

## RESPONSE

### Comment on *A Framework Convention for Nanotechnology?*

by Brent Blackwelder

Given the fact that nano particles are in more than 600 consumer products and that most recently, nano particles are being put in food, food packaging, and agricultural chemicals,<sup>1</sup> Friends of the Earth believes it essential that a moratorium be immediately instituted in the United States and worldwide to stop this practice until some appropriate regulatory regime can be put in place. As the world's largest reinsurance company, Swiss Re, noted in its seminal report on nanotechnology, industrialized nations had learned little 100 years after the dangers of asbestos were known.<sup>2</sup> Swiss Re branded nanotechnology as uninsurable under the current mad scramble to develop consumer applications.<sup>3</sup>

Together, the proliferation of consumer products with nano materials and the lack of labeling mean the destruction of any control group in the United States. Just as with unlabeled genetically engineered foods, it is not possible to know with any food illness or allergy whether genetically engineered ingredients were contributing. So now with nano particles, it will generally not be possible to tell who has consumed nano particles or been exposed to them in their home. Thus, any illness could not be ascribed to such nano material.

On March 11, 2008, Friends of the Earth released its report on nano particles in food, entitled *Out of the Laboratory and On to Our Plates: Nanotechnology in Food and Agriculture*.<sup>4</sup> The report found nano materials in popular prod-

ucts and packaging including Miller Lite Beer, Cadbury Chocolate packaging, and Toddler Health, a nutritional drink powder for infants sold extensively at health food stores, including Whole Foods.<sup>5</sup>

With this background, Friends of the Earth views the discussion of international framework and treaties useful, but something that could take too long a time when we need immediate action. It is incumbent on the United States to place a moratorium and to begin domestic regulation while at the same time encouraging other key nations to do the same.

The recitation of treaties and framework conventions on paper should not obscure the fact that the climate frameworks, unlike the Montreal Protocol on Substances That Deplete the Ozone Layer,<sup>6</sup> have not worked. The United Nations Framework Convention on Climate Change<sup>7</sup> leading to the Kyoto Protocol,<sup>8</sup> which instituted mandatory emissions reductions for industrialized countries by 2008-2012, did not produce the essential reductions needed more rapidly. We have lost a crucial decade and a half.

Of the various international agreements, the Montreal Protocol seems to be the exception rather than the rule in getting speedy results. Thus, while Friends of the Earth has been active in the negotiations of many global environmental agreements, frameworks, and the like, we are very concerned that nanotechnology is spiraling out of control and that we won't be able to get a framework with the traction and results of a Montreal Protocol. While we can all hope that developments in nanotechnology turn out benignly without deleterious consequences in the long run, today's reality is one of scant respect for the precautionary principle by the federal regulatory bodies that might deal with nanotechnology.

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1. Project on Emerging Nanotechnologies, *Consumer Products: Analysis*, [http://www.nanotechproject.org/inventories/consumer/analysis\\_draft/](http://www.nanotechproject.org/inventories/consumer/analysis_draft/) (last visited Mar. 20, 2008).
2. SWISS RE, *NANOTECHNOLOGY: SMALL MATTER, MANY UNKNOWNNS* 41 (2004).
3. *See id.* at 44-48 (discussing the uncertainty of risks potentially associated with nanotechnology).
4. GEORGIA MILLER & RYE SANJEN, *FRIENDS OF THE EARTH, OUT OF THE LABORATORY AND ON TO OUR PLATES: NANOTECHNOLOGY IN FOOD AND AGRICULTURE* (2008).
5. *Id.* at 51, 54.

6. Montreal Protocol on Substances That Deplete the Ozone Layer, Sept. 16, 1987, 1522 U.N.T.S. 3.
7. United Nations Framework Convention on Climate Change, May 9, 1992, 31 I.L.M. 849.
8. Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 10, 1997, 37 I.L.M. 22.