



## **Global environmental politics, regulation to the benefit or against the private sector? The negotiations of the Cartagena Protocol on Biosafety<sup>1</sup>**

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*The study of the influence of business actors in global environmental governance has been mainly dominated by Neo-Gramscian scholars using a structuralist approach to account for private sector's influence in the environmental realm. On the contrary, this paper aims at giving a pluralist contribution to the same field while developing the example of the Cartagena Protocol on Biosafety, an international regime regulating the transboundary movements of genetically modified organisms. The theoretical framework is based on a multi-level governance analysis underlying three elements that have been neglected by former studies. These three elements are (i) the unity of the private sector, (ii) the network capacities of industrial actors, and (iii) the specificity of environmental negotiations. From a methodological point of view the study relies on some fieldwork conducted at the last CBD-biosafety meeting as well as archived material on the negotiations. The paper progressively looks at the different business groupings involved in the negotiation process; analyses the lobby strategies of the private sector, particularly their links with national governments; and questions to which extent these actions fit into global environmental policy-making. Using a pluralist approach allows to raise new questions which are the ability of firms to act as a unified political actor; the nature of their links with national governments, usually described thanks to a 'competition state' scenario; and the complex dynamics of international environmental negotiations.*

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## List of acronyms

<b>AIA</b>	Advanced Informed Agreement
<b>BIO</b>	Bio-Industry Organisation
<b>BSWG</b>	Biosafety Working Group
<b>CBD</b>	Convention on Biodiversity
<b>COP x</b>	Conference of the Parties number x
<b>EU</b>	European Union
<b>ExCOP</b>	Extraordinary Conference of the Parties
<b>GIBIP</b>	Global Initiative for a Platform on Biotechnology
<b>GIC</b>	Global Industry Coalition
<b>GMO</b>	Genetically Modified Organism
<b>LMO</b>	Living Modified Organism
<b>LMO-FFP</b>	Living Modified Organism for Food or Feed or for Processing
<b>NGO</b>	Non Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PIC</b>	Prior Informed Consent
<b>UNEP</b>	United Nations Program for Environment
<b>US</b>	United States
<b>WTO</b>	World Trade Organisation

## **Introduction**

The Cartagena protocol on biosafety, negotiated under the Convention on Biodiversity is a unique legal agreement dealing with the trans-boundary movement of LMOs<sup>3</sup>. Its development has been the subject of contradictory analyses in international relations. After the negotiation process, in 2000, several observers hypothesised the future collapse of a protocol severely weakened by the attitude of the Miami Group, a coalition of LMO exporter countries led by the US, and the biotechnology industry (Samper, 2002). Recent studies on the implementation of the protocol stress the success of the agreement in spite of its non ratification by the United States (Falkner, 2007).

Dominant approaches on business influence in global environmental governance, particularly the Neo-Gramscian school (Levy and Newell, 2005), suggest that the structural power of businesses allows corporate actors to shape the outcomes of environmental negotiations and regimes. The assumptions of such theories are based on a structuralist world-view where abstract forces of technology and global systems such as capitalism and trade liberalisation, strongly linked to business interests, are shaping global politics. In contrast to the Neo-Gramscian School, this paper seeks to reflect on the limits of business' influence in the negotiation process of a binding agreement regulating the risks of LMOs – the Cartagena protocol - by focusing on the construction of the international politics of biosafety. These politics are characterised by the agency of specific actors continuously advocating their interests and contesting their opponents. From this perspective, global environmental governance is no more determined by and embedded in broader political economy systems but constantly reshaped in a pluralist negotiation process. Negotiation

dynamics and actors' interactions are central to this alternative understanding of global corporate power<sup>4</sup>.

Three elements of a multi-level governance framework support the argument, namely (i) the question of the unity of the private sector developed by the 'business conflict school' emphasising on the possible fragmentation of the business community (Falkner, 2001); (ii) the network capacities of industrial actors in global environmental governance and (iii) the specificity of environmental negotiations (Chasek, 2001). The study therefore looks at the different business groups involved in the negotiation process, it analyses the lobby strategies of the private sector and how lobbying is linked to the processes and outcomes of global environmental policy-making. The analysis seeks to show how the complex dynamics of business influence in the negotiation process have created some political space for an international regime to emerge and regulate business biosafety activities<sup>5</sup>.

These three elements are crucial to understanding business influence at all stages of the negotiation process. This is why the adoption of the Cartagena protocol is described following the three stages of the negotiations: the agenda setting, the politicisation of the negotiations and the final agreement and outcome. The first part deals with the emergence of the Cartagena protocol in an international environment contesting the benefits of biotechnology and discusses the lack of interest business actors initially expressed towards this development. The second and third sections question the network's capabilities in terms of internal organisation and lobby efforts of business actors during the politicisation of the biosafety debate. Finally, the fourth part explains to what extent business actors were able to shape the final adoption of the Cartagena protocol.

### **Agenda setting: where are business organisations?**

The debates over the Cartagena protocol already initiated during the negotiations of the CBD which ended in 1992 with the adoption of the treaty. In article 19.3, the CBD states that 'the parties shall consider the need for and modalities of a protocol setting out appropriate procedures [...] in the safe transfer, handling and use of any LMOs resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity' (CBD, 1992: article 19.3)

This article was pushed on the CBD agenda by the government of Malaysia, which, as early as 1991, proposed some international measures to deal with the issue of biosafety within the text of the convention (Arts, 1998: 198). During COP1, developing countries<sup>6</sup> were determined to open international negotiations for a protocol on biosafety. They had to wait, however, until the COP2 meeting in Jakarta to see their efforts rewarded by the adoption of a mandate to negotiate the protocol. The unanimous conclusions advanced by UNEP and the demands of the developing countries induced the EU to open some negotiations over an agreement on biosafety and, along with the developing countries group, to propose a text for the negotiation's mandate. Several countries, such as the United States, Japan, Canada and New Zealand which were already developing biotechnology industries were sceptical about these developments but preferred not to express their views too strongly (La Vina, 2002: 38).

The developing countries' push to put the issue of biosafety on the CBD agenda can be explained by the reference to a wider historical and political context. It was at the beginning of the 1990s that GMOs were being developed and commercialised in OECD countries. Developing countries had no previous experience of this kind of product. In addition to their lack of expertise on GMO technology, their respective

climates and rich biodiversity seemed to expose them to greater risks in case of accidental or deliberate contamination of the environment. This prospect was even more worrying in the absence of national regulatory frameworks dealing with biosafety and the lack of financial means to deal with the associated risks (Egziaber, 2003).

The biosafety debate in the developing countries was also linked to previous negotiations such as the 'Basel Convention on the Control of Trans-boundary Movement of Hazardous Wastes' and the 'Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade'. Both treaties address the issue of hazardous substances 'dumping' in developing countries and shaped their cautious attitude towards a potential similar case with GMOs (Steffenhagen, 2001: 37).

Finally, the fears of becoming the test field for biotechnology products promoted by northern transnational corporations were compounded by the bad experiences they had been through after the 1960s Green Revolution, the negative side-effects of which were not only environmental but also socio-economic. The even 'greener revolution' announced with the development and export of biotechnologies was even more dreaded as, this time, it seemed to be orchestrated by private companies and not public agencies (Shiva, 1991). Thus, the issues raised by developing countries were directly linked to concerns about business activities. Considering the problem of GMO in the same frame as the Basel Convention meant considering GMOs developed and commercialised by biotechnology and seed companies as potentially dangerous products. The green revolution 'problems' were also directly connected with intellectual property rights issues and the concentration of corporate power. As a

whole, the protocol could serve to promote the precautionary principle as a new principle for trade and question existing WTO agreements.

Industry representatives were nearly absent during the agenda-setting phase of the Cartagena protocol. This fact was confirmed by many interviewees as well as academic studies; very few business representatives were present during the initial discussions as testified by Laura M. Reifschneider, the only private sector representative to have attended the protocol meetings from the negotiation of the mandate in 1995 to the adoption of the agreement. She remembers about the private sector's state of organisation in 1995, 'a handful of individuals showed up [...] It quickly became obvious that the self-selected assembly of people gathered under the banner of the 'private sector' had little in common and, moreover, did not begin to represent the range of potentially interested parties' (Reifschneider, 2002: 273).

There might be several explanations for the low level of business involvement at the beginning of the negotiations. First of all very few business representatives knew about the CBD and its workings. Few industry members could moreover believe that the protocol would know such a development, nor did government representatives (Reifschneider, 2002: 273). Finally, at the time, business representatives were quite close to their own government's representatives and did not see any real need to intervene as was the case for the German industry (Steffenhagen, 2001: 43). If agenda-setting was dominated by the developing countries' concerns, the negotiation developed over time and came to address a growing number of issues during six BSWG meetings. The issues discussed included the scope of the protocol, the question of the AIA procedure<sup>7</sup> and the relationship between the CBD and international commercial agreements. The paper will turn now to the question of how business interests were structured on these issues.

**Politicisation of the debates; the creation of the GIC and its alliance with the Miami Group: proof or denial of business abilities?**

At the beginning of the negotiation process industry representatives were organised in regional associations such as BIOTECCanada for Canada, the GIBIP and EuropaBio for Europe, and BIO for the United States of America. Differences among these groups were significant and sensitive and reflected the types of industrial sectors represented and the origin of the firms (Tapper, 2002: 271). Confirming the fragmentation of business interests along the supply chain, biotechnology industries were initially opposed to any sort of negotiation or keen on developing voluntary international guidelines, while other companies, in particular the grain traders, were more sensitive to consumers' pressure and expressed interest in segregation and labelling solutions (Dufault, 2006: 141). The initial regulatory systems in place in the United States and the European Union were another factor of division among a potential business community, the first one considering a product-based approach recognising substantial equivalence between GM and non GM products; the second one advocating a process-based approach linked to the precautionary principle. Differences among business actors along these two systems reinforced the broader hypothesis of firms generally advocating for their national regulation systems as a policy option.

With the development of a future protocol text in 1998, the private sector managed however to launch a strong international initiative under the auspices of the Global Industry Coalition. From then on the GIC representing 'over 2,200 firms in 130 countries worldwide' (Global Industry Coalition, 1999) produced common statements for a large number of industry associations and grasped the microphone during

plenary sessions to voice the collective interests of the business sector. During the negotiations of the protocol the GIC soon became the most visible business association. Its general aim was to insure a 'workable' and 'realistic' protocol dealing only with the conservation of biodiversity. The GIC consequently recognised the need for an AIA procedure for LMOs destined for direct introduction into the environment but did not want any other category of LMO to be subjected to the same process. They insisted that the protocol should not be a barrier to trade, innovation and research activities, so that all countries would be able to benefit from biotechnologies.

Some of the reasons for the private sector to organise under the same banner are rooted in the context of the negotiations. The creation of the GIC was a response to the global increase of participants in the negotiation process. Being organised as a group is indeed a way to ensure that people are more aware of industry's needs and give more attention to industry's discourses<sup>8</sup>. Moreover, the increase in the number of participants pointed to the movement towards the adoption of a more binding agreement. More and more participants became aware of the importance of the protocol negotiations and that was also the case for industry representatives. Some of them, particularly the European groups, might have also been worried by this development as they initially believed the adoption of international guidelines to be sufficient.

Another series of reasons stemmed from the US and Canadian industry groups' growing concern and the pressure they exerted on other private sector members to create the GIC. In this respect it is interesting to note that a European industry group, the GIBIP, disappeared at about the same time the GIC was formed because of pressures exerted by American companies. The GIC developed a stronger lobbying approach whereas the GIBIP was an organisation mainly oriented towards dialogue

and information sharing<sup>9</sup>. At the time, the US and Canadian firms, organised in a group chaired by BIO, were particularly worried about the possible resistance in the EU to the acceptance of biotechnology and began to organise coordinated action. North American lobbying subsequently intensified and one European delegate confirmed being approached mainly by American and Canadian companies during the negotiations of the protocol (Steffenhagen, 2001: 43). Several interviews stated that the GIC in itself is a networking effort steered by a few representatives of the North American private sector.

Another noteworthy development contemporary to the creation of the GIC was the creation of a new negotiation group opposed to the protocol. After first rejecting the invitation from the US to elaborate a common negotiation position in 1996, Canada eventually accepted in 1998 to take part to the creation of the 'Miami Group', a coalition representing the interests of GMO exporter countries<sup>10</sup>. These delegations argued that the discussions then ignored the realities of world trade in LMOs. Initially opposing the adoption of the protocol, they then tried to narrow its scope as much as possible, insisting on the importance of national regulations. Their main concern has been the link between the protocol and international commercial law for which they supported the adoption of a 'safeguard clause' to ensure that the protocol would not take precedence over existing trade agreements but on the contrary would be subordinated to them (Andrée, 2005: 157).

Several authors, mainly from the Neo-Gramscian school, point that the link between the GIC and the Miami group is far from coincidental (Andrée, 2005: 157). There are indeed a lot of apparent links between the GIC and the Miami group, starting with the fact that their positions are quite similar. Several participants and

authors also note that there are several 'revolving doors' between the GIC and government circles, a process that strengthens personal connections. Moreover BIOTECanada, which was behind the creation of the GIC, received over 6 million Canadian dollars from the Canadian Government between 1994 and 1999. Canadian representatives even sent experts from BIOTECanada in developing countries to convince them of the wisdom of the Canadian government's approach (Andrée, 2005: 156).

The concept of 'biotech bloc', used by Peter Andrée to qualify this new coalition, spearheaded by a handful of agrichemical corporations and which involves also promotional and regulatory arms of government as well as civil society institutions such as universities, seems to aptly describe the emergence of the GIC and Miami group. These two groups share a similar vision of genetic engineering in agriculture, and defend neo-liberal arguments for free trade. The biotec bloc notion suggests that industry's interests were sold as the national interest and that industry succeeded to influence government's policies. However, in the case of the Biosafety negotiation the concept of 'competition state' (Newell and Glover, 2003: 3) might better describe the shift of power between GIC firms and North American governments that took place during the negotiations. According to this concept, national governments themselves perceive as one of their primary responsibilities to support an enabling policy and a lax regulatory environment to attract or retain private investment in the relevant sectors. From this perspective, states are defending their own economic interests that take precedence over more stringent regulations, using business discourses to justify their radical positions.

The use of the competition state approach in the biosafety case is justified by problems pertaining to the amalgamation and representation of private interests. It is

questionable whether the creation of the GIC and its links with Miami Group's member governments reflect all business interests properly. First of all, as we have already seen, the GIC is far from representing all business interests. It is mainly a group led by North American companies. Industries that were represented initially came from the beginning of the supply chain -the biotechnology sector-, and other sectors complained about their attitude as was the case for the Canadian seed companies (Dufault, 2006: 140).

Secondly, two recent studies of the protocol seem to question the link between the American delegation and its industries on the one hand and the Canadian government and industry on the other hand. In his study of the biotech bloc formation, especially in the US, Andrée notes that government decisions were sometimes more radical than those of the industry representatives. Two big biotech companies, Monsanto and Calgene asked for government regulation while government officials from the Reagan administration refused, arguing that the larger biotech companies only wanted regulation to exclude from the market smaller competitors (Andrée, 2005: 141).

This is also the case in the study conducted by Evelyne Dufault, who analyses the position of Canada during the negotiations of the Protocol on Biosafety and explains how Canadian industries were initially rather favourable to the adoption of the protocol. Biotechnology firms believed that an international mechanism for the marketing of GMO would be beneficial to the sector; and the seed traders feared the consumers' concerns. However, Dufault shows trade representatives got involved in the Canadian delegation and developed more radical views than business representatives, being worried about the biotechnology sector, Canadian export as well as patents. For example, the position of the Canadian seed traders was initially

to recognise that they were not able to segregate modified cereals from non-modified ones in their shipments. However, they offered to determine a threshold and establish a labelling system indicating that the products were tested in Canada and satisfied Canadian regulatory requirements. Government representatives rejected this proposal since the Canadian government would have been legally responsible for any damage caused by the GMOs. The only line of argument they retained and used towards other delegations was that segregation was not feasible from the industry viewpoint (Dufault, 2006: 139).

In the name of market freedom, states are able to reach decisions against private actor's will. Quoting one representative from an NGO, Dufault concludes that the Canadian biotechnology industry is the « creature » of the government (Dufault, 2006: 147). The politicisation of the biosafety debate led to the overcoming of business fragmentations along the supply chain and regulatory systems. The GIC, representing the strongest anti-protocol interests among business representatives took the lead in representing the private sector during the negotiations. The radicalisation of the private sector representation was parallel to the development of strong 'competition state' attitudes by the governments of the US and Canada.

### **The limits of the influence of the GIC over other negotiating groups**

This section poses the question of the possible 'contamination' and dissemination of GIC positions to other negotiating groups that took part in the creation of the protocol, namely the EU; the Like-minded Group and the Compromise Group<sup>11</sup>. There was initially no EU-wide consensus on a future protocol as the EU member states had their initial positions tightly defined by their national interests. Consequently, some countries such as Germany initially recorded strong internal

pressures from industry and scientific communities towards a weak protocol (Steffenhagen, 2001: 45). However, these governments' positions evolved and aligned themselves with a common European stance supporting binding regulations. Given the rise of public awareness and concern about the scientific uncertainties of GMOs, some member states even imposed national bans on GMOs which led to the *de facto Moratorium* of 1998.

In this tense context, the first meeting between the EU and industrial groups – under the banner of the former group led by BIO - was a complete 'fiasco' with both sides unprepared and waiting for the other to express their views (Reifschneider, 2002: 275). The creation of the GIC did not however improve communication with the EU. During the Cartagena meeting, talks between the EU and the GIC resulted in EU members leaving the room because industries' representatives used the 'American way of doing things' which did not work well with the European delegation. The idea that business did not adapt to the European way of dealing with biosafety issues has been presented as the major problem of the GIC<sup>12</sup>.

As mentioned previously, developing countries have been crucial actors in the negotiations. First of all they placed the issue of biosafety on the agenda, furthermore during the whole negotiation process they presented a common voice for a large number of countries and defended strong positions. One distinctive aspect about the Like-minded group is that they are considered to have a strong voice but are also often described as weak and ideal victims of powerful actors and discourses. Developing countries, in fact, usually lack financial resources and are also depending on external knowledge providers. Lobbying and leverage is one aspect the GIC tried to use from the beginning of the negotiations, trying to improve the level of knowledge sharing between industries and developing countries it organised

meetings, workshops and cocktail receptions<sup>13</sup>. Another strategy was also to publicly express disappointment regarding the reluctance of developing countries to accept GMOs, when they should be the first to benefit from the advantages of biotechnologies.

Their actions did however have little influence on the targeted countries. Mainly, industries regretted the difference between the friendly positions developing countries communicated in private meetings with industries and the reality of their interventions in public arenas, often against the interests of the GIC. In the end of the negotiations, developing countries even refused to meet the coalition. From a GIC member's point of view, this could be explained by the pressures exerted by NGO activists and the diversion of the debate towards political issues (Reifschneider, 2002: 276). In reality, it is likely that developing countries, given their initial hostile position and their lack of resources compared to the private sector's representatives, tried to protect themselves. Moreover, the members of several developing countries' delegations came from environmental ministries and reported attempts by some industry's representatives to question their activities<sup>14</sup>. This provided developing countries with good reasons for not listening to the GIC's discourses over biosafety.

Few cases of interactions between industries and the Compromise Group have been reported. This might be explained by the fact that even if this group had a very strategic role during the negotiations, by proposing compromise texts to bridge the gap between the European, the Miami Group and the developing countries respective positions, the lack of substantive position within the group made it a difficult lobbying target. Influence of business outside the Miami group is consequently nearly inexistent. The actions taken by the GIC seemed to widen the

fracture between the industries' coalition and the other negotiation groups and only the already converted were opened to their requests<sup>15</sup>.

### **The isolation of the Miami group position**

If the GIC did not have great influence on most negotiation groups, it still had a possibility of getting its voice heard through the Miami Group's positions. However, this group was more and more isolated during the negotiations. This isolation started right at the beginning of the negotiations with the question of the definition of terms that would be used in the protocol's text, like GMO –see introduction- or AIA. Another question of vocabulary raised by the United States has been their wish to see reference to the AIA procedure instead of the initial PIC –Prior Informed Consent-. In this way, they wanted to avoid the reference to the historical background linked to the wording PIC produced for the Basel conference. The AIA wording was accepted but, in practice, there were again very few differences. These shifts in vocabulary can be seen as strategic attempts to move the discussion towards American's perceptions of the issue. In the end, however, they had very few consequences besides having raised other negotiators' awareness on several issues, which would not have been so politicised if the Americans had remained quiet.

The isolation of the Miami group was at its peak with the failure to reach an agreement at the Extraordinary meeting of the COP at Cartagena in February 1999. Before this meeting, the hard-line followed by the Miami Group, and the pressures it tried to exert on other countries' delegations were not really appreciated. This is exemplified by several acrimonious meetings between the US and developing countries (Nevill, 2002 : 146-154). In general, the US was quite in an oppositional

stance. As the chair of the BSWG meetings, Veit Koester, testifies about the countries' negotiation positions '[...] with regard to some issues there were only two sides, -the one represented by the US (and a few other governments) and all the remaining countries on the other' (Koester, 2003: 9).

These conflicts were expressed strongly during the last negotiation meetings. During BSWG5, the future text of the protocol still had approximately 450 brackets<sup>16</sup>. Facing this obvious difficulty to reach an agreement, the chair proposed his own text to the negotiators, explaining that it was not modifiable by parties, other than by consensus. Initially, this move was not well perceived by the negotiators but after intense discussions and numerous concessions to the Miami Group, the EU and the Like-minded Group decided to present a compromise text, inspired by the chair's text and to be adopted by the ExCop. As a general surprise, even if a lot of its demands had been included in the text, the Miami Group refused the agreement. The issue of the trade in LMOS and the safeguard clause made impossible a compromise (Lim li, 1999: 3).

This failure was followed by a stronger attempt by the Miami Group to undermine the negotiations of the biosafety protocol, that is to say the United States attempted to establish a Working Group on Biotechnology at the WTO meeting in Seattle. This attempt however failed with five EU environment ministers, supported by trade ministers, producing strong statements against the American initiative. They stated that the CBD was the only adequate forum for international negotiations on biosafety, and not the WTO. This clash also stirred up strong civil society protests and demands for transparency in international negotiations.

After the failure in Cartagena and the Seattle meeting the need to conclude an agreement was sensitive. All the previous events created a 'domino effect' where all

players started to push for the adoption of the international agreement (Mayr, 2003: 11). This explains why during the final negotiations, in front of more than 750 participants representing 133 governments, NGO, industries and scientists, and following strong discussions regarding the scope of the protocol and the documentation issue, the Miami Group had to give up and Canada stated publicly, in the name of the Miami Group, its support for the protocol<sup>17</sup>. As Andrée reports, 'At the final negotiation session, the Miami Group was forced to concede on a number of key points in the final hours of negotiation, rather than be seen to be unwilling to accept global consensus on GMO regulation' (Andrée, 2005: 157).

## **Conclusion**

Business was not present for the agenda setting of the Cartagena protocol on biosafety. Instead they waited for the development and the politicisation of the negotiations to get organised under the banner of the GIC, a mildly radical industry group led by US and Canadian companies. The links the GIC developed with the Miami Group countries seemed to fit the concept of 'competition state', where state interests adopt industry protection as the most important value to preserve, regardless of business diversity along multiple interests. This finding undermines the concept of 'biotech bloc' previously developed by Neo-Gramscian scholars to underline a strong correlation between a unified international business community and key pro-trade governments. The 'investment' in the GIC did not have a real impact on other negotiating groups' positions and its allies failed in stopping the process.

In relation to the hypothesis presented in the introduction, the study helps to shed some light on new aspects of business abilities to influence environmental processes.

First of all, if business interests are often considered united, the GIC was far from being a united front that could easily influence the negotiations. Representation according to the supply chain, national origins and lobbying styles are also an issue among private actors and the links with the Miami group do not reflect all opinions in the industry. Another important conclusion relates to the conditions under which business actors are able to get their voice heard by governments. During the negotiations, they convinced the people already converted and the governments interested in trade issues. From this perspective, the network capabilities and legitimacy of business actors were limited. The aggressive lobby strategy of the GIC was also a limiting factor. All these limits led to some difficulties for business to influence a process based on consensus during which nearly all the participants agreed for the adoption of the Cartagena protocol.

This paper offers a pluralist contribution to the understanding of the negotiations of the Cartagena Protocol. However, more comparative studies on other topics and stages of global environmental governance will be needed to assess to what extent the case of the negotiations of the biosafety protocol represents a substantive failure of private actors to influence international environmental regulations or merely a symbolic one.

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<sup>1</sup> The Author would like to thank Prof. Daniel Compagnon -Sciencespo Bordeaux-, Prof. Peter Newell -Warwick University-, and the participants to the Postgraduate Conference of the Centre for International Politics of the University of Manchester, 19<sup>th</sup> January 2007 on 'World Orders and Global Governance: New Perspectives and Challenges' for useful comments on earlier versions of the text. Fieldwork conducted for this study has been financed by Sciencespo Bordeaux as well as the EU Marie Curie training site on 'Multilevel Governance, Security and Sustainability', EVG3-CT-2002-57002, of Keele University.

<sup>2</sup> The Author would like to thank Prof. Daniel Compagnon -Sciencespo Bordeaux-, Prof. Peter Newell -Warwick University-, and the participants to the Postgraduate Conference of the Centre for International Politics of the University of Manchester, 19<sup>th</sup> January 2007 on 'World Orders and Global Governance: New Perspectives and Challenges' for useful comments on earlier versions of the text. Fieldwork conducted for this study has been financed by Sciencespo Bordeaux as well as the EU Marie Curie training site on 'Multilevel Governance, Security and Sustainability', EVG3-CT-2002-57002, of Keele University.

<sup>3</sup> The United States wanted the protocol to deal with LMOs not GMOs, putting this way the emphasis on the common characteristics between GM products and traditional products (Gupta, 1999: 5). The American proposal was finally accepted. However, several parties explained they understood this expression as equivalent to the one of GMO. This is the stance followed in the paper.

<sup>4</sup> The aim of the study is to shed some new lights on the question of corporate influence in global environmental governance by developing a new understanding of corporate power. It does not necessarily mean that both approaches – the Neo-Gramscian one and the one adopted here - are contradictory but instead aims at demonstrating that, depending on the cases, both insights are needed to understand the overall political importance of business actors on the international scene. Neo-Gramscian scholars often point at the hegemony of business power at the international level; this study would like to challenge the monopoly of the Neo-Gramscian explanation to global environmental governance.

<sup>5</sup> Concerning the methodology, the study has been constructed on some fieldwork conducted at the last CBD-biosafety meetings as well as international literature and archival material on the negotiation period.

<sup>6</sup> While a vast majority of countries in the group –most African countries, key Asian states like India and Malaysia, and some Latin American parties such as Colombia and Peru supported a strong protocol, Brazil, Argentina and South Korea wanted a more limited agreement (La Vina, 2002: 35). In this section, the arguments developed in the name of ‘developing countries’ refer more to the first half of the G77 group.

<sup>7</sup> The Advanced Informed Agreement procedure specifies that the exporter should notify its willingness to export LMOs to the importer who takes the final decision. It is based on the precautionary principle and places the burden of the proof on the exporter country.

<sup>8</sup> Non-state actors can register as observers to international negotiations. This statute allows them to be present during the discussions and make statements at the beginning of negotiations sessions and to distribute material outside the negotiation room.

<sup>9</sup> Interview with industry representative, 24/03/2006.

<sup>10</sup> The Miami group members included Argentina, Chile, Australia, Uruguay, Canada and the United States. New Zealand, Brazil and Thailand were initially invited to the Miami group meetings but declined the invitation.

<sup>11</sup> The Like-minded Group represents the majority of developing countries. The Compromise Group comprises Japan, Mexico, Norway, the Republic of Korea and Switzerland, joined later by New Zealand and Singapore.

<sup>12</sup> Interview with a former European delegate, 29/03/2006. This argument, neglected by former approaches to private actors influence is linked to the lobbying style literature, which has been developed at the European level but neglected at the international one. For a recent contribution on the topic see (Coen, 2005).

<sup>13</sup> See for example the initiative by BIOTEC Canada cited above.

<sup>14</sup> Interview with a developing country delegate, 29/03/2006. Information confirmed by an NGO representative, 23/03/2006.

<sup>15</sup> This has been explained by external factors here but internal explanations interfered as well as explains Laura M. Reifschneider ‘I am certain that most participants would describe the negotiating process as imperfect and that most groups, whether government, NGO or industry, struggled from time to time in trying to maintain internal consensus and external effectiveness’ (Reifschneider, 2002: 276-277).

<sup>16</sup> During the discussions, negotiators try to elaborate a text for the protocol, putting brackets any time the wording under bracket does not represent a consensus among all parties.

<sup>17</sup> The final agreement states that the protocol will apply to the movement, transit, manipulation and use of all GMOs. The AIA procedure applies for all LMOs destined for direct use in the environment and a special documentation is required for LMO-FFP. The accord recognises the importance of trade agreements but states that these should not have precedence on the protocol. It also adopts the precautionary principle. The protocol puts in place an international information exchange forum where all decisions about LMO importation or marketing should be posted. If the narrow scope of the AIA procedure reflects the demands of the Miami Group countries, all other major points were clearly in opposition to the group’s positions.

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