



# Stealing our Water

## Implications of GATS for Global Water Resources

---

### Summary

Following their meeting in Doha in November 2001, World Trade Organisation members have agreed to launch a New Round of negotiations on global trade liberalisation, including of services. This is being done through an agreement called the General Agreement on Trade in Services (GATS). The inclusion of water services in the New Round typifies what is wrong with the WTO in general and GATS in particular.

There is general consensus that the world is facing a looming water crisis and investment in water resource management and a water strategy are needed. GATS and the WTO are not the appropriate fora to address this, however, and there are many reasons why GATS will not help solve the crisis.

Liberalisation of trade in water inevitably means opening up water services to the private sector, yet privatisation of water services to date has been problematic, with negative impacts for consumers and the environment. Despite this, GATS commitments would be irreversible as countries are prevented from altering them once they have been made and there is no fallback position.

GATS is likely to undermine environmental protection as it contains only a very narrow environmental exception. Governments could find that laws and measures they have introduced for environmental protection and water conservation could be classified as barriers to trade and be overruled by the WTO.

GATS is not compatible with the basic human right of access to clean, safe drinking water. 'Full cost-recovery' - the principle promoted by the IMF and World Bank that people should pay the full cost of water, or go without - would effectively be enshrined in law by GATS. Sustainable water distribution practices could also be undermined as charges could be introduced, for example for the collection of rainwater.

It is often ordinary people who end up paying the increased financial cost resulting from water privatisation as companies try to recoup their investment. This is either through increased prices for water or through state subsidies of the companies.

A comprehensive review of the impact of liberalising trade in services is needed before further discussions and liberalisation take place either inside or outside of GATS. **GATS is the wrong treaty, in the wrong place at the wrong time.**

---

**Friends of the Earth Trust  
26-28 Underwood Street London N1 7JQ  
November 2001**

**Author: Tim Concannon; Co-author and editor: Hannah Griffiths**

## Introduction

GATS was originally agreed in 1994, at the conclusion of the 'Uruguay Round' of world trade talks, and was one of the agreements adopted for inclusion when the WTO was formed in 1995. The aim of GATS is to progressively liberalise trade in services, removing restrictions and internal government regulations considered barriers to trade in the area of service delivery.

'Services' is a broad term covering everything from education, health care provision and banking, to tourism, transport, rubbish collection and water.<sup>1</sup> GATS will open up global services markets to multinational companies. 'Barriers to trade' could include, for example, environmental regulation, and forms of public ownership which ensure distribution of resources is more socially equitable than if the market is left to decide on its own. GATS could prove disastrous for the environment and vulnerable communities such regulations are designed to protect.

Trade in services is now big business, accounting for approximately one-fifth of total global trade and totalling US\$1.35 trillion. 40 countries (mostly from North America, Western Europe, and East and Southeast Asia) accounted for over 90 percent of total global trade in commercial services in 1999.<sup>2</sup> Estimates place the world-wide water and wastewater industry at more than US\$300 billion annually.

Water services have already been privatised in some countries (such as the UK) and GATS (Article 19) requires that all countries' service markets must be "progressively liberalised", i.e. opened up further to foreign service operators. Companies like Balfour Beatty, Bechtel, AWG (Anglian Water Group) Plc and Thames Water Plc are rapidly developing international portfolios covering a broad range of privatised utilities, diversifying into related services like power generation and waste-management. The companies emerging as the two key players world-wide are France's Suez Lyonnaise des Eaux (SLE) and Vivendi.

At their meeting in Doha in November 2001, WTO members agreed to launch a New Round of negotiations on global trade liberalisation, including services. Water is already included in the GATS agreement in a limited way. EU negotiators are likely to push for more complete coverage within the treaty, to include issues like water delivery.

There has been an EC proposal concerning water collection, purification and distribution services.<sup>3</sup> This is happening in the context of a global push by the water industry and its supporters - through corporate-led initiatives like the World Water Council - to sell their services as the solution to the world's water problems.

Proposals for GATS to cover further liberalisation of the water sector illustrate what is wrong with the whole agreement, and go to the heart of the problem with the model of world trade being promoted by the WTO and institutions like the World Bank and International Monetary Fund (IMF).

## What's wrong with GATS?

The serious concerns about GATS are firstly that it is giving more powers to the WTO - which is undemocratic, unfair, unaccountable and untransparent - and which consistently undermines consideration of social and environmental issues in its decision-making.<sup>4</sup> Secondly, there are serious problems with GATS in its own right. These can be illustrated by looking at the impacts of GATS on the water sector.

The impact of GATS on water must in turn be seen in the overall context of what is happening to the world's water resources. There is general agreement - including amongst key WTO members - that the world is facing a looming environmental water crisis.<sup>5</sup> According to the World Health Organisation 60% (3.6 billion) of the world's population lacks access to essential sanitation facilities.<sup>6</sup> It is estimated that in the next quarter century the proportion of the world's population living in countries with significant water-stress could rise from 34% (1995 figures) to 63%.<sup>7</sup> If predictions like these are correct, regional and global water crises will become more common in the future, as populations struggle to meet their basic needs.

Water resource management does need investment to survive the looming crisis. Foreign investment in developing countries' water sectors could have a number of real benefits, particularly in terms of technology and skills transfer.

To the governments of rich countries like the UK the prospects of the private sector contributing some (or all) of this investment appears attractive. But, for the many reasons outlined below, GATS does not provide a solution to the world's water problems.

- **Problems with privatisation**

Advocates of the model for development promoted by GATS, such as the World Water Council, believe that water privatisation and the creation of a global water industry would benefit the world's poor. This is despite the failures of many of the (mainly European) water companies whose business would directly benefit from GATS, to meet even basic standards in their own countries.

In tables recently published by the UK's Environment Agency, which named and shamed UK companies who had appeared in court in 2000 for polluting, seven of the worst ten were water companies. Wessex Water Ltd (owned by the US utilities giant Enron) was the sixth worst, AWG (Anglian Water Group) Plc (which has subsidiaries world-wide from Argentina to the Czech republic and Thailand) was the fourth worst, and Thames Water Plc (owned by Germany's RWE and with interests as far afield as China, Nigeria, Egypt, Australia and Brazil) was the third worst, with five court appearances and six prosecutions.<sup>8</sup> By opening up water services to the private sector, GATS is helping companies like these expand their operations to the rest of the world.

Other countries' experience of global water companies is no better than the experience of the UK. International Financial Institutions like the World Bank and IMF have required developing countries to open up their water distribution to private sector investment and foreign companies as a condition of rescheduling debt. Bolivia, for example, had to accept comprehensive water privatisation as a condition of receiving new loans.

Last year in Cochabamba in Bolivia, people were forced to take to the streets in protest when, after privatisation, they could no longer afford their own water. Under pressure from the World Bank, the Bolivian Government privatised Cochabamba's water resources, giving a monopoly to a subsidiary of International Water Ltd (a UK company owned by US engineering company Betchel).

In addition to making people hand over (without compensation) autonomous water supplies and requiring them to buy permits to collect rainwater from their roofs, the company immediately introduced price increases of up to \$20 per month – over a fifth of the minimum wage in the region. By making market demand the primary consideration in developing infrastructure for water delivery, most developing countries would be placed in an impossible situation: accept the investors' (i.e. the water companies') terms, or be denied development. In Bolivia only after months of - sometimes violent - protests, International Water left with their contract broken, the experiment in water privatisation having failed miserably with the community suffering as a consequence.<sup>9</sup>

- **GATS would be irreversible**

It is not a coincidence that the language in Bolivia's Poverty Reduction Strategy Paper (PRSP) now stresses local management of water over private sector solutions.<sup>10</sup> Yet under GATS, Bolivia and almost all developing countries must alter their laws and economy to the 'one size fits all' model of growth promoted by the World Bank and IMF.

Common features of this model as it applies to developing countries' water sectors and other service industries covered by GATS are the promotion of the principle of 'full cost-recovery' (the introduction of fees for the service to the end-user, which the state can then subsidise, assuming it can afford to) and liberalisation of markets, removing trade barriers and tariffs, and invariably resulting in increased privatisation.

But the GATS agreement goes much further than simply removing trade barriers and tariffs. For example, under GATS, a small developing country that wanted to continue distributing fresh water to its citizens through local authorities could find that, in market access negotiations, a large industrialised neighbour country could request market access in that sector. Under GATS it would be difficult for the small country to resist that request. Market access commitments could impose restraints on local and national authorities' ability to effectively regulate water extraction to protect the environment.

The reassuring, legalistic language of GATS hides its true implications. An apparently obscure legal point in the text (Article 6.4) implies that all services sector regulations can be contested across the board. This flies in the face of repeated assurances given by the WTO and governments supporting the agreement - including the UK - that GATS rules will only apply in those sectors which governments have offered up. Furthermore, the agreement contains a stringent article that prevents countries from altering commitments (part of the GATS rules) once they have been set.<sup>11</sup> In effect, GATS would make this agenda for the world's water resources irreversible. GATS proposals on the world's water amount to a free-market economic experiment on a live subject, using a resource essential to all life. GATS provides no effective controls of this experiment, inadequate monitoring of its progress and no fallback position if things go wrong.

- **GATS undermines environmental protection**

GATS incorporates a provision (Article 14.b) that is intended to provide an exception to its rules if required for environmental protection and health purposes. In theory, the aim of this is to ensure that public policy measures which protect the environment and human health are not reversed by general WTO or specific GATS commitments.

However, these exceptions are very narrow. For example, they only address environmental protections when life or health is at risk, but not when a non-living natural resource is endangered. This would mean that measures to address wetland erosion or fresh water quality would not fall within the GATS exception, so would be illegal and therefore open to challenge under WTO rules.

The GATS environmental exception has been interpreted in a very narrow way by WTO bodies. The exception article requires that a measure to protect human, animal or plant life or health be 'necessary', and so doesn't allow room for the precautionary principle or other more cautious approaches.

The present language leaves environmental protection without a clear exception in the GATS. Governments are not permitted simply to adopt reasonable laws and regulations. Instead, they must identify all conceivable alternatives and their impact on private investing companies before choosing the regulatory measure that will have the least impact on the companies. Such a regulatory hurdle is likely to curtail future efforts to protect the environment. It may lead to environmental laws and regulations being overturned by WTO bodies.

In specific regard to water, market access commitments - which prohibit quantitative restrictions - could limit the right of governments to restrict the quantities of water that companies are allowed to collect from lakes, rivers and groundwater sources. The resulting increased pressure on water sources could lead to sustained environmental damage.

- **GATS and basic rights don't mix**

Fresh water is not a naturally abundant economic good that can be freely traded, but a finite resource that is integral to the survival of all life. Access to a fair share of clean, healthy water is a basic human right. No wholesale, global liberalisation of a single resource has been tried before, let alone of a resource as vital as the world's fresh water.

Decisions about how water is distributed and used should be based on human rights and environmental needs rather than on pure economics. It is more important that existing water supplies are conserved, made more efficient and fairly distributed, than that they are made subject to global supply and demand.

The Ghanaian organisation Integrated Social Development Centre (ISODEC) estimates that 50-70 % of the urban population in Ghana live in poor shanties dotted around the cities.<sup>12</sup> Most of these people earn less than one dollar per day, not enough to buy the water they need. ISODEC say that "the current water tariff rates that the government of Ghana and the World Bank think are 'below the market rate' are already beyond the means of most of the population in Ghana"

'Full cost-recovery' - the principle promoted by the IMF/ World Bank-supported private sector participation programmes, that people should pay the full cost of water, or go without- is placing precious water supplies out of reach to the urban poor in Ghana and elsewhere. GATS would effectively enshrine this principle in law when countries open up their water services to the private sector. World Bank/ IMF documents stress laudable goals for increasing water access to the world's poor, promoting sound environmental management and allocating the resource in a socially equitable, fair way. Yet the credibility gap between the pro-poor rhetoric of the Bank, the IMF, rich countries and the WTO, and the practical impacts of their policies is gaping.

By subjecting water access to market trends and WTO decision-making processes, an agreement like GATS is likely to exacerbate the world's water problems. Minority interests – especially those of global corporations and foreign investors – would take precedence, with potentially devastating implications for fragile ecosystems and poor communities.

- **GATS undermines sustainable water distribution practices**

The WTO has criticised its opponents for not offering a positive alternative to the model of corporate globalisation that it promotes. In the case of water distribution these positive alternatives have often been practised by grass-roots communities for centuries or more.

Traditional water conservation and harvesting techniques, using appropriate technologies allied with new innovations, could be at the forefront of creating sustainable economies. All over the world communities are developing these traditional, sustainable techniques to respond to environmental threats caused by the increasing allocation of their water for industrial and commercial uses. GATS proposals on water mean that these more socially equitable, sustainable techniques could be lost.

Organisations like GRAVIS (Gramin Vikas Vigyan Samiti) could be affected. GRAVIS promotes a number of techniques - including small dams, limestone-lined wells and carefully monitored management of rural communities' water-use - to respond to the increasing pressures on the ecology of the Thar Desert in Rajasthan caused by mining, commercial agriculture and the expansion of neighbouring cities. Unsustainable water privatisation - based on the introduction of principles like full cost-recovery which GATS would allow - could mean charges are introduced for basic access to water supplies, and even the collection of rainwater.<sup>13</sup>

- **Communities pay, companies profit**

*"[Water] is a product which would normally be free, and our job is to sell it"*

Gerard Mestrallet, Chairman and Chief Executive Officer, Suez Lyonnaise. [www.polarisinstitute.org]

A crucial question about GATS proposals for water is 'who will end up paying the bill in the long run?' Corporations are motivated by profit, not public service. Water companies have no incentive to supply people with water unless those people can pay. In many developing countries people living in rural areas or shantytowns are being left behind as new infrastructure is created following privatisation, as private – and often foreign-owned - companies cherry-pick the highest-paying customers.

In December 1999 the UK water-company BiWater pulled out of a major water supply project in Zimbabwe, because the project could not deliver the rate of return BiWater demanded. The company's country manager Richard Whiting said:

*"Investors need to be convinced that they will get reasonable returns. The issues we consider include who the end users are and whether they are able to afford the water tariffs [...] From a social point of view, these kinds of projects are viable but unfortunately from a private sector point of view they are not".<sup>14</sup>*

Private sector participation in public water projects can be an impediment to development. GATS would make things worse, leaving governments in an impossible situation: accept investors' terms or be denied investment.

Proponents of privatisation and public private partnership initiatives say that private investment is always good for the taxpayer because it externalises costs, i.e. the company pays for additional costs such as time and financial overruns on their projects. But experience of privatisation of water services in developing countries has shown that it's often difficult for companies to make a profit from providing water services without sending such costs back to the taxpayer. This is either through state subsidies (e.g. leasing infrastructure back to the state at higher rates of interest than could be obtained by other means, like bond issues or loans) or back to consumers, through price increases or reduced standards and service.

Since 1993, the French company Suez-Lyonnaise has been the major partner in the privatised utility supplying water to Buenos Aires' 10 million inhabitants, one of the largest water concessions in the world. According to the first independent study of the utility prices were raised by more than 20% after privatisation. Poorer families - if at all connected to the supply - can no longer afford to pay their water bill. The sewerage system, which was to be renewed according to the contract, does not function. 95% of the city's sewage is dumped into the Rio del Plata River, causing environmental damage that must in turn be paid for with public funds.<sup>15</sup> In Manila, water prices are set to rise by over 50% after months of bitter dispute. Maynilad Water Services Inc. (MWSI) (partially owned by Suez) were given permission to increase rates in August 2001, despite the privatisation project missing its key target of providing 24 hour water supply to all connections.<sup>16</sup>

## Conclusion

The planet has a serious problem managing its water. Looming water crises threaten rich and poor alike. Long-term solutions to the world's water problems could involve the private sector but water companies' track record so far implies that many changes would be needed before their contribution can be considered positive.

The world does need a water strategy, but this needs to be based around local needs, local accountability and democratic control over the resource. GATS and the WTO are not the places to discuss, design or implement such a strategy; in fact they actively threaten to undermine opportunities for equitable solutions. Handing the private sector increased power and control over fresh water resources through GATS would be bad for consumers, bad for developing countries and bad for the global environment.

A comprehensive review of the impact of liberalising trade in services is needed before further discussions and liberalisation take place either inside or outside of GATS.

**GATS is the wrong treaty, in the wrong place at the wrong time.**

---

## Notes and references

1. For the official list of things currently considered services covered by GATS, see: World Trade Organisation, July 10th 1991 'Services Sectoral Classification List' Geneva.
2. World Trade Organisation, 2000 'World trade in 1999' 'Growth in the value of world trade in commercial services by selected region', 'Table 1.4', Geneva.
3. World Trade Organisation, Committee on Specific Commitments, November 28<sup>th</sup> 2000 'Communication from the European Communities and their Member States' 'Sub-sector 6a, page 3, Geneva.
4. For an in-depth analysis of the WTO see: Friends of the Earth International, 1999 'The World Trade System. How it works and what's wrong with it' London.
5. UK Dept. for International Development, March 2001 'Addressing the Water Crisis - Healthier and More Productive Lives for Poor People' '1.2.1 The Current Situation in Water resources', page 11, London.
6. World Health Organisation, 2000 'The Global Water Supply and Sanitation Assessment' '1.1 Main findings', New York.
7. Stockholm Environment Institute, 1997 'Comprehensive Assessment of Freshwater resources of the World' Stockholm.
8. UK Environment Agency, 2001 'Spotlight on Business Environmental Performance 2000', 'Multiple Prosecution Table', London.
9. New Internationalist, September 2001, no. 338, Oxford.
10. PRSPs are the successor to Structural Adjustment Programs, the agreements between lenders - including the World Bank & IMF - and debtor countries on conditions for rescheduling debt. Of the eight completed PRSPs, five specify privatisation of water delivery as a condition (Tanzania and Uganda have already liberalised their water sectors).
11. Under Article 21 countries' decisions are rendered effectively irreversible since they must give three months notice (after an initial three year period has lapsed) and WTO members must be fully compensated. If compensation can't be decided the case will go to WTO arbitration.
12. Bretton Woods Project, April 2001 'Privatisation of water not "pro-poor", NGOs warn' London.
13. GRAVIS, 2000 'Working with Desert Communities' Jodhpur. [http://www.idex.org/partner.php?partner\\_id=11](http://www.idex.org/partner.php?partner_id=11)
14. Source: 'Zimbabwe Independent' 10 December 1999, Kopje.
14. Alex Loftus and David A McDonald, Municipal Services Project, May 4th 2001 'Lessons from Argentina: The Buenos Aires Water Concession' Kingston, Ontario.
15. PSRIU 'Prices to increase by more than 50% for Manila water' <http://www.psiu.org/news/4597.htm> August 2001

## **Friends of the Earth inspires solutions to environmental problems, which makes life better for people**

Friends of the Earth is:

- the UK's most influential national environmental campaigning organisation;
- a unique network of campaigning local groups, working in over 200 communities throughout England, Wales and Northern Ireland;
- the most effective environmental network in the world, with almost one million supporters across five continents and over 60 national organisations worldwide;
- dependent upon individuals for over 90 per cent of its income.

**To join or make a donation call us on 020 7490 1555**