



Starting Points

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Center for Reflection, Education and Action, Inc. Hartford, CT

WATER: ACCESSIBLE FOR LIFE ... OR PRIVATIZED FOR PROFIT?

By 2025, if present consumption and pollution patterns continue, two-thirds of the world's population will live in "water-stressed" conditions. So projects the U.N. Environment Program's International Environmental Technology Center.

More than 5 million people die every year as a result of poor water quality—ten times the number killed in wars. More than half are children. Biologically, water is absolutely essential for life. It is as essential as the air we breathe.

Plans for dealing with this global crisis include conservation and anti-pollution measures, both individual and governmental. Complicating the situation, however, is the far-reaching and controversial issue of privatization, specifically the provision of goods or services by private corporations owned by shareholders.

While private companies have been involved in water resources management for generations, contemporary privatization has to be examined in the light of the globalization of the economy and the acquisition and merging of companies into huge transnational corporations.

Institutional and individual investors in these corporations demand ever-increasing short-term profit. The result is an economic system based not only on profit, but on profit-maximization.

Economic globalization has also led to the dominance of major transnational corporations in institutional finances and international trade. Their monetary power exceeds that of many national economies. Considered financial "experts" by governments, they are given unique access to the decision-makers of international financial institutions, and to trade negotiators.

- ◇ The World Bank has embraced privatization as the solution to providing poor communities with access to water. It is increasingly financing the development and management of water and other services by foreign corporations. This is in direct contrast with a community-development strategy that would finance capacity-building of the local communities to assist their self-development and enable them to maintain their independence.
- ◇ The World Bank's draft water strategy paper endorses "appropriate pricing," meaning that the cost of water should eventually cover the entire cost of building, operating, and maintaining the necessary infrastructure and systems. While not stated, it is clear that where private companies are involved, not only the expenses of the company but also company profits would be part of the consumers' cost.

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QUESTIONS FOR DECISION-MAKERS

Very important and basic questions have to be raised about how financing entities are going about dealing with the world's water crisis. The following questions are just a few.

1. Who has the moral right to say that water, essential to life, is a commodity that can be bought and sold by publicly held companies?
2. Where does "profit maximization" come from after everything has been done to increase efficiency and to trim construction and distribution costs?
3. Will that profit maximization come from increasing cost to the consumers?
4. What will happen to communities and individuals who cannot afford the increasing costs of water supply, especially those living on a fixed income?
5. Why is public money being made available for private corporations rather than for local community capacity-building?

Starting Points readers are encouraged to raise these and similar questions with local and national decision makers.

INDIGENOUS PEOPLES GAIN UNITED NATIONS VOICE

CREA notes with joy that the rights and concerns of indigenous peoples finally have a hearing at the United Nations.

The newly established Permanent Forum on Indigenous Issues met for the first time at the U.N. in May 2002. It is now an official advisory body to the U.N. Economic and Social Forum.

One of the difficulties indigenous peoples face in their struggle for justice is that their national government leaders represented at the U.N. are sometimes the very leaders who deny the indigenous peoples their rights.

This Forum is a first step toward participation by indigenous peoples in the global decision-making that affects their lives.



CREA

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THE WTO DISPUTE SETTLEMENT DISCIPLINE: ENFORCEMENT OF TRADE RULES OVER RELATED GOVERNMENT "MEASURES"

Disputes arise among WTO Member countries when "measures" taken by a Member are challenged by another Member Government as "inconsistent" or not in "conformity" with the WTO trade rules by being "discriminatory" or by raising non-tariff barriers or barriers "disguised" as non-tariff.

A measure that is challenged in the dispute may be, among other things, a subsidy, an environmental law, or a law denying access to products made in a country with an oppressive government. It may have been put into effect by the national government, the regional or local government, or an authority within the territory of a Member.

'There is normally a presumption that a breach of the rules has had an adverse impact on other Members parties to that covered agreement, and in such cases, it shall be up to the Member against whom the complaint has been brought to rebut the charge.'

Annex 2, "Understanding on Rules and Procedures Governing the Settlement of Disputes" Article 3, Section 8. Marakesh Agreement Establishing the World Trade Organization.

The WTO Dispute Settlement Understanding requires initial voluntary efforts to resolve the dispute. If that fails, the WTO Understanding calls for the following steps:

- ◇ **The case is submitted to a three-member panel.**
 - Panelists are appointed by the WTO Council (representatives of the Member countries) from a list of approved "experts." The list of experts has been solicited from Member countries' administrative bodies.
- ◇ **The panel makes a determination** as to whether a measure is inconsistent with a WTO agreement, and if inconsistent, the panel makes recommendations for bringing the measure into conformity with the agreement.
 - The panel's deliberations are confidential; written reports are provided to the disputing parties.
 - The panel submits its report to the Dispute Settlement Body (DSB) which is composed of representatives of the WTO member countries.
- ◇ **The Dispute Settlement Body acts on the recommendation.** Its actions are made by consensus, or failing consensus, by the majority of the votes cast.
- ◇ **The Appellate Body.** If the defending Member appeals the decision, it may submit the case to the standing Appellate Body, which consists of seven members, three of whom serve on any one case. The Appellate Body can consider only issues of law and the legal interpretations developed by the panel.
- ◇ **Compliance.** The Member country found to be at fault is required to bring the "non-conforming" measure into compliance with the WTO regulations within a reasonable period of time. This means changing the relevant law or policy of the country.
- ◇ **Compensation.** If the "non-conforming" Member does not make the necessary changes, it is required to negotiate compensation to be paid to the Member who brought the case. If compensation is not agreed upon, the DSB can authorize the complainant to refuse the "non-conforming" Member access to its markets for products designated by the complainant Member, to the extent of the damage claimed.

This sanction is both punishment and pressure to change, since the makers of the banned products will be affected by the sanctions and will apply pressure to their government to change the "non-conforming" law or policy. This is the extraordinary enforcement power of the World Trade Organization.

WATER: ACCESSIBLE FOR LIFE...OR PRIVATIZED FOR PROFIT?

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River in Haiti. Photo © CREA Inc.

The *World Trade Organization* seeks increased “liberalization” of trade in services, including water supply. These negotiations are now being carried out under the *General Agreement on Trade in Services (GATS.)*

GATS provides that any service opened to commercial bidding must be open to foreign companies without preference for local companies. The services opened up by Member countries will be finalized in 2003.

While the WTO claims that it is “not after your water,” and that opening up water service is the decision of the member governments, the reality is that once a government opens a service to commercial bidding, the service is treated by the WTO as a commodity and is subject to the WTO’s regular trade “discipline.”

- ◇ The International Monetary Fund has stringent requirements for loans, among which is “liberalization,” the opening up of resources and services to foreign investment, along with the reduction or elimination of any tariff or policy that protects the country’s own industries.
- ◇ *The Free Trade Area of the Americas (FTAA)* This treaty, scheduled to be finalized by 2005, includes the opening up of services to commercial bidding, and the establishment of a dispute settlement system modeled on that of the WTO. All services will be included unless specifically declared exempt by the signatory countries.

Clearly, the major actors in the world’s financial and trade organizations are setting the stage for increased privatization of water and access to the service by the major transnational corporations.

WATER IN THE UNITED STATES

If we in the U.S. think that the water crisis is an issue only for other, poorer countries, we have to think again. Water shortages have been experienced in various parts of the U.S. for many years. Agribusiness, industrial use and increases in human population continue to strain U.S. resources. The pollution of decades has reached many waterways. Water rights are being sold and purchased on the web. The water supply infrastructure in many communities is old and needs replacement.

In March 2002, Senate Bill S.1961: *A Bill to Improve Financial and Environmental Sustainability of the Water Programs of the United States* was favorably reported out of committee. The bill contains many fine steps to improve and maintain the country’s water supply. However, two points in the Bill need clarification for U.S. citizens:

- (1) State and local communities seeking federal funding for water resources are required to “consider” privatization, but no definition is provided for “consider.”
- (2) The consumer may be required to bear full cost of the provision of water rather than providing part of the cost out of the general fund for the common good.

WHAT CAN BE DONE?

The impact of trade agreements on human and ecological health and on local economies is almost beyond calculation.

The WTO was established for one purpose only: to facilitate trade. It asserts that other concerns are not its mission. National governments join the WTO freely, therefore Member countries willingly agree to the WTO disciplines.

Yet the WTO and its Dispute Settlement process can subordinate domestic laws and regulations.

Proposals to modify the Dispute Settlement Understanding are now being offered by Member countries. Change is possible.

But changing the system for the Common Good will not happen unless every citizen takes a responsible part in the political and legislative process. Future generations depend on it.

In many countries local citizens are monitoring their water resources. In support of this endeavor in the U.S. the Environmental Protection Agency has a National Volunteer Monitoring Program.

The program provides resources and a national conference to share experiences and information. You can find out more about it on: www.epa.gov/OWOW/monitoring/vol.html

A call to your state EPA will also provide information. Networking helps.

Acting for Justice

Trade Promotion Authority. At the time of this writing, the "Fast Track" legislation is in conference to settle differences between the House and Senate versions. It is important to keep up communication efforts with Congressional representatives so that they understand the concerns of their constituents about the consequences of giving this far-reaching authority to the president.

Free Trade Area of the Americas (FTAA) This pending legislation extends to all the countries in this hemisphere the regulations of the North American Free Trade Agreement. (NAFTA) NAFTA already has granted corporations operating in the U.S., Canada and Mexico the right to bring complaints about governmental laws and policies to an appointed tribunal. The tribunal has the power to judge the complaint and to impose financial damages on the governmental entity if it judges in favor of the corporation. The FTAA expands the NAFTA by calling for the opening up of all services to free trade unless specifically designated as exempt. Congress must hear the concerns of all citizens.

The Doha Development Programme of the World Trade Organization. The office of the U.S. Trade Representative has requested public comments on this program, which focuses on extending trade agreements with developing countries. The World Bank's own Global Economic Prospects 2002 predicts that the greatest income gains from trade liberalization will go to Western Europe. In both Sub-Saharan Africa and South Asia, net gains will be lower than the aggregate losses resulting from displacement due to trade liberalization.

Starting Points readers are encouraged to study the Doha document, and provide feedback to the U.S. Trade Representative. It may also be helpful to read an excellent alternative policy statement jointly released by the British Catholic organization CAFOD, by Oxfam, and by several other major non-profit agencies. Their statement is called *A Genuine Development Agenda for the WTO*. It can be found on www.cafod.org.uk/policy/gda_wto.shtml.

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CREA is an independent 501(c)3 organization.



"Believing that the earth is home to all, CREA facilitates analysis of human, social and economic policies from the perspective of their effects on human lives, beginning with the lives of those who are poor."

CREA Mission Statement

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WATER

"Unlike the energy crisis, the water crisis is life threatening. Unlike oil, fresh water has no viable substitute. Its depletion in quantity and quality has profound social, economic and ecological effects. Water is a particularly vital resource.

"Without water, ecosystems are destroyed, economic activities halt, people die."

"Water in the 21st Century"
International Environmental
Technology Centre, United
Nations Environment
Programme. www.unep.org/jp/ietc/Focus/Water_in_21Century1.asp