of chicken and chicken based products."

# Released on Appeal

## June 1996

### *Ernslaw One of Malaysia buys 4,878 ha. Dunrobin Station for forestry*

In a decision originally almost completely suppressed until released on appeal in December 1996, **Ernslaw One Ltd**, ultimately owned by the **Tiong Family** of **Malaysia**, was given approval to buy **4,878 hectares** of land known as "**Dunrobin Station**" in **Dunrobin Valley, Mossburn, Southland**. Even in December 1996, the amount was still suppressed. That is now released: **$6.8 million**. All but approximately 1,800 hectares, which will be on sold, will be planted in Douglas Fir within the next three years.

## September 1996

### *Blue Star buys PC Direct Ltd*

In a decision previously almost completely suppressed by the OIC, but widely reported in the news media, **Blue Star Group Ltd**, a subsidiary of US **Office Products Company** of the **USA**, gained approval to buy **PC Direct Ltd**. It was financed by issuing USOP shares to PC Direct's owners but the valuation of the takeover is still not revealed. However news media reports put the value of the company at $28 million after 25% shareholder in PC Direct, Direct Capital Partners (also originally a 20% shareholder in Blue Star before its take over by USOP), announced it had sold its PC Direct shares to Blue Star for $7.06 million. (DCP made a handy profit over its purchase price of $4.16 million in May 1995).

PC Direct is an award-winning PC "clone" assembler and distributor which gained a national presence largely through direct marketing. In 1996, it was rated in surveys as being second only to the world's leading PC vendor, Compaq, in the supply of desktop PCs in Aotearoa. In 1995 it had opened a factory turning out over a hundred machines daily. The company was founded in 1989 by Maurice Bryham and Sharon Hunter who continue to work for the company under contract. The purchase leaves only PC General as a locally owned national PC retailer.

At the same time as the purchase of PC Direct was announced, Blue Star also announced it had bought an Auckland radio equipment supplier, Hart Candy Communications, and a Melbourne commercial contract stationer, Goodman Cannington Prince. Blue Star Chief Executive, Eric Watson, said he wanted more companies in Australia, having bought more than 90 companies there since the early 1990's. USOP has bought 130 companies worldwide since incorporating in 1994. (Ref: *Press*, 19/10/96, "Blue Star buys PC Direct", p.29; 22/10/96, "Blue Star Buys PC Direct in shopping drive", p.22; *Independent*, 25/10/96, "Will Blue Star, the share-fuelled corporate cannibal, stop or pop?", p.40).

## October 1996

### *INL gets approval to buy all of Sky Network*

In a remarkable decision originally almost completely suppressed, **Independent Newspapers Ltd (INL)** which is owned **49.53%** by **News Ltd** of **Australia**, or News Ltd itself (or an associated company) are given approval to buy 100% of **Sky Network Television Ltd** for a still suppressed amount.

What is remarkable is that INL is recorded by the OIC as owning **32.16%** of Sky. The approval is to take over the remaining **67.84%**. Though it has been publicly reported that INL was close to agreement to buy up to 80% of Sky, this is the first suggestion that it had actually purchased some. The figure 32.16% implies that shareholders Tappenden Construction (headed by Alan Gibbs and Trevor Farmer 7.51%), Todd Communications (subsidiary of the Todd Corporation, 8.8%), Craig Heatley and Terry Jarvis (15.85% between them) had sold out. In fact it was reported in March 1997 that INL had given up and the deal was off (*Press*, 1/3/97, "INL scraps bid to own Sky; investors left pondering", p.25). See CAFCA's commentary on the OIC's June 1996 decisions.

## *Heinz-Wattie of U.S.A. buys Shortland Cannery*

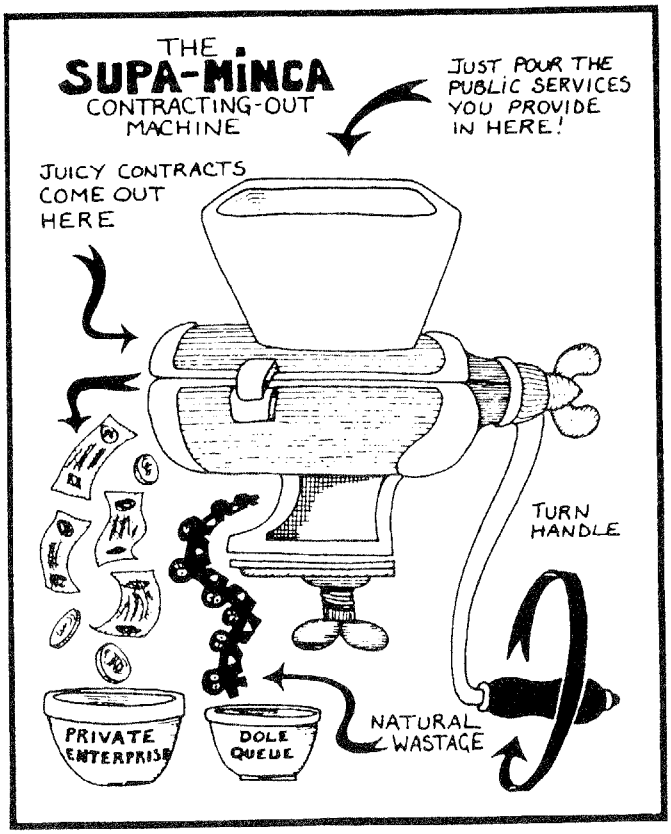
In a decision originally almost fully suppressed, **Heinz-Wattie Ltd**, which is a subsidiary of **H J Heinz Company** of Pittsburg, Pennsylvania, of the **USA**, has approval to acquire meat processor **Shortland Cannery Ltd** (formerly named **Waytemore Investments Ltd**) for a still suppressed amount. "It is stated that Heinz-Wattie view the combining of Shortland's canning operation with Heinz-Wattie's canning operation as bringing greater efficiencies which in turn will benefit its New Zealand customers." According to NZPA (*Press*, "Heinz-Wattie buys cannery", 9/11/96, p.28) Shortland belonged to the family interests of former Carter Holt Harvey owner, Sir Richard Carter. Heinz-Wattie said it "marked the entry of a major branded food company into the country's meat industry". However just two months later Heinz-Wattie announced it was moving the Shortland meat processing plant from Auckland to Australia. It said that "after three months of looking at transfer options, Southern Country Foods in Wagga Wagga, New South Wales, was confirmed as the lowest cost business". Most of Shortland's 47 staff would lose their jobs. It would however invest $2 million at its Tomoana site in Hastings (*Press*, "Heinz-Wattie move meat plant to Aust", 11/1/97, p.22).

At the same time, Heinz-Wattie subsidiary Tip Top Ice Cream was rejected by the Commerce Commission in a takeover bid for New American Ice Cream owned by the Dairy Group, saying it would give Tip Top a dominant position in the take home ice cream market, although not in frozen novelties, scoop ice cream and frozen desserts. Following this, Heinz-Wattie put Tip Top and another subsidiary, Tegel Foods, on the market. Tip Top holds about 80% of the national ice cream market and Tegel about 70% of chicken sales. It also announced that J. Wattie Foods, Wattie Frozen Foods and BestFriend Petfoods would merge into Heinz-Wattie Ltd. (*New Zealand Herald*, "Tip Top, Tegel go up for sale", 14/11/96; *Press*, "Tip Top trims bid for New American", 25/10/96, p.19).

## *Coca-Cola Amatil to buy PET bottle manufacturing from Carter Holt*

**Coca-Cola Amatil (NZ) Ltd**, in a decision originally almost wholly suppressed, has approval to "acquire property being specific assets in relation to the manufacture of PET bottles and PET preforms currently undertaken by **Carter Holt Harvey Ltd**". The price is still suppressed. Coca-Cola Amatil (NZ) Ltd is a "member of the Coca-Cola Amatil Ltd group of companies" of **Australia**. This sale does not appear to have previously been made public. The property is in **Auckland** and **Christchurch**.

[1]. All spelling of geographic and company names is as supplied by the OIC unless otherwise it is clear from the context that the source is from elsewhere. Errors are those of the OIC.
Areas are rounded to the nearest whole number.
Information quoted, unless otherwise noted, comes from the "decision sheets" of the Commission.



# BANKS

### WestpacTrust - Closures, Redundancies, Profits

Throughout 1996 *Watchdog* chronicled the depressing saga of the sellout of the last national New Zealand owned bank, TrustBank, to Westpac of Australia. Once fully merged the new amalgam will be known as WestpacTrust. One of the forecast effects was job losses and branch closures - that is exactly what has happened. In April 1997, the bank announced the closure of 13 TrustBank branches in Otago and Southland. Another 13 branches around the country, including three in Christchurch, closed in June (13 is definitely the unlucky number for WestpacTrust workers). Management explained that branch transactions now accounted for only 10% of business, as opposed to a trebling of telephone banking, and eftpos and money machine transactions account for 35% of business (up from 18% in 1993). Result - management needs less humans on the payroll. Nor are counter staff the only ones under threat - at least 50 jobs went when the two banks merged four data centres and two separate computer systems in 1996.

But Westpac did very nicely out of the takeover - it acquired Trust Bank's $10 billion worth of assets (plus buying $560 million in Housing Corporation mortgages sold off by the Government). The cost of buying TrustBank restricted its 1995/96 profit to a mere $127 million, but by March 1997, profit for the first six months of the 1996/97 year had jumped to $204 million.

### The Other Banks - Same Story

WestpacTrust's pattern of branch closures and redundancies reflects a trend right across all the national banks (which are all now foreign owned). Total bank branches fell by 10% in 1996 (but profits stayed unchanged) - all told 151 branches were closed, or their impending closures were announced, in the year to mid 1997. But the attraction of telephone banking (among other reasons) means that New Zealand now has 19 registered banks, the highest number since 1990 (the latest being a Korean bank to service the Korean community).

It's the small communities that feel bank closures most keenly (as they did when post offices were closed all round the country). For example, ASB closed its Kawakawa branch in June 1997 (but left a 24 hour money machine).Local businessman Quin Turton said: "It's yet another service lost to the town. It's all very well to say people can do their banking by telephone or some other remote device, but the elderly have great difficulty in adjusting to changes like this. One day they will wake up and find they are losing customers along with the personal service" (*Northern Advocate*, 15/5/97). FinSec, the bank officers' union, threatened an injunction to keep the branch open until a redundancy issue was settled.

And the closures and redundancies go hand in hand with rising profits. The BNZ made 72 staff redundant in April 1997, and announced a $194 million net profit for the six months ending March 1997 (up 30% on the corresponding half in the previous year). Management said the BNZ had undergone a "massive restructuring" (*NZ Herald*, 16/5/97). Overall, the banks made a net $1.02 billion profit in 1996.

FinSec said: "In their rush to close branches, banks are throwing out the baby with the bath water by actualy starting to strip out their capacity to grow revenue...This strategy literally plays into the hands of banks' non-bank competitors..." (*NZ Herald*, 18/6/97).

**LBW**

The pic above was snapped at the abandoned first One-Day International between New Zealand and Sri Lanka on Sunday 23 March.
The BNZ was running a "BNZ Banner Competition" - first prize $500. Those about the scuttlebutt are told that when the above banner was paraded past the BNZ lounge, a number of notable bankers were spotted choking on their shrimp cocktails.
Guess which banner didn't win.

*The Independent, 27/3/97*

### Australia - The Wallis Report

Most of New Zealand's major banks are now Australian owned. So what happens to Australian banks has a major impact here. Since 1983, Australia's banks and other financial institutions have been governed by the former Labor

government's "six pillars" policy - this banned any mergers between the four biggest banks and the two largest life insurance companies.

In April 1997 the Liberal government announced the end of the six pillars policy but continued the merger ban at least until a comprehensive policy response to the Wallis Report on Australia's financial system (compiled by Stan Wallis, president of the Business Council of Australia). It had been widely tipped that the Report would have led to a frenzy of mergers and takeovers, with immediate effects on New Zealand's Australian owned banks, and tens of thousands of job losses on both sides of the Tasman. The Government also lifted the blanket ban on foreign takeovers of Australian banks but decreed that they will be subject to Government scrutiny on the principle that "any large scale transfer of Australian ownership of the financial system to foreign hands would be contrary to the national interests" (*Herald*, 10/4/97). How very interesting that a Rightwing Australian government adheres to a "national interest" principle on questions of foreign control - any such principles have long since been abandoned by Rightwing Labour and National governments here.

But any relief is only temporary. Alliance leader Jim Anderton predicted massive job losses. "The way is now open to mergers of the major Australian banks and insurance companies. The report recommends abolishing restrictions on foreign takeovers" (*Northern Advocate*, 10/4/97).

### Insurance TNCs Go Into Banking

Mergers betwen massive Australian banks and insurance companies may have been temporarily postponed but New Zealand is already witnessing a blurring of roles. Australian owned AMP, the biggest insurance company in NZ, is moving into banking. In 1996 it set up the telephone based subsidiary Ergo, handling deposits and mortgages over the phone. AMP is aiming to secure 10% of new business in the NZ banking sector within a few years. Interestingly, despite New Zealanders' love for new gimmicks (this country has the world's highest ratio of eftpos terminals per head of population), Ergo's branchless banking is not doing as well as expected. Of the $244 million in mortgages it wrote in 1996, fully $161 million came through the physical infrastructure of its AMP parent. Ergo has been forced to leave the "virtual" world and set up a quasi-physical presence at NZ Post outlets.

And the other players in the finance sector behave towards their staff exactly the same as the banks. For instance, in April 1997, Prudential Assurance cut 148 jobs less than a month after taking over NZI Life. It gave an assurance of no more redundancies - but only for six months.

### Last New Zealand Owned Bank Lifts Profit

There are no national New Zealand owned banks, but there are still a handful of regional ones. The Taranaki Savings Bank (TSB) is the one which has achieved the highest profile and picked up the most business since TrustBank's shameful sellout. It made a $7.2 million profit for 1996/97, up nearly 5% on the previous year. It has picked up customers all around the country precisely because it is New Zealand owned - 7.5% of its mortgage loans are outside the region, which it hopes to lift to 18% - and it has identified New Zealand ownership as its marketing niche. Hence it has promised not to sell out. Mind you, TrustBank used to advertise its New Zealand ownership as its major advantage. Even the PSIS, that former basket case, recorded a 53% increase in profit for 1996/97 - it is a financial services cooperative, owned by its 130,000 customers and with 27 branches around the country.

Both the TSB and PSIS prove that it is possible to be small, locally owned New Zealand financial institutions, and still make money. They have been rewarded with loyal customer support, and have picked up new business precisely because they are small and locally owned. Loyalty is not a concept that the big foreign banks demonstrate to either their customers or their staff.

Keith McIlroy, accountant and business adviser, has written a best selling book called "A Borrower's Guide to Banks, Bankers and Bankruptcy". His conclusion: "I see community banks coming up again like 50 to 100 years ago in New Zealand when the trust banks, the community banks, were formed. Banks set up for local communities in local areas, owned by local people with investments from local people, supporting local people. That's where I think things will go back to, especially now that there is only one bank in the country owned by New Zealanders....Ideally we want much smaller banks, like the Bank of Gore, with a small office and big safe. Get away from this big corporate ego trip that they (big banks) all get involved in" (*Northern Advocate*, 28/6/97). We'll see if history repeats itself.

Spencer Britain

"Now, here are the news headlines again, with subtitles for viewers who are unable to believe their ears."

# FORESTRY

### Fletchers Sells Off To Pay For Forestcorp Purchase

Fletcher Challenge Ltd (FCL) is now the biggest exotic plantation forest owner in New Zealand, with 380,000 hectares, or nearly 26% of the total. Throughout the 90s FCL has been divesting itself of forests around the country, to clear the mountain of 1980s bad debts that it created for itself (those were the days, eh?) and to concentrate its plantation resources into the central North Island heartland. For example, it completely sold all of its Otago/Southland forests (primarily to Wenita, of China), and 49% of its Nelson/Marlborough forests to an American buyer.

FCL's 1996 purchase of the State's Forestcorp (in a consortium with Brierley's and a Chinese State corporation) hastened the divestiture and concentration process. Firstly, FCL sold Hikurangi Forest, on the North Island's East Coast, to Glenealy Plantation, of Malaysia, for $210 million. Then, in March 1997, it sold its 3,500 ha south Auckland forests to American owned Evergreen Forests for $30 million (Evergreen also has significant minority French shareholding). By July 1997 it had completed the sale of its south Auckland and Nelson forests. The three sales realised more than $500 million for Fletcher Forests.

The biggie of them all was in April 1997 when FCL sold its remaining 51% share of its 78,000 ha Nelson/Marlborough forests to Weyerhaeuser, of the US, for nearly $275 million. This completed FCL's retreat to the central North Island.

### Weyerhaeuser - A Global Nasty

Predictably, Weyerhaeuser's arrival in Nelson was welcomed by the local worthies, even those who should know better, such as Nelson Mayor and former Labour Minister, Philip Woollaston. West Coast-Tasman's Labour MP, Damien O'Connor, gushed that: "of all the overseas companies we would welcome here, they would probably be the best" (*Nelson Mail*, 12/4/97, "Forestry purchase welcomed"; Geoff Collett). Oh really. Interestingly, Nelson's National MP (and Minister), Nick Smith, gave only a guarded welcome, saying that FCL had not invested substantially in adding value, and that he would reserve judgement on Weyerhaeuser to see if "they are simply going to use the forests as nothing more than a cash cow" (*NZ Herald*, 14/4/97; "Guarded welcome for US giant").

Weyerhaeuser's arrival in New Zealand forestry has been a long time coming but hardly unexpected. Throughout 1996, it was the frontrunner to buy Forestcorp. Ironically, FCL's purchase of Forestcorp enabled Weyerhaeuser to enter New Zealand anyway. Earlier in the 90s it had a strategic alliance with Forestcorp.

So who is Weyerhaeuser? It is the world's biggest private owner of softwood timber, with global annual sales of $US10 billion. It owns 2.2 million ha in the US and leases a further 9 million ha in Canada. Despite having massively divested of non-core businesses, it is one of the 100 largest companies in the US. The excellent US monthly *Multinational Monitor* ran a *Corporate Profile* on it (October 1992; "Weyerhaeuser: The Tree Whackers"). We included some extracts in our book "Clearcut: Forestry In New Zealand" (Murray Horton, CAFCA, 1995):

> "Consistently ranked in the *Forbes* 100, Weyerhaeuser's tentacles reach far and wide...'Forbes' magazine estimated in 1988 that the (Weyerhaeuser) family was worth well over a billion (US) dollars. Although it is a multinational actor in both its exploitation of resources and its sales, the US based Weyerhaeuser has been careful to distance itself from its international operations... The corporation has managed to separate itself from its international subsidiaries through a series of carefully planned divestments...
>
> "A close look at the international timber industry, however, reveals a series of international corporations formerly owned by Weyerhaeuser or run by former Weyerhaeuser employees that have as their sole purpose the supply of wood to the company, as well as Weyerhaeuser affiliates in Canada, Germany, Belgium, Italy, France, Greece, Spain, England, Guatemala, Venezuela, South Africa, Hong Kong, Russia, Japan, China, the Philippines, Malaysia and Indonesia. Environmentalists charge the company is a major importer of tropical hard woods...
>
> "The (then) governor of Washington, Booth Gardner, is a multi-millionaire heir to the Weyerhaeuser fortune. Gardner was declared exempt from a 1972 Washington state initiative requiring public officials to disclose their financial assets; the public disclosure commissioners, who are appointed by the governor, renewed the exemption each year. Weyerhaeuser currently owns 1.5 million acres of forests in Washington state...

"About 6,000 Weyerhaeuser loggers and millworkers are unionised. Following a bitter strike in 1986, Weyerhaeuser won concessions equal to a four dollar per hour per worker cut in pay...Following these wage cuts, Weyerhaeuser profits rose from $277 million in 1986 to $564 million in 1988. During the past four years, as part of a corporate restructuring, Weyerhaeuser has laid off more than 8,000 workers...

"In an ironic twist, environmental and safety problems, often the result of cost-cutting measures, are beginning to dent Weyerhaeuser's profits. In 1991, Weyerhaeuser reported its first loss since the 1930s Depression. It placed much of the blame on plant closures, environmental clean ups and severance for laid off workers...A Council on Economic Priorities report on Weyerhaeuser, released in June 1992, documents environmental violations in British Columbia, Mississippi, North Carolina, Oklahoma, Washington and Wisconsin, and lists 13 Superfund sites at which Weyerhaeuser is a potentially responsible polluter..."

To its credit, the *Nelson Mail* approached CAFCA for comment when the sale was announced. We supplied material such as the above. But Weyerhaeuser went on a public relations offensive, assuring Nelsonians that it is an environmentally friendly company, and furthermore that it will continue FCL's plans to establish a wood processing facility in the Wai-iti Valley. The *Mail* ran a sympathetic piece (1/5/97; "US heavyweight takes over Nelson forests"; Geoff Collett) which included the following:

"Predictably enough, news that Weyerhaeuser is now in New Zealand provokes suspicion among lobby groups on the other side of the fence from big business. But it seems that for now, those groups - the likes of CAFCA and Greenpeace - don't have the firmest evidence to back up such suspicion, and that the Americans are something of an unknown quantity. CAFCA's Murray Horton cites evidence that paints Weyerhaeuser in a less than flattering light, but it largely dates from the early 1990s and late 1980s..."

Bullshit. To provincial New Zealand newspapers, Weyerhaeuser might be an "unknown quantity" but it's not hard to find out about it. We contacted Essential Information, the American adjunct to *Multinational Monitor* and asked them to send us some more recent stuff on Weyerhaeuser. They obliged, copiously.

It contained some real gems - several people killed in Oregon, as recently as November 1996, by floods caused by clearcutting of forests by Weyerhaeuser and other Pacific Northwest loggers; smalltown residents fighting a successful battle to stop Weyerhaeuser buying local forests; details of corporate donations to both major parties to secure legislative access to public forests; plans to close some of its recycling plants; etc, etc.

As Weyerhaeuser says that it plans to set up processing facilities in Nelson, it's useful to look at the recent record of its American plants. "Timber firm Weyerhaeuser Co. has agreed to pay $US178,000 in fines, with $110,000 going toward local emergency response agencies, as a result of a major chlorine release at its Longview, Washington, mill in July 1994 that the firm did not immediately notify local, state and federal authorities about" (AP/*Seattle Daily Journal of Commerce*, 24/1/97). Or: "The US Environmental Protection Agency has dropped a Clean Air Act enforcement action against Weyerhaeuser Co., the wood products company, saying that the alleged violations were being adequately addressed by state settlements. EPA brought the legal action against the company in August 1994, charging that nine of its mills in six states had unlawfully high chemical emissions. The company paid $US1.5 million in penalties to the states and will spend about $50 million to design and install emissions-control equipment at those facilities, according to Dave Mumper, Weyerhaeuser environment director" (*Wall Street Journal*, 11/7/95). Nor is there anything new about Weyerhaeuser being fined huge amounts for environmental offences. "In October 1991, Weyerhaeuser agreed to pay $US926,000, the second-highest fine ever paid in North Carolina, for removing pollution control equipment at its New Bern plant and emitting an average of 192 tons of ash per year more than its permit allowed" (from "An Executive Summary of the Company's Environmental Policies and Practices", July 1993, Council on Economic Priorities)

Americans know all about Weyerhaeuser's green credentials. Here's an extract from a report of top executives meeting the public in Seattle. "Facing often hostile questions about damage to streams and wildlife from clearcutting, Weyerhaeuser Co. President and CEO Jack Creighton and Executive Vice President Charley Bingham said at a public meeting that they are committed to 'continuous improvement' in corporate environmental performance. In the "town meeting," held in Seattle, Washington, and an earlier dinner for environmentalists and community leaders, both officials 'parried repeated questions about environmental damage from real estate development, paper production and most of all, clearcutting.' Creighton and Bingham touted the firm's plans to use scientific studies to 'better protect' stream and wildlife and phase out chlorine bleach in pulp mills" (*Seattle Post Intelligencer*, 24/6/94, Rob Taylor).

"The meeting was the last — 'and by far the liveliest' — of three Northwest gatherings touted by the firm as 'centerpieces of a new campaign to better understand what the public wants from privately owned forests'. Bob Pepper, who 'blames a Weyerhaeuser real estate subsidiary in part' for damage done to his nature preserve, moved to within a few feet of Creighton and Bingham and said: 'It's a special pleasure for me to confront you two gentlemen face to face ...

Deceit and conspiracy surround you'. Charlie Raines of the Sierra Club: 'So far I see a new and improved package, but I don't see a new and improved product'" (*Seattle Times*, 24/6/94, Eric Pryne).

No wonder that Weyerhaeuser is amongst the TNCs (our old friend Waste Management is in the thick of it too) promoting the spread of "audit privilege" laws across the US (21 states have already passed such laws). They are more accurately called Corporate Dirty Secrets Laws or Right to Know Nothing Laws. To quote *Rachel's Environment & Health Weekly* (26/6/97):

"American corporations are successfully pursuing a new strategy to evade environmental laws and regulations. As the *New York Times* describes the new strategy, 'Urged on by a coalition of big industries, one state after another is adopting legislation to protect companies from disclosure or punishment when they discover environmental offenses at their own plants' (7/4/96 &30/1/97). In essence, state laws are giving corporations immunity from punishment if they self-report violations of environmental laws. Furthermore, any documents related to the self-reporting become officially secret, cannot be divulged to the public, and cannot be used as evidence in any legal proceedings. 'This is a disaster for environmental enforcement,' says David Ronald, chief of the environmental crimes division in the Arizona State Attorney General's Office. 'It has been creeping through the states without anybody paying much attention'" (ibid).

This new material has been duly forwarded to the *Nelson Mail*. So, Nelsonians (and the rest of New Zealand) - don't say you haven't been warned. Weyerhaeuser is the real McCoy - a truly global plunderer and despoiler. Welcome to Aotearoa!

### Matakana Island - threatened from another quarter

In recent years, *Watchdog* has devoted several articles ("Clearcut" gave it a whole chapter) to the struggle by the Maori people of Matakana Island (Tauranga harbour) to regain control of their forests. It's a long and complicated story, which featured successful direct action in the form of a six month long blockade of forest roads in 1993. In a landmark 1994 court case, Justice Greig ruled that the 1992 receiver's sale of the island's forests, to a consortium comprising TNCs Rayonier (US), Ernslaw One (Malaysia) and FAR Forestry Investments (NZ) was illegal and awarded ownership to the local Maori interests. To finance the deal, the locals, ironically, had to sell half of the forest to another American TNC, Blakely Pacific. Rayonier retains cutting rights over half of the islanders' forest; they own the sawmill but lease it to Rayonier. Ernslaw One and FAR are off the island.

But theirs was not the only court case stemming from the Matakana sale. Rotorua entrepreneur, Chris Wingate of unsuccessful bidder Arklow Investments, sued FAR for alleged breach of confidentiality. Wingate had his caveats blocking the sale rescinded by Justice Greig's March 1994 decision. He announced an immediate appeal and the deal was put on hold until this was resolved. It was heard in the Court of Appeal in May 1994. Wingate's case was that Arklow had been negotiating with the receivers to buy, debt free, the 4,000 ha Matakana forestry block. He had approached FAR for advice and, in confidence, explained his intended purchase method. Wingate contended that this was exactly the method used by FAR to make the purchase in November 1992. The judges pronounced themselves satisfied that there was an arguable case that FAR had indeed used Arklow's confidential information as a "springboard" for its own bid. "It may not be a strong case but there is sufficient to warrant the inference that FAR received confidential and valuable information from Arklow-Wingate that they put to their own use" (*Press*, 13/7/94).

The appeal was allowed, Wingate was awarded $10,000 costs and the case sent back to the High Court for a full hearing. He was jubilant. "We have absolutely blown them out of the water. Everything Justice Greig did was overturned and thrown out". Don Shaw said that the islanders were innocent bystanders in the struggle between Wingate and FAR Finance and Resources (*Bay of Plenty Times*, 1/6/94).

What this meant, in plain English, was that the whole deal was up in the air again. The islanders took the very unusual legal step of asking the Court of Appeal to recall its judgement. This was dismissed in October 1994. If all legal steps failed, then the end result of Wingate's victory would be that the Blakely Pacific sale would have to be unwound and the money returned. Wingate, whose legal bill ran to over $1 million, told the *National Business Review* (16/9/94) that he was in no mood to compromise and wanted nothing short of ownership of Matakana's land and forests.

In the meantime, the status quo established by the March 1994 court decision applied. But, in May 1997, Justice Temm ruled that Wingate had indeed been ripped off. "To put the matter in the vernacular, the defendants pinched the plaintiffs' information and knowledge, used it for themselves and walked away with a pocketful of money, leaving the plaintiffs lamenting" (*Northland Times*, 6/5/97). The case was dubbed New Zealand's largest intellectual property rights claim. Wingate came out swinging: "I think it's a travesty of justice that in this particular case the defendants have been able to fight me using teams of lawyers paid for by stolen money. I can assure the local iwi and the people of Matakana that I will do my utmost to work with them, but I will not be held to ransom by individuals in pursuit of their own selfish personal gain as has occurred in the past" (ibid). FAR announced it will appeal; further court action is likely, to clarify the position of Rayonier, Blakely Pacific and the islanders.

Chris Wingate's original proposal had been to develop a $250 million tourist resort, complete with hotels, canals and marina, golf course and a bridge-causeway to Otumoetai. Obviously this is directly at variance with the islanders and their forestry industry. Only time will tell who prevails, but the islanders have spent the whole decade struggling to regain control of

their island and their forests. They won't give up easily. They are not people to be trifled with - most recently, in an unrelated dispute, they have threatened to blow up a sewerage pipeline that crosses the island and discharges into the surrounding sea.

*Matakana Island Blockade.1993. Photo:Bay Of Plenty Times*

### Rayonier, Carters, the State

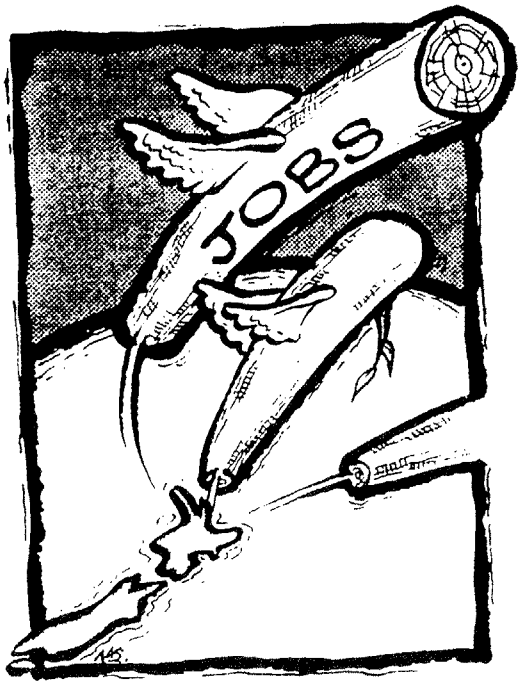
Rayonier might be in strife in the Bay of Plenty but it's landed on its feet in Southland. Its rival TNC, Wenita (China) had its plans for a Taieri Plains medium density fibreboard (MDF) plant blown out of the water by a concerted campaign by locals, which culminated in the Otago Regional Council refusing resource consents on environmental grounds. One result of this campaign was the 1995 surprise election of Sukhi Turner as Mayor of Dunedin. All this left Rayonier's brand new $180 million MDF plant at Mataura with the field to itself in Otago/Southland. It started production in April 1997, initially producing 140,000 cubic metres of MDF per year, with plans to double that output. Rayonier added that it would like to buy more NZ forests, to add to its 100,000 ha estate, but considered them overpriced. Rayonier's NZ forests account for fully one sixth of its global plantations.

Not only has Carter Holt Harvey (owned by International Paper, of the US) been supplanted by FCL as the biggest forest owner in NZ, but to add insult to injury, its 1996/97 profit fell 45% - down to a mere $251 million. It looks like we'll have to have a whip round. International Paper has responded to the global downturn in the usual fashion, announcing that it will cut 9,000 jobs worldwide and sell $US1 billion of assets in the 1997/98 year.

Now the ideologues in Government might have thought that they have washed their hands of forestry, culminating in the 1996 sale of Forestcorp. "These things are best left to the market". But the market has no doubt that it needs a hand from the State. James Griffiths, chief executive of the newly restructured Forest Industries Council (whose board represents the 12 biggest forest companies) said:

"This review (one of innumerable reviews undertaken by the Coalition Government, this one is by Lockwood Smith, Minister of Agriculture and Forestry. Ed) seems to be driven by the idea that the Government has no involvement in the forestry industry. But they're still the largest foresters in New Zealand: they just happen not to harvest their trees" (meaning that nearly all Crown forest sales since 1990, including Forestcorp, were of cutting rights only, not the land itself. It's that pesky Treaty of Waitangi again. Ed). Griffiths continued: "How can they say 'We'll leave it to the private sector?'. That's simplistic nonsense. Foresters don't set the tax rates or control Transit New Zealand or the port companies" (*NZ Herald*, 23/4/97). The Council specifically rejected Dr Smith's idea of merging the Ministries of Forestry and Agriculture, saying that forestry has more in common with manufacturing than agriculture, and distanced itself from the producer boards still entrenched in NZ agriculture (despite ceaseless campaigning by the ideologues).

Does this mean that the forestry TNCs still see a role for the State, even if it is only one of helping industries such as theirs to maximise profits? Don't tell the ideologues, and definitely don't tell the public. They might start to see through the whole charade.



# THE DIRTY DOGS OF WAR

## Privatised Killers: Mercenaries, Miners and Money

## - Murray Horton

The Asia/Pacific region was rocked by the crisis that erupted in Papua New Guinea in March 1997. General Jerry Singirok, the commander of the country's military, demanded the resignation of the Prime Minister, Sir Julius Chan and two other senior Ministers, and a commission of inquiry into the Government's awarding of a $US36 million contract to a shadowy mercenary transnational corporation (all transnational corporations - TNCs - are mercenary. The only difference was that this one was literally so). Chan responded by firing Singirok, and refusing to go. Singirok, in turn, refused to leave his barracks and insisted that Chan and his colleagues resign. This mutiny from the very top fomented a major popular uprising in the capital, Port Moresby (fuelled by a whole raft on other causes, such as insitutionalised corruption, coupled with institutionalised poverty and unemployment). There was rioting and looting, and a very near armed confrontation between the Army and the police (who stayed loyal to the Government). The pressure paid off - Chan, and his colleagues, literally surrounded in Parliament, agreed to "stand aside" (but not actually resign). An acting PM was appointed, the demanded commission of inquiry was created, and the crisis subsided. By May, the commission had cleared Chan to the extent that he claimed vindication, and resumed his post, in time for the June general election. Despite being both fired and replaced, Singirok remained ensconced in his barracks.

### Bougainville, Panguna, Rio Tinto

So what was this all about? In a word, Bougainville. The war of murderous suppression and blockade being waged against the people of Bougainville since 1988 has taken a high human toll - thousands killed; mass illness and starvation caused by the inhuman blockade; and systematic human rights abuses by the undisciplined PNG military - murder, torture, random atrocities. The full gamut of twentieth century counter insurgency horror. Chan had come to power promising peace but had reverted to outright war, manipulated by an out of control military who ran their own unauthorised operations (such as ambushing Bougainville Revolutionary Army [BRA] negotiators returning home from international peace talks). Chan was deeply angered by the military's inability to defeat a ragtag yet extremely effective guerilla army. That too has been the story of the twentieth century. So, within a few short years, Chan went from wouldbe peacemaker to coldblooded warmonger. It bodes ill for any future peace plans that, as Singirok's replacement, Chan appointed Brigadier General Leo Nuia, known as The Butcher of Bougainville for his atrocities there (including using Australian helicopters to dump the bodies of murdered rebel suspects into the sea).

What's so special about Bougainville that it's worth all this terrible cost? Simple - it is blessed/cursed with the Panguna copper mine, one of the world's very biggest and richest mines of any kind. The environmental devastation wrought (including whole rivers destroyed by millions of tonnes of tailings and toxic waste), and the lack of any significant financial benefit to the Bougainvilleans led to the revolt in the first place. "We lived peacefully for many years, now our country's torn apart, abandoned by Australia and abused by big business. CRA came here, started mining, took our copper but left us nothing" (Thomas Tonnos, Bougainvillean refugee, quoted in *NZ* Herald, 7/7/97; "They took our copper and left us nothing"; Trisha Stratford).

The BRA initially demanded several billion dollars in compensation - when that led to an ironfisted response from far off Port Moresby, the Bougainvilleans upped the ante and fought for independence (it was only a 19th century colonial carveup between Britain and Germany that led to Bougainville being lumped in with PNG. Racially and geographically, it is part of the Solomon Islands, which is only a few kilometres away. The BRA has announced that an independent Bougainville will be renamed Mekamui - "holy").

And Panguna is owned by Bougainville Copper Ltd, which is owned by Conzinc Rio Tinto of Australia (CRA), which in turn is owned by Rio Tinto Zinc (RTZ) of Britain. Most recently, RTZ/CRA have merged to become Rio Tinto. This British behemoth is the biggest single mining TNC in the world and one of the very nastiest. In New Zealand, it owns Comalco and its controversial Bluff aluminium smelter. Whole books have been written about Rio Tinto and the definitive one is "Plunder", by Roger Moody (PARTIZANS/CAFCA, London, 1991). Every issue of *Watchdog* runs an update on this monster - in Bougainville, New Zealand, and the rest of the world. Panguna has been closed since the war of independence started, and both Rio Tinto and the PNG government were loath to see such a major moneyspinner sitting idle. Panguna has been described as "the jewel in Rio Tinto's crown".

The BRA certainly understands the mine's worth as a bargaining chip, and has indicated that it would be prepared to allow it to reopen after talks are held on independence. Francis Ona, the President of the Bougainville Interim Government, said: "We truly believe that all of Bougainville is under threat of destruction by these foreign companies of mining...We are standing for independence because only through independence all these mines will be under control..." (*Time*, 10/3/97; "Resolute Rebel"). Francis Ona is fully aware of the advantages of modern technology. Dismissing as "propaganda" PNG claims that he wants to lead Bougainville

back to a "Year Zero" a la the Khmer Rouge, he replied: "I am talking to you by mobile phone. Is that Year Zero? It is powered by hydro electric power. We will be a modern country" (*NZ Herald*, 3/4/97).

### Sandline International

By 1996 the war had reached a stalemate. The PNG military, completely driven from the island at the start of the conflict, was back in large areas. But it was not in control of the island, the BRA was undefeated, and most crucially, Panguna remained closed and firmly in BRA hands. Troops were committing atrocities against civilians, and losing the will to fight. Bougainville had become PNG's Vietnam. So it was time for a new, and desperate, throw of the dice - foreign mercenaries (this seems to be Chan's personal style. He and his family are major shareholders in a security company run by two Australians, which hired and armed Australian police and former anti-terrorist soldiers for two secret para-military operations in PNG).

In 1996, contact was made with a number of transnational "security companies" (mercenaries to you and me), and PNG was soon engaged in secret negotiations with Sandline International, which is intimately bound up with Executive Outcomes, both of London (see below for details of who they are, what they do and to whom they do it). It emerged, in July 1997, that the Australian Secret Intelligence Service (ASIS - Australian external intelligence) had known about this since 1995, and monitored a PNG/Sandline meeting in Cairns, in April 1996. But ASIS did not inform its boss, the Australian Government, which remained unaware until the mercenary scandal blew wide open.

It's worth pointing out that General Singirok, who had been wounded on Bougainville, was no angel - he was intimately involved in setting up the mercenary deal (hence the mercenaries' strong sense of betrayal when Singirok turned against them). And , in July 1997, it was revealed that he holds a London bank account, into which more than 30,000 pounds have been deposited by a British arms dealer.

The prize of Panguna was dangled from the outset. Rupert McGowan, an assistant director of TNC broker Jardine Fleming, of Hong Kong, first travelled to PNG to advise the Government how it could buy a stake in Panguna from Rio Tinto. Very soon he was allegedly acting as an intermediary between the Government and Sandline, and transferring money on behalf of the mercenaries. Indeed proof emerged at the commission of inquiry that the mercenaries were paid via Hong Kong. McGowan's role was unmasked at that inquiry and he was suspended by Jardine Fleming, pending investigation.

By the beginning of 1997, the PNG government and Sandline were ready to come to a secret deal (presumably Sandline was named by its macho men in honour of President Bush's "line in the sand" that he punished Saddam Hussein for crossing, by invading Kuwait and setting off the Gulf War). Private armies don't come cheap - for the supply of 90 black Angolan/South African warrant officers and 35 white officers, plus helicopter gunships, and a giant Antonov aircraft to transport the whole lot into and around PNG, Sandline charged $US36 million. It actually received $US18 million in advance. When the PNG military rebelled and kicked out the mercenaries, $US600,000 in cash was found on the British commander, Lieutenant Colonel Tim Spicer. And the gunships, which would have been the first of their kind in PNG, have never arrived. Australia seized them en route and they continue to sit at an Australian air force base until their ownership and legality are determined. In June, Sandline filed a writ in London seeking $NZ30 million - $27 million being the balance of the original contract; $2 million for additional costs incurred when the contract was suspended, the $NZ600,000 allegedly stolen from Spicer; and $375,000 for consultancy fees. Additionally they want $US50,000 per month for storage of military equipment and $US4,500 interest per day. They're not called mercenaries for nothing. PNG refused to accept the English High Court writ; Sandline took further court action to get it served.

One of the most disgraceful things about the whole shabby affair was that the Government diverted money from other parts of the economy to pay for it - from defence, road maintenance, police, education, transport and Internal Revenue. The Government also secretly siphoned tens of millions from the sale of its mineral and oil interests to pay the hit men. This unbudgeted expense has cost the PNG economy so severely that Ministers have estimated it will take up to six years to recover and has incurred the wrath of both the International Monetary Fund and the World Bank, major funding agencies for PNG.

### "Repossess The Panguna Mine"

So what services were the mercenaries being contracted to provide? The cover story was that they were simply going to train PNG special forces on how to win what Spicer referred to, in best British Army patronising tone, as "a nasty little war" (*NZ Herald*, 4/3/97). That seemed implausible, so they allowed that, yes, the mercenaries would actually go to Bougainville - but only in a training role. That was rendered equally unbelievable by their request to have hospitals in northern Australia put on standby to treat wounded mercenaries. It soon became obvious that their intended role was to do the actual fighting, theoretically in "surgical strikes" by crippling the BRA (including killing its leadership), in reality by good old fashioned terrorising and killing anyone who got in their way.The closely guarded PNG/Sandline contract (31/1/97), which was exposed when the crisis blew up, was extremely clear on Sandline's job: "to conduct offensive operations in Bougainville in conjunction with PNG defence forces to render the BRA military ineffective and repossess the Panguna mine".

And Panguna was the prize. Throughout its numerous dirty little wars in Africa, Sandline International/Executive Outcomes has been involved in securing control of valuable mines and actually getting a cut of the mineral spoils by way of payment (see below for details). Firstly, Panguna served a

strategic military purpose - one proposed Sandline tactic was to capture it, thus luring the BRA there to fight them, rather than chasing guerillas all over Bougainville. But it was also very much a glittering prize in the usual sense too - and not only for the foreign mercenaries. Whilst secretly setting the stage for the mine's recapture, the Government moved to buy out Rio Tinto's share of Bougainville Copper, the mine's owner (Rio Tinto wasn't that silly). The Government and the mercenaries stood to have a nice little joint venture earner. In his testimony to the commission of inquiry, Spicer denied that Sandline had shown any interest in the mine - but counsel assisting the inquiry produced an August 1996 letter from him to the PNG Defence Minister suggesting just such a joint venture to "reopen and operate the Bougainville mine once recovered" (*Press*, 4/4/97).

Despite producing what *Herald* correspondent Mary-Louise O'Callaghan headlined as a "wishy washy report" (4/6/97) the commissioner, Australian judge Warwick Andrew, had no doubt about the Panguna connection: "Take its section on the suspicious increase in the price and volume of Bougainville Copper shares traded on (one day in February 1997). This occurred at a time when only the key protagonists knew of the Sandline contract...No reason, other than knowledge of the State's plans to recapture the Panguna mine has been suggested for the demand for BCL shares, the Andrew report states. 'There were relatively few people who knew...and amongst those who knew, fewer still who would have had the financial resources to buy large parcels of shares. In these circumstances it stretches credibility to think that the demand for shares...was unconnected'".

Of course, this murderous little scheme came to nought. It was exposed, there was huge regional and national uproar and a combined military/civilian uprising led to the hired killers being unceremoniously being kicked out of the country. A reality check is necessary - the military did not suddenly endorse Bougainvillean independence and peaceful co-existence. Its sense of honour was offended and there was a widespread belief, amongst both soldiers and civilians, that foreign mercenaries had no place in an internal dispute, that the business of oppressing and killing PNG citizens (albeit ones who vehemently don't want to be) should be left up to PNG. There isn't much of an anti-war, pro-Bougainville independence movement discernible in PNG.

The Government had to blame somebody for the uprising - it left the military well alone and sent police to raid, arrest and harass various NGOs. The inquiry found nothing amiss, Chan resumed office, and Spicer, back in London, pronounced Sandline ready to finish the job if requested. Sandline went on a PR offensive to repair the damage - one result was TVNZ's *60 Minutes* screening an Australian piece, in June 1997, depicting Sandline as professional soldiers who clean up the Third World's messes, all to the highest First World military standards, with sympathetic English academics saying that this is the pointer to the future. At its most mawkish it featured Sandline promo clips of its "gentlemen soldiers of fortune" singing karaoke!

## Mercenaries - Global Overview

Which brings us to the final question - who are these mercenary TNCs and who is behind them? *Time* (26/5/97; "Soldiers For Sale") detailed some of them: Executive Outcomes (intimately connected with Sandline) - founded by apartheid era, former South African military officers, fought in Angola and Sierra Leone; Vinnell Corporation - partly owned by an American merchant bank, whose chairman is a former US Defense Secretary, trains Saudi Arabia's national guard; and Levdan, an Israeli firm which trained troops and bodyguards for the Congolese President, who then spent up large on Israeli weaponry. Notice how trouble follows these guys around - in June 1997, both Sierra Leone and Congo erupted with coups and civil wars.

The most succinct and revealing study of these hired guns came from Louis Cauchy in the April 1997 *L'Aut Journal*, of Canada. Some extracts:

"In January 1993, in the city of Soyo, Angola's most important petrochemical centre that was also right in the middle of an area wracked by war, the Canadian company Ranger Oil spent $C30 million financing a cleanup operation by Executive Outcomes, a South African mercenary army. At the request of the Luanda government and in exchange for important oil concessions in the Soyo region, the Alberta oil company also financed the assassination of members of Jonas Savimbi's UNITA guerrilla army. The killings were carried out by some 500 former members of the South African armed forces recycled as mercenaries *(this is extremely ironic, as UNITA was the creature of South Africa and the West earlier in the interminable Angolan civil war. Ed)*.

"At a time when the Canadian politico-financial establishment is denouncing any attempt to tie Canadian foreign investment to human rights, a brief look at some of the directors of Ranger Oil is quite revealing. Warning: hold on to your seats, this gets complicated!

"On the board of Ranger Oil we find Edgar M. Bronfman, president and CEO of Seagram and also president of the World Jewish Congress; John A. Rae, executive vice-president of Power Corporation; Simon Reisman, president of Trade and Investment Advisory Group Inc.; Lord Colin B. Moynihan, the ex-Under Secretary of Energy in Great Britain during the Thatcher and Major governments who is presently with CMA Associates; not to mention a half dozen other businessmen from Canada and the United States.

"Executive Outcomes, the mercenary company that carried out the Ranger Oil contract, was set up in 1989. It was incorporated in South Africa by one Eeben Barlow and in England by Anthony Buckingham - who also owns Heritage Oil, a British petroleum company which helped Ranger Oil to finance the Soyo cleanup. This was at the very moment that the apartheid regime was beginning to falter in South Africa (they were planning their future!). Note that Anthony Buckingham is a businessman with close ties to Sir David Steel, the former leader of the British Liberal Party.

"For his part, Eeben Barlow is a former killer with apartheid's death squads; along with Lafras Luitingh, one of his former colleagues in the South African special forces, he recruited the five hundred mercenaries to satisfy Ranger Oil's needs in Angola.

"The need to guarantee payment from the governments of the 31 countries with which it does business, several of whom are on the verge of bankruptcy, led EO to set up a company called Branch Energy. This company was intended to run the oil installations, gold, copper or diamond mines that cash strapped countries like Angola and Sierra Leone give EO rights to in lieu of hard currency.

### The Canadian Connection

"Why am I telling you this? Because Branch Energy, the vampiric camouflage of this private army, has just been purchased by a Canadian company, Carson Gold, which is owned by the Canadian financier Eric Friedland. Following this purchase Friedland made sure to change Branch Energy's name to Diamond Works, and it was registered as such with the Vancouver Stock Exchange on October 21st, 1996 under the acronym DMW. And who should appear on the board of directors of the Canadian company Diamond Works? None other but Anthony Buckingham, along with Branch Energy's former executive director Michael Grundberg and one Beverly Downing. The latter is also in charge of administration and corporate development at Ivanhoe Capital Corporation, which is owned by Robert Friedland, Eric Friedland's brother. In 1994 Ivanhoe Capital Corporation was called the "poisoner of the Americas" by *Multinational Monitor* because of the environmentally destructive methods it uses to get gold out of the ground around the world *(several people intimately connected with Sandline's PNG operation are listed on the Vancouver Stock Exchange as having substantial interests in Diamond Works, led by Tim Spicer. Ed).*

"It should be noted that Anthony Buckingham - as director of Diamond Works - has been called upon to advise upon how to handle the Native communities who are dealing with this company's planned mining projects in the North-West Territories and the Yukon. Now there's a thought to give you goosebumps!

"Ivanhoe Capital Corporation, whose head office is in Singapore, has the same Vancouver address as Diamond Works: 200 Burrard Street. Along with Robert Friedland, Diamond Works has bought a 40% interest in the Lihir project in Papua New Guinea: the largest known unexploited gold deposit outside of South Africa. The Lihir project and Mount Kare project (also in Papua New Guinea) are essential for the economic "recovery" of this former Australian colony.

"They are especially essential for the re-election of Sir Julius Chan (Chan has been dubbed the country's "elected dictator"). So guess who landed in Papua New Guinea at the beginning of March... Executive Outcomes, that's who! (for the modest fee of $US36 million for a three-month cleanup contract!). It is perhaps worth noting that the Diamond Works office in England is located at 535 Kings Road in downtown London, which just happens to be the address of... Executive Outcomes!

### Executive Outcomes: "Kill Everyone"

"Executive Outcomes is the most important of over 90 private armies presently active in Africa. These armies, whose directors may live in the United States, Belgium or France, are in fierce competition to corner the lucrative market in repression. Their clients include many dictators who, not daring to arm their own people, have let their national armies deteriorate.

"Armies by the name of Saracen International, Stuart Mills International, Shibata Security, Bridge Resources, Corporate Trading International, Alpha Five or Military Professional Resources Incorporated (MPRI), work hard to make themselves key players in areas where, hypocritically, even the United Nations relies on them to do its dirty work.

"And they know how to exploit strategic interests. For instance, when the peace accords were being signed in Angola, President Clinton threatened to cut off aid if a contract the Angolan State had given to Executive Outcomes was not handed over to an American firm. That's how MPRI landed the contract to train Angola's armed forces *(foreign mercenaries were involved in Zaire's 1997 civil war, with Mobutu's undisciplined Serbs committing atrocities against civilians, before being defeated by Laurent Kabila's victorious army. Ed).*

*Mining Monitor, June 1997*

"Around the world, but most notably so in Africa, we are seeing the privatisation of water, electricity, gas and public services followed by the systematic privatisation of violence,

the rise of mercenary armies. The most important of these, Executive Outcomes, has on occasion been paid by misused funds from the... IMF ($C15 million in Sierra Leone) and also by the concession of important deposits of oil, diamonds, copper, etc. In May 1995 two South African mercenary pilots, Arthur Walker and Carl Alberts, approached a Sierra Leone military commander about their difficulties telling the rebels from the civilians in their air attacks around Freetown, the country's capital.

"'Kill everyone!" was the simple answer. And so that's what they did. This bloody anecdote was reported by the journalist Elizabeth Rubin in the February 1997 issue of *Harpers*. It tells a lot about the scorched earth methods used by that band of South African killers in Executive Outcomes. Primarily composed of former members of the assassination and espionage unit set up by the apartheid regime, EO is a veritable privatised murderer's multinational.

"Eeben Barlow, the main director of EO, was formerly in charge of the South African special forces' 32nd battalion. He is also a former agent with the Civil Cooperation Bureau (CCB), which is the euphemism for the death squads who were charged with eliminating apartheid's enemies. Barlow worked for the CCB in Western Europe, trying to discredit the African National Congress and setting up shell companies to get around anti-apartheid sanctions and sell South African arms. Barlow set up Executive Outcomes in 1989, which enabled him and his cronies to survive the dissolution of the CCB by President F. W. De Klerk in 1991.

"According to *Le Monde Diplomatique* (October 1996), the privatisation of the South African security forces goes back to 1978, and was inspired by the CIA's strategy of "farming out" intelligence gathering and covert operations to "private" groups in order to maintain the illusion of distance between those who carry out these bloody acts and those who order them. This was exactly the kind of service that multinationals like Ranger Oil, De Beers, Diamond Works, etc. needed to maintain a social calm in those areas where they carry out their savage exploitation of natural resources, areas where often the local population is becoming more and more sensitive to environmental and social concerns... Yesterday it was in Angola and Sierra Leone, today in Zaire and Papua New Guinea..."

### PNG People Show How To Lick LIC

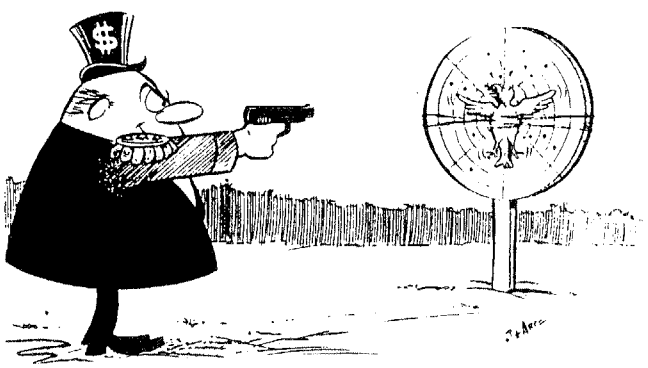
The "renowned strategist and war theoretician" Martin Van Creveld (quoted in the *Press*, 27/2/97; "The Diamond Dogs of war - 'peace-keeping' services for hire", Stuart McMillan) has written: "Much of the day to day burden of defending society against the threat of low intensity conflict will be transferred to the booming security business and indeed the time may come when the organisations that comprise that business will, like the condottieri of old (mercenary armies led by military entrepreneurs), take over the State". Which overlooks the point that in conflicts such as Bougainville's, there is no threat to "society" - only to the operations and megaprofits of mining TNCs and the local elite who comprise the client government.

Low Intensity Conflict (LIC) was the post-Vietnam warfare invented by the US to stop its boys having to come home in body bags. Instead it would train and aid the local military, and more importantly, create paramilitary death squads to fight its "nasty little wars" in countries such as the Philippines. The privatisation of death squads and hit teams, with the global deployment of well paid and heavily armed mercenaries (invariably former professional soldiers), is the logical sequel to that.

But the strategy came an almighty gutser in PNG. They were powerless against the angry citizenry of a democracy (however imperfect) who rose up and non-violently threw them out on their ear. In the June 1997 general election, the voters of PNG gave their verdict - after 29 years in politics and two terms as Prime Minister, Sir Julius Chan lost his seat. So did the Defence Minister and the Minister elevated to Acting PM in Chan's temporary absence. All told, nine Ministers and more than 50% of sitting MPs were unseated, in a textbook illustration of a "throw all the bastards out" election.

And Bougainville came to New Zealand - literally. In July, dozens of Bougainvilleans, from all sides of the war, were temporarily uplifted from the tropics and deposited in the frozen midwinter setting of Burnham Military Camp, outside Christchurch, for intra-Bougainvillean negotiations hosted by NZ, preparatory to full peace talks with PNG. The outcome of two weeks of talks was the Burnham Declaration, setting the scene for an intra-Bougainville ceasefire and fullscale peace talks with PNG, on neutral territory. (But if you think that NZ is an "honest broker", I suggest you re-read Nicky Hager's book, "Secret Power", with its frequent references to New Zealand spying on Bougainville via the Waihopai and Tangimoana electronic spybases and assorted frigates. I guarantee Burnham was thoroughly bugged and every call, fax and e-mail out of those talks intercepted by NZ and Australian intelligence).

The world owes a hearty vote of thanks to the courageous people of PNG. They have shown us the simple answer to this ugly phenomenon, this imported killer virus that breeds and spreads in the tropics. In the memorable words of the Rolling Stones' song, "You've got to scrape that shit right off your shoe". PNG showed the rest of us how to do it.




J. Arce Bolivia

# COMALCO

**New Zealand, Australia, The World**

Comalco NZ had a sharp reversal of fortune in 1996. After making a $107 million profit in 1995, it slumped to a $13.5 million loss in 1996. Managing director, Kerry McDonald, attributed that to additional operating costs incurred in the $465 million Bluff smelter upgrade, lower aluminium prices, higher electricity charges, and the strength of the Kiwi dollar. He forecast a better 1997 for the company.

But Comalco is in profit in Australia, and announced that a new potline at its Boyne Island smelter (Queensland) will be running at full capacity by the end of 1997. It is still being coy about its one remaining major project, a $A1 billion alumina refinery, tossing up between Gladstone (Queensland) and Sarawak (Malaysia). Comalco is divesting and sacking in Australia - it closed the kaolin plant at its bauxite mine at Weipa (Queensland) and sold the loss making wheel plant in Tasmania. Comalco is making redundant 600 workers in the 1996/97 period. The trans Tasman smelter expansions will take Comalco's total output to over 650,000 tonnes in 1998, but the fact remains that Comalco was the only one of Rio Tinto's businesses not performing in the most efficient quartile of the world's producers in 1996. It hopes to reach that benchmark in 1998.

The parent company is in sale mode too. At the beginning of 1997, Rio Tinto sold its controversial Century Zinc prospect (in Queensland) for $A435 million. It had got itself ensnared in a public relations disaster over Native Title. But globally, Rio Tinto is feeling bullish. The British *Independent on Sunday* ran a profile of Leon Davis, the company's new chief executive (5/1/97; "Get to the top, and keep digging"; Richard Phillips):

"...The next few years will be an exciting time for the company. The Lihir gold mine in Papua New Guinea, where Rio Tinto has a 17% stake, will come on stream in the second half (of 1997). Annual gold mine production is set to reach 600,000 ounces a year, at a total capital cost of $US700 million. The Grasberg expansion in Irian Jaya, Indonesia, is the other big one. Gold and copper production will begin in 1998, and some 200,000 tonnes of copper ore will be milled a day.

"It will join the mighty Escondida copper mine, in Chile, where Rio Tinto has a 30% stake, producing 475,000 tonnes of copper a year - with a further 125,000 tonnes a year boost coming in mid 1998. Escondida, the world's largest copper mine, and the mammoth Kennecott Utah mine in the US, are rare beasts. Can there be more? Davis thinks so. 'Why on Earth are we spending $US300 million plus a year on exploration?' he retorts. The company has also hustled its way into a major position in coal, and its plans must pose a threat to the British industry. It now produces 66 million tonnes a year, up from 51,000 tonnes in 1993, with 1.7 billion tonnes of reserves.

"It complements the iron ore, talc, diamonds, titanium dioxide, bauxite, molybdenum, uranium and tin, to name but some of the commodities Rio Tinto extracts from the earth. Growth for the sake of growth however, is not in the game plan. Too many mining companies have grown through acquisitions at too high a price, he argues. While Rio Tinto is not averse to acquisitions, they will have to be at the right price. Meanwhile he sees plenty of opportunity from existing operations, while exploration, including for diamonds in Canada looks promising, as does the Sepon region in Laos, and the Pipeline district in the US".

Nor has academia been overlooked. In Scotland, the University of Dundee's Centre for Petroleum & Mineral Law & Policy has a Rio Tinto Senior Lecturer. Now there's a thought for Rio Tinto's more fractious outposts of empire - what about the Sandline Professorship in Conflict Resolution of Nasty Little Wars? Could be just the retirement job for poor old misunderstood Lieutenant Colonel Tim Spicer.

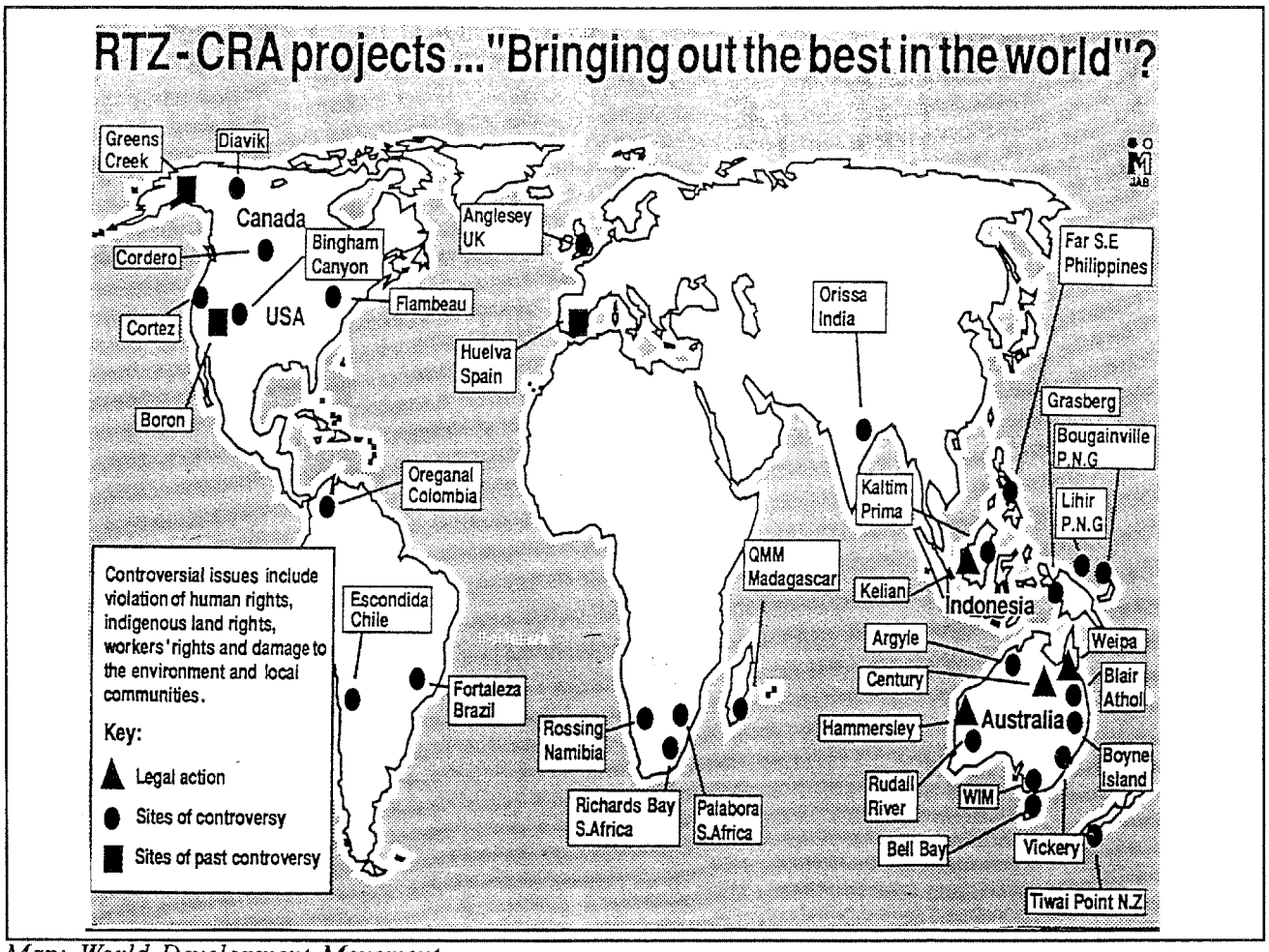
# "A BEGINNER'S GUIDE TO FOREIGN CONTROL"

## Murray Horton's Speech Available

For the past several years, Murray Horton has used his "A Beginner's Guide to Foreign Control" as the basis for speeches and papers delivered in Christchurch, and around the country. He makes sure that it is continously updated. But at nearly 30 pages it's far too long for us to consider publishing.

That's why we have decided to make copies available to members who request them. It covers: the global context; foreign control in Aotearoa; myths about foreign control; future trends; "free" trade; and what we can do about it.

*You can order it from CAFCA. Enclose $5 to cover copying and postage.*




*Map: World Development Movement*

# NEW TAPES FOR HIRE

1997 has seen a pleasing development in TVNZ current affairs - programmes that are actually worth watching, taping, and spreading around. *Assignment* has been the best example of this. Elsewhere in this issue, there is a plug for the excellent April programme on the goldmining TNCs in Coromandel and Otago.

CAFCA has tapes of two other May 1997 *Assignment* programmes on aspects of foreign control - one on the battle between the drug TNCs and Pharmac, the Government drug purchasing agency (with threatened action against NZ at the World Trade Organisation); the other on the systematic takeover of both Australian and New Zealand undertakers by aggressive US funeral TNCs.

*Both tapes can be hired from for one week, for $10 including postage. Make cheques to CAFCA, Box 2258, Christchurch, NZ.*

# DEATHS IN THE FAMILY

CAFCA expresses our deepest sympathy to the following members who suffered loss in their families recently.
To **Nicky Hager**, whose father Kurt died in Wellington, aged 75.
To **Pam Hughes**, whose mother Jessie died in Gore, aged 80.

# CHEQUES

## Please Make Them Out Correctly

**Please ensure that your cheques, for subs, donations, purchases, etc, are made out to CAFCA, and nobody else. If you wish to make a donation towards Murray Horton's pay, then make your cheque out to the CAFCA/ABC Organiser Account (which is a separate account).**

# UNITED NATIONS ON FOREIGN INVESTMENT

## Review of *WORLD INVESTMENT REPORT 1996: Investment, Trade, and International Policy Arrangements,* UNCTAD, UN, New York and Geneva 1996.

- Wolfgang Rosenberg

### *1/ The 100 largest TNCs*

This is the sixth *World Investment Report* issued by the United Nations Conference on Trade and Development (UNCTAD). Like its predecessors it is probably the most comprehensive and authoritative statement on an important aspect of the growth of world domination by a relatively small number of "transnational corporations" (TNCs).

In spite of its comprehensiveness the *Report* does not attempt fully to describe the growth of world domination by the proprietors and managers of a relatively few giant private concerns. It ignores the ownership, interconnection and economic supremacy of banks. Indeed, it ignores all aspects of finance and the term "balance of payments" is mentioned only twice in the whole comment on the significance of foreign investment in the world of 1996. By thus only dealing with foreign direct investment (FDI) exclusive of the ownership and operation of the financial market, UNCTAD seems to be writing a Hamlet without the Prince of Denmark.

However, having said this, readers can be assured that they will experience human tragedy in the drama of the *World Investment Report 1996* and that they will have in front of themselves an array of figures describing the takeover of the world's industries and trade - indeed the power over most of the world's governments and people by 39,000 FDI parent firms and their 270,000 affiliates. While a report without a similarly thorough treatment of banking and its influence on industry and trade must remain incomplete, the table of top 100 TNCs from the Shell Corporation with its $US102 billion worth of assets to Japan's Bridgestone (Firestone) tyres with $US25 billion gives meaning to the word "Globalisation".

In many ways the rapid development of Foreign Direct Investment with which the *Report* under review deals is a description of the recovery of imperialism after the disintegration of the "Soviet Bloc" to a picture of the world described by Lenin in 1916 in his "Imperialism, the Highest Stage of Capitalism". The difference between the old imperialist world which Lenin analysed and the present day one is that the giant transnational businesses which dominate the world have created international institutions, such as the International Monetary Fund, the World Bank, and the World Trade Organisation (product of GATT's Uruguay Round) which harmonise and organise the interests of the exploiting business enterprises internationally without the need for any one home country of these enterprises to conquer colonies. While the Soviet Union existed with its global influence there always was a counterpole to the pole of imperialist expansion - threatening the world with the outbreak of a third imperialist World War. Since the Soviet Union's dissolution the danger of armed resistance from those exploited by this expansion of TNCism has been reduced to aspects of local guerilla warfare without the danger of World War.

The parallel between Lenin's pre-1914 imperialism and the TNCism of 1996 is characterised by the observation in the *Report* :

> "In the same manner in which world FDI flows are dominated by a few countries, the world's 100 largest TNCs - just 0.3% of the TNC universe - control most international production...." (p. 29)

The following table shows the national division of the 100 largest TNCs which control most international production:

**Table 1**
**Head Offices of largest 100 TNCs 1996 by country**

| | | | |
|---|---|---|---|
| USA | 32 | Italy | 2 |
| Germany | 12 | Sweden | 2 |
| UK/Nthlands | 11 | Canada | 3 |
| Japan | 19 | Australia | 2 |
| France | 10 | Norway | 1 |
| Switzerland | 5 | Belgium | 1 |

**Source: *Report* Table I12**

Of interest to New Zealanders is that the Australian two giant TNCs are BHP and Rupert Murdoch's News Corporation (hardly a national Australian institution).

Table 2 shows the distribution of industrial products amongst the hundred largest TNC giants. The US TNCs dominate the petroleum production and distribution field, although British/Dutch Shell and BP rival them. US TNCs also are important in the pharmaceutical field and chemical industries in general, although Germany and again Britain present important quasi monopolies in similar fields. (Their monopoly positions are secured by "intellectual property" protection which reserves production to the giants with the largest research and development resources [R&D]). Similarly US shares with Japan the domination of the automobile industry. The electronics industries as well as computer industries are characterised by huge US and Japanese conglomerates dominating the market. Large firms in Holland (Phillips), Germany (Siemens) and France (Alcatel) share that market. In the past five years US consumer goods producers and distributors have grown rapidly (such as McDonalds, Coca Cola and Pepsicola).

Remarkable are the huge multi-trading enterprises of Japan, like Mitsui, Mitsubishi and Itochu. Mention should also be made of the publishing TNCs which increasingly dominate "public opinion" throughout the world, of which only two appear among the 100 biggest: The Thompson Corporation, Canada, and Rupert Murdoch's News Corporation, domiciled in Australia.

**Table 2**
**Industrial activities of the 100 largest TNCs**

| | | | |
|---|---|---|---|
| Chemicals | 14 | Scientific and photo equipment | 2 |
| Electronics | 14 | Rubber, Plastics | 2 |
| Motor Vehicles | 13 | Tobacco | 2 |
| Petroleum | 11 | Building material | 2 |
| Machinery, metal, and mining | 10 | Publishing | 2 |
| Trading | 8 | Soaps, etc. | 1 |
| Food and Beverages | 8 | Restaurants | 1 |
| Computers | 4 | Paper | 1 |
| Telecommunications | 3 | Aerospace | 1 |

**Source: same as table 1**

The significant thing about Table 2 is that the composition of "globalised" production is comparatively narrow. Like other comment in the *Report*, it ignores implicity the vast importance of small business.

While the significance of individual giant firms in this group of globalised industries cannot be overestimated - for example electronics industry's largest firms accounted for 80% of global sales - the narrow range of products must be emphasised. It throws doubts on the claims by media, academics, vested interests and politicians that there is no more place for the nation state, because there is no more national production. This claim is credible only when small business is neglected and when workers are ignored as producers and are considered merely as "human resources" to be exploited by TNCs "in the interests of profitability" (e.g. see p.164 of *Report*).

## 2/ New Zealand's Position

The *Report* is a unique source of statistics showing direct foreign investment trends in most countries, including New Zealand.

Annex Table 1 shows the annual inflow of FDI (Foreign Direct Investment) into most countries. Because of the large number of countries shown, I have chosen only three countries in comparison with New Zealand: Australia (because of its similarity in economic and political structure), Canada (because of the similarity of its problems of takeover by non-Canadian powers and Argentina (another semi-colonial state hailed as a New Right success).

Population wise Argentina has almost nine times New Zealand's population, Canada eight times, and Australia six times. Yet Australia, for instance, has only less than five times New Zealand's FDI inflow (see tables 3, 4, and 5)

**Table 3**
**FDI inflow into New Zealand and other countries**

| | NZ | Australia | | Canada | | Argentina | |
|---|---|---|---|---|---|---|---|
| Average | $USm | $USm | NZ=100 | $USm | NZ=100 | $USm | NZ=100 |
| 1984-89 | 176 | 4306 | | 4718 | | 653 | |
| 1990-94 | 1894 | 8712 | 460 | 5236 | 276 | 3192 | 170 |
| 1995 | 2483 | 13094 | | 11182 | | 3900 | |
| Population | | | 626 | | 814 | | 986 |

**Source: *Investment Report 1996* Annex Table 1**

The foreign investment inflow into New Zealand for the years 1990-94 was (when compared with population size) higher than in the three other countries.

This rapid inflow is reflected in the foreign owned share of assets. Table 4 compares the total value of Foreign Direct investment with the other three countries:

**Table 4**
**FDI stock in New Zealand and other countries**

| | NZ | Australia | | Canada | | Argentina | |
|---|---|---|---|---|---|---|---|
| | $USm | $USm | NZ=100 | $USm | NZ=100 | $USm | NZ=100 |
| 1980 | 2363 | 13173 | 557 | 54165 | 2292 | 5344 | 226 |
| 1995 | 26322 | 104176 | 395 | 116788 | 443 | 26801 | 102 |
| Population | | | 626 | | 814 | | 986 |

**Source: *Report* Annex Table 3**

On a population basis it can be seen that New Zealand has a far higher foreign owned sector than the three other countries mentioned. (Possibly with the new Liberal Government Australia is keeping now in step with New Zealand's policy of alienation.)

In this context it is interesting to watch capital outflow from New Zealand, ranked as FDI in other countries. The only advantage such outflow might have for New Zealand is that the profit income from New Zealand investment abroad may reduce the drain on our balance of payments by FDI in New Zealand. This benefit is, however, neutralised in New Zealand's case by two factors: the largest capital exporters from New Zealand are themselves majority foreign owned - such as Fletchers, Brierleys, and Carter Holt Harvey. The profit receipts from their foreign investments were extremely low (see table 9). From a balance of payments point of view New Zealand capital exporters are, therefore, another burden - which must be financed by first borrowing capital from overseas and then sending it abroad, leaving New Zealand's international debt position one which deteriorated from about $NZ1 billion in 1974 to $NZ16 billion in 1984 and stands in 1997 at around $NZ80 billion.

Table 5 shows New Zealand capital exports:

**Table 5**

| | NZ | Australia | | Canada | | Argentina | |
|---|---|---|---|---|---|---|---|
| Average | $USm | $USm | NZ=100 | $USm | NZ=100 | $USm | NZ=100 |
| 1984-89 | 276 | 3338 | | 4664 | | 31 | |
| 1990-95 | 1002 | 2780 | 277 | 4900 | 490 | 6 | 0.6 |
| 1995 stock | 7542 | 41296 | 547 | 105606 | 1408 | 450 | 6 |

**New Zealand capital exports**

**Source: *Report* Annex tables 2 and 4**

It can be seen again that populationwise New Zealand is a leading capital exporter (as it is an importer) although it is a country with $NZ80 billion borrowed money.

Finally the *Report* gives most useful information as to the proportion of foreign as opposed to locally financed investment. Whether the export of capital from New Zealand is the reason that there is no other country that exceeds the proportion of foreign investment in total investment similarly, or whether there is absence of opportunity for New Zealanders to invest capital in New Zealand is not discussed in the *Report* - or in New Zealand, for that matter.

**Table 6**
**Share of inward and outward FDI to Gross Investment 1994**

| | |
|---|---|
| **NZ** | |
| inward | 36.4% |
| outward | 26.6 |
| **Australia** | |
| inward | 6.4 |
| outward | 8.5 |
| **Canada** | |
| inward | 5.9 |
| outward | 4.7 |
| **Argentina** | |
| inward | 9.6 |
| outward | 0.3 |

**Source: *Report* Annex Table 5**

While Table 6 describes the recolonisation of New Zealand in terms of the nearly one third volume of capital accumulation in this country belonging to non-residents, a similar picture is given when looking at the proportion of foreign investment assets as a proportion of the Gross Domestic Product (GDP)

**Table 7**
**Share of inward FDI stock in GDP 1980 and 1994**

| | 1980 | 1994 |
|---|---|---|
| New Zealand | 10.5 | 31.6 |
| Australia | 8.7 | 28.3 |
| Canada | 20.4 | 19.2 |
| Argentina | 6.9 | 8.1 |

**Source: *Report* Annex 6**

Looking at the New Zealand experience with foreign investment, the unreserved advocacy of this form of capitalist development must be met with great scepticism. A United Nations agency should certainly show the dangers as well as the advantages of TNCs' globalisation policies. But the report lacks scepticism. The question is, can any country afford to have a substantial part of the surpluses of businesses placed into foreign hands. One extraordinary part of the *Report's* approach to foreign investment (in parallel with the New Right fashions of the day) is to ignore the balance of payments of a country as an object of government control, regulation, and policies. Only non-inflationary monetary policies and policies directed towards low taxation and a balanced budget are acknowledged as important to continue the desired "globalisation".

The following table indicates that it is doubtful whether New Zealand can afford the uncontrolled inflow of foreign investment in terms of its capacity to pay profits and interest to overseas interests.

**Table 8**
**New Zealand Balance of Payments 1994 and 1995 in $NZ million**

| | | March Year 1995 | 1996 |
|---|---|---|---|
| | Exports of goods | 20,614 | 20,172 |
| + | Exports of services | 6,317 | 6,815 |
| | Foreign exchange earned | 26,931 | 26,987 |
| | Used for buying | 1995 | 1996 |
| | Imports of goods | 18,524 | 19,304 |
| | Service imports | 6,883 | 7,182 |
| | Foreign exchange needed for imports | 25,407 | 26,486 |
| | Trading surplus | 1,524 | 501 |
| less | Net payments on account of foreign investment | | |
| | - interest and profit | 6,219 | 6,289 |
| | Shortfall of earnings | 4,695 | 5,788 |
| | Compensated by immigrants' transfers etc | 1,811 | 2,462 |
| | Final negative balance | 2,884 | 3,326 |

**Source: Statistics New Zealand; *Hot off the Press, Balance of Payments 1995, 1996***

It is clear from Table 8 that New Zealand is unable to pay returns on foreign investment, but must borrow to make such payments. One wonders how long this type of economy can carry on.

Finally, there is another lack of analysis in the *Report*. "Outward" foreign investment may be of a different nature if it comes from a small peripheral debtor country such as from New Zealand than when it comes from the main foreign investors, such as USA, Britain, Japan, etc. The latter may be able to pick the currants out of the New Zealand cake - the most profitable businesses. On the other hand, New Zealand businesses when they buy out foreign businesses have not the same capital resources and power to make a really profitable investment. Table 9 shows the cash returns from foreign investment in the case of outward and inward New Zealand foreign investment.

**Table 9**
**Inward and Outward cash returns New Zealand foreign investment.**

| | Year ended March 1995 | 1996 |
|---|---|---|
| Cost to New Zealand of "foreign investment" | 7,387 | 7,630 |
| less re-invested earnings | 2,438 | 2,029 |
| foreign earnings remittable | 4,949 | 5,601 |
| Revenue from outward New Zealand foreign investment | 1,168 | 1,340 |
| less earnings re-invested abroad | 1,038 | 1,353 |
| income from abroad receivable | 130 | -13 |

**Sources: same as Table 8 above**

Bearing in mind that capital payments by New Zealand firms to buy foreign assets must be from borrowed foreign funds, it can be seen that, whereas foreign investment by TNCs in New Zealand is very profitable for them and enriches their country of origin, New Zealand foreign investment outward is a drain on the country's resources - which it can ill afford. We must conclude that the *Report* fails to demonstrate and to analyse all the

effects of foreign investment on the individual countries affected by the migration of footloose capital.

## 3/ The inapplicability of classical international trade theory

An important aspect of the *Report* under review is its demonstration of the inapplicability of the traditional theories of international trade under conditions of TNCism.

The theory of international trade taught as gospel truth assumes that

**(a) there** are nation states in which traders are firmly established to the extent that they will not export their "capital" Under TNCism the mobility of capital from the original country to another country - and then from that to any other country - is the pre-condition of foreign direct investment.

**(b) Based** on the immobility of capital, classical free trade economics assumes that there are "comparative costs" peculiar to each nation and that each individual national capital will export its product if it has a "comparative advantage" (within its borders) relative to the importing country. Under TNCism there is less and less purely national production. Giant TNCs distribute their inputs between various production units in different countries. This results in two developments which cannot be accounted for by the academic free trade theory.

(i) **an** ever-increasing volume of international trade becomes "intra-TNC trade". Intra-TNC trade is the transporting of one part of a TNC's product to another TNC affiliate within a different national unit, to be incorporated into a higher level of the production chain. One third of world trade is at present made up of such "intra-TNC" trade. Another one third of world trade is between TNCs (as, e.g. in the case of Ford, USA and Mazda, Japan) of a similar "non-commercial" nature.

Such trade is not "at arm's length", that means it is not based on the competitive standards assumed by textbooks from which politicians and media spokesmen distil their advocacies for free trade.

(ii) **The** next point is that production organised by transnational corporations can be "subsidised" or "taxed" by the particular TNC's headquarters without the knowledge of peripheral governments. In other words, "comparative cost" and "comparative advantage" are no longer matters which are, at least partly, national states' characteristics. It is private TNCs' power which decides whether or not a TNC affiliate in a country continues production, not "comparative national advantage".

One of the reasons for this "power" nature of international trade is that the activities of TNCs can be divided into two categories (see p. 123 of *Report*).

"The first category of TNC activities consists of 'headquarters' activities which involve engineering managerial and financial services, as well as services of reputation trademarks etc," which can be transferred at no cost even to distant production facilities. This set of activities is often simply indicated as research and development.

"The second category consists of the actual production process which can be further subdivided into upstream (intermediate goods) production and downstream (final goods) production."

The ever growing emphasis on "intellectual property" in international agreements on trade and FDI makes intellectual property an absolute legal monopoly. Since the false basis of free trade theory is perfect competition between international traders, the transfer (at whatever price) of "intellectual property" (R&D) from headquarters of TNCs in one company to affiliates in another makes nonsense of the proposition that in international trade both parties must always win.

The *Report* is important because it points out the inapplicability of international trade theory to the "globalised" world. In its theoretical conclusions, (p.125) the *Report* states:

"It can be argued that, because they are constrained by a simple two country general equilibrium framework, the international production and trade models....cannot significantly represent real TNCs' behaviour and empirical trade-FDI relationships."

When governments, media, and the powerful public relations organisations (like the Business Roundtable) of the TNCs advocate free trade, it is, therefore, blind people counselling their nations to follow unexplored paths to destinations unknown.

It is regrettable that a United Nations report in these circumstances seems to be uncritical of the TNC-globalisation trends which are so fully described. In fact, the *Report* seems to advocate the surrender of national governments to the profit interests of the few wealthy and super wealthy individuals who represent and/or own and manage TNCs:

"The priorities and objectives of governments and TNCs differ....One of the principal challenges faced by policy makers is to identify and implement policies that promote the objectives of government and which encourage (or at least do not inhibit) the pursuit by firms - the principal wealth creators - of their objectives: increased efficiency and competitiveness in the interests of profitability." (p.164)

There is no lengthy analysis of the effect of TNCs on reducing wage levels through competitive transference of production facilities to cheaper and cheaper labour markets. There is no analysis of the conflict of interest between the exploiters of resources for profit and the working people of countries which TNCs have occupied (for instance the Shell Corporation's role in Nigeria). On the contrary, because the *Report* and its authors live in a fantasy world of pure transnationalism they consider it their task to lay the groundwork for a legal transformation of the world. International investment agreements are advocated as the solution of the world's problems.

"While the objectives of governments are more complex than those of firms... the overarching government objective of economic growth and development constitutes the nexus of governments' and firms' interests and objectives." (p.164)

To allow free entry to all, not only a selected group of foreign investors into a country is the policy which the report advocates. This universal ability of TNCs to invade countries is called "contestability" - a modern word replacing the old fashioned term "competition".

"For instance policies that limit participation in real estate markets, or restrict visas, or restrict grants of government

*(cont'd on p. 60)*

# FIRST EVER ROGER AWARD FOR WORST TRANSNATIONAL CORPORATION IN NZ IN 1997

CAFCA has joined forces with fellow Christchurch based groups GATT Watchdog and Corso to organise the first ever Roger Award. The "winner" will be adjudged the Worst Transnational Corporation in New Zealand in 1997. The lucky winner will be announced in Christchurch at Taking Control, a major conference on the fightback against transnational corporate power, in early 1998. Whilst common overseas, this is the first such award in New Zealand. It's long overdue. The only problem faced by the judges will in picking the worst out of such a richly talented field.

Transnational corporations now dominate all aspects of the New Zealand economy, and New Zealand life in general. We could think of nobody more appropriate than Sir Roger Douglas when it came to naming the award - he has toiled heroically to make New Zealand safe for plutocracy.

There is a serious side to this. From politicians of all stripes, "experts" and the media (itself owned by a handful of transnational corporations) the public is constantly bombarded with the corporate agenda. Namely, that what is Good For Big Business is Good For New Zealand. We say that it ain't necessarily so, and intend to hold an unflattering mirror up to the ugly face of Big Business.

Nominations are sought from our members and the public. The criteria for judging are by assessing the transnational that has the most negative impact in each or all of the following fields: *unemployment, monopoly, profiteering, abuse of workers/conditions, political interference, environmental damage, cultural imperialism, impact on tangata whenua, running an ideological crusade, impact on women.*

Nominations close on October 31, 1997 and can be sent to: The Roger Award, Box 2258, Christchurch. They can be faxed to either (03) 3663988 or (03) 3668035. E-mail: cafca@chch.planet.org.nz *or* corso@corso.ch.planet.gen.nz

**The judges are: Sukhi Turner, Mayor of Dunedin; Professor Jane Kelsey, author of "The New Zealand Experiment"; Annette Sykes, Ngati Pikiao, Treaty activist; and Chris Wheeler, editor of "Soil and Health".**

We want as many nominations in as possible. Some members have told us we are expecting too much of them, in terms of research, etc. Obviously we haven't explained it clearly enough. Remember - you don't have to do the research, nor do you have to be knowledgeable about how your nominee shapes up in each of the above categories. Just fill in the nomination form (one has been included with this issue of *Watchdog*) and say why you think that TNC is the worst in NZ in 1997. It is the judges who will apply the criteria and make the choice.

Good luck to all the nervous contestants. And may the worst man win.

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*(Review, cont'd from p 59)*

R&D contracts on the basis of the nationality of ownership of firms, inhibit the contestability of factor markets, respectively in land, labour, and technology". (p.164)

Finally the *Report* includes in fact every government activity in the duty to serve the profitability of TNCs: "Policy coherence relates to the level of consistency between government objectives and policies across a broad spectrum of issues including fiscal and monetary policies. A high level of policy coherence is desirable." (p.164)

As there are constant reassurances by politicians to the people who constitute the nation that "free trade is no danger to you, because we will always maintain our sovereignty", the report emphasises that "a global economy requires a global policy framework, including a set of rules that is consistent for trade and investment issues." (P.166) It is emphasised in the *Report* that the international investment norms which are advocated "may limit state action; they may even prohibit some government measures. Other states may then be entitled to treat such measures as violations of international legal obligations." (p.171)

Giving a detailed description of all the many investment agreements that have already been concluded the *Report* is not satisfied with their multiplicity. It is looking forward towards a multilateral agreement on foreign direct investment; towards a much more complete surrender of national sovereignty to such TNC organs as the World Trade Organisation than exists already.

# OVERSEAS MEMBERSHIP TO COST $NZ25

We have received very favourable feedback on the new look *Watchdog*. But that comes at a price - higher printing and postage costs. The good news is that there will be no increase in the $15 annual membership for CAFCA members within New Zealand.

But *Watchdog's* overseas postage bill has increased by several hundred percent. To recoup some of that, overseas membership of CAFCA has been increased to $NZ25, the first time there has been a two tiered membership rate. This only affects a handful of people - most of our overseas arrangements are exchange deals with other publications. We are confident that our paying overseas members will agree that, even at the new rate, they get value for money.