



The GATS Threat to Food and Agriculture

The General Agreement on Trade in Services (the GATS) is one of the pillars of the WTO, alongside the Agreement on Agriculture and the TRIPS Agreement. The GATS creates a framework for forcing open a wide variety of public services to foreign investors, enforceable through sanctions. While framed in the language of voluntary “selective” “opt-ins”, it is in fact a powerful wedge for opening up to transnational corporations those sectors which have previously been widely regarded as belonging to the sphere of public, government regulation such as health, education and utilities like water and electricity. Many unions have also begun mobilizing to ensure that the GATS “Mode 4” provisions on the free movement of labour do not become a vehicle for social dumping and the weakening of labour standards.

Although the GATS is often seen as an issue mainly for public sector unions in the education, health care, energy, water utilities and government procurement sectors, the broad scope of the GATS and its relationship to expanded transnational investors' rights and increased corporate concentration makes it an issue for the trade union movement generally. Because of their ambitious reach, the GATS negotiations have implications affecting workers and unions outside what have been traditionally regarded as public services. They will have a far-reaching impact on society and the labour movement as a whole, including IUF members.

This is particularly salient when viewed in terms of the GATS as a tool for forcing open markets and severely restricting the capacity and the right of national governments to regulate the activities of foreign corporations. Moreover, the kind of privatization and commercialization imposed by the GATS undermines the access of workers and their communities to essential public services. This is not only a matter of restricted access. It is an ongoing violation of workers' rights to the essentials of life such as education, health care and water. These rights violations are the grim reality underpinning the self-proclaimed “mission” of the transnational water giant, Suez: “delivering the essentials of life”. The GATS thus serves as a corporate strategy to capture, dominate and sell these essentials to those who can afford it.

By compelling governments to treat the supply and distribution of water as a commercial activity open to the entry of foreign companies, the GATS functions as a global mechanism for corporations like Suez to commercialize the essentials of life. Yet another essential for life – food - is also incorporated into this logic of corporate domination through the GATS. The GATS will have an enormous impact on agriculture and food. In this paper, we look at two areas in which the GATS will affect food and agricultural workers: water and “environmental services”.

What is the GATS?

The aim of the GATS is to gradually remove all barriers to trade in services. The agreement covers services as diverse as banking, education, healthcare, rubbish collection, tourism or transport. The idea is to open up these services to international competition, allowing the way for huge, for-profit, multinational firms. In the lead-up to GATS 2000 negotiations, the European Commission website on GATS stated explicitly that: "The GATS is not just something that exists between Governments. It is first and foremost an instrument for the benefit of business".

Currently the WTO seeks to expand the GATS to include all service sectors and for full commitments with a specific commitment to increasingly higher levels of liberalization with no prior exclusion of *any* services sector or mode of supply. This means that all sectors – including water, health and education – must be opened up to foreign corporations and once opened there can be no reversal to re-regulate these sectors or impose restrictive government measures.

Source: www.GATSwatch.org

There are 4 major reasons why the GATS is an issue for agricultural and food workers' unions globally:

1. By encouraging and enforcing profit-driven commercialization and privatization of water supply and distribution, the GATS threatens the viability of agriculture – the largest single use of fresh water – and has a direct impact on the job security and working and living conditions of agricultural workers.
2. The privatization and commercialization of environmental services under the GATS, including waste management, treatment and disposal by private corporations, further diminishes the responsibility and capacity of national governments to protect the environment and the occupational safety and health of workers, including workers engaged in agriculture and food processing. It is also crucial to recognize that the opening of services to foreign companies includes agricultural extension services provided by governments to rural communities.¹
3. The GATS is used to consolidate and prevent the reversal of corporate concentration in the food retail sector, effectively reinforcing corporate control along the food chain from "the farm gate to the dinner plate."
4. Through its provisions for the right of foreign corporations to establish a 'commercial presence' in all WTO member-states and related protection of the rights of foreign investors, the GATS realizes key elements of a multilateral agreement on investment in the WTO. It is in effect a MAI by other means.²

¹ Institute for Agriculture and Trade Policy (IATP), *The WTO Services Agreement: Possible Impacts on Agriculture* (WTO Cancun Series Paper No.3) 2003.

² "Leaked EU Documents Show What's Next at the WTO", available on the IUF web site at http://www.iuf.org/cgi-bin/editorials/db.cgi?db=default&ww=1&uid=default&ID=39&view_records=1&en=1

In 2002, the IUF's hotel, restaurant and catering unions issued a policy statement on the GATS, drawing attention to the ways in which deregulation of the tourism sector further undermines already precarious employment conditions in the industry, accelerates environmental degradation. A forthcoming IUF paper will examine the implications of the GATS' encouragement of retail concentration, particularly as it affects the situation of food and agricultural workers.

The GATS, Water and Workers' Rights

On the eve of the 3rd World Water Forum in March 2003, an official from the United Nations' Food and Agriculture Organization (FAO) observed that: "Unfortunately, the international debate on water problems tends to overlook the important role of agriculture, the biggest water user."³ This crucial fact remains ignored.

According to the UN *World Water Development Report*, an estimated 70% of all fresh water consumed is used for agriculture, while 22% is for industrial use and 8% for domestic use.⁴ That means that 70% of all water withdrawals from rivers, lakes and aquifers are destined for use in irrigating crops. For developing countries, where agriculture is predominant, this reaches as high as 82% of all fresh water usage.⁵

The link between water and food production is critical when we consider the growing crisis in water scarcity. Water scarcity translates into food shortages – undermining food security and afflicting more than a billion people dependent on agriculture for their livelihoods, including 450 million agricultural workers. The crisis will worsen as the water needs of agriculture increase. The FAO estimates that to meet future food production needs agricultural water withdrawals will increase by some 14% over the next 30 years. One of the results is that farmers in developing countries face increased competition for scarce fresh water resources.⁶

The FAO has also drawn attention to the interconnections between water, crop irrigation and health. For example, mismanagement of irrigation is linked to the spread of water-borne diseases. This reinforces the need to ensure water quality and safety as part of the health and safety of agricultural workers and their communities.⁷

These and other long-term effects of the GATS expansion are indicative of the systematic violation of rights involved. As the UN Commissioner on Human Rights observed in a report on trade and investment: "According to the

³ Food and Agriculture Organization (FAO), "No global water crisis – but many developing countries will face water scarcity," FAO News, March 12, 2003.

⁴ United Nations. *Water for People – Water for Life, the United Nations World Water Development Report*. UNESCO–WWAP, 2003.

⁵ *Water for People – Water for Life, the United Nations World Water Development Report*, 2003.

⁶ Food and Agriculture Organization (FAO), *Unlocking the Water Potential of Agriculture*, March 2003.

⁷ FAO, *Agriculture, Food and Water - A Contribution to the World Water Development Report*, 2003.

Committee on Economic, Social and Cultural Rights, the obligation to respect the right to water includes refraining from arbitrary or unjustified disconnection or exclusion from water services and from increasing the price in water to the extent that it is unaffordable.”⁸ The unsustainable management of water resources promoted under the GATS threatens the viability of sustainable agriculture. In this sense, the GATS undermines the capacity of national and local governments to manage resources such as water to meet the needs of sustainable agricultural production, especially food production. This in turn undermines the prospects for decent work in agriculture, since sustainable employment in agriculture is a critical dimension of decent work.

A fundamental dimension of the GATS transgression of multilateral treaties on human rights is the violation of provisions in the International Labour Conventions of the ILO. In particular, the International Convention concerning Conditions of Employment of Plantation Workers (Plantations Convention, ILC No. 110, 1958) contains provisions concerning the rights of plantation workers journeying long distances to plantations. Article 13 (2) states that recruiters or employers “shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment,” including drinking water.” Article 86 establishes minimum standards for plantation workers’ accommodation, which includes “water supply.” The new International Convention on Safety and Health in Agriculture (Safety and Health in Agriculture Convention, ILC No.184, 2001) also has explicit provisions on the right of workers to potable water. Article 19 on welfare facilities and the accompanying recommendation require that workers be guaranteed access “an adequate supply of safe, drinking water.”⁹

These ILO conventions illustrate the centrality of water to agriculture workers’ health and safety, yet these rights are still not realized. There exists a water crisis and the right to access to water is denied. Therefore new corporate tools such as GATS serve to deepen the existing crisis and establish mechanisms to prevent a reversal of this logic, effectively generating obstacles to the realization of these rights. This conflict between the GATS and rights is the essential nature of the WTO regime.

Opening Water to Foreign Corporate Control

By enforcing the “liberalization of all services” and removing barriers to foreign corporations’ entry into the services sector, the GATS effectively opens up public services like water distribution to control by water giants such as Suez, Vivendi, Aqua Mundo and Thames Water. In fact, the European Commission worked closely with these companies when drafting its the GATS requests to 109 WTO members demanding the liberalization of their service sectors. This includes requests to 72 countries to open up “water collection, purification and distribution” to foreign corporations.

⁸ UN Commission on Human Rights, *Human rights, Trade and Investment*, Report of the High Commissioner for Human Rights, 2 July 2003.

⁹ Recommendation No.192 supplementing the Safety and Health in Agriculture Convention No.184 (2001) makes explicit the obligation of employers to ensure that workers have “an adequate supply of safe drinking water.”

State ownership and/or management of water utilities and related water services are primary targets under the GATS since they are treated as barriers to foreign competition. Information leaked in early 2003 shows that the EU identified public water corporations in countries such as Brazil, Bolivia, Botswana, Bangladesh, Tunisia and Honduras as barriers that must be removed to allow foreign competition – a process requiring privatization of public water utilities and guarantees securing the right of foreign corporations to enter and dominate these markets.¹⁰

The pursuit of these the GATS requests – especially aggressive moves to force open public water services to foreign ownership – was a critical item on the EU's Cancun agenda, and remains a priority in the post-Cancun maneuvering. Whatever deadlocks plague other aspects of the WTO trade negotiations, the EU – acting in the interests of the corporate water giants - is determined to force through its the GATS attack on water.¹¹

Bolivia vs. Bechtel: The Future Under GATS?

Under pressure from the World Bank and IMF, the public water system of Bolivia's third largest city, Cochabamba was put up for auction in 1999. In a closed-door process with a single bidder, Bolivian officials leased Cochabamba's water until the year 2039 to a new company called Aguas del Tunari, a division of the large American construction firm Bechtel. Within weeks of taking over the water system, Bechtel's company imposed rate increases of 200% and higher on local families. Through a parallel water law approved by the Bolivian Congress and President, the company was also to be given control over hundreds of rural irrigation systems and community wells. This included projects paid for and built by local people without government help.

In response, a popular rural/urban alliance - La Coordinadora for the Defense of Water and Life - was formed to coordinate large-scale protests against privatization of water services and rural water systems. This mobilization succeeded in forcing the government to nullify contract in April 2000.

In response, Bechtel filed a compensation claim of US\$25 million against the Bolivian government in the International Centre for the Settlement of Investment Disputes (ICSID) – part of the World Bank group, the same institution that forced the Cochabamba privatization in the first place. To use the ICSID, Bechtel had to shift its Bolivian registration to Amsterdam to secure coverage by a Bolivia-Holland treaty that makes the Bank the arbiter of their investment disputes.

These maneuvers would have been unnecessary had Bolivia included water services under GATS. If WTO members agree to include investment agreements under GATS, Bechtel's investments in Bolivia could be protected under the WTO. The same tool Bechtel is using today against Bolivia could be used by other corporations to repeal environmental laws, health regulations, and worker protections in any country they choose – all in the name of knocking down barriers to trade.

Adapted from: Institute for Agriculture and Trade Policy (IATP), Water Services under the World Trade Organization (WTO Cancun Series Paper No.6) 2003, pp.8-9.

¹⁰ It is significant that the public water company in Honduras was singled out as a barrier under the GATS because it has cooperated with trade unions to increase workers' involvement.

¹¹ See "Stop the GATS Attack": www.polarisinstitute.org

Defenders of the GATS often argue that it does not impose water privatization, but is only limited to the distribution and use of water and does not concern ownership. National governments can remain the owners of water resources. However, the legal and political reality of GATS is that this ownership 'does not, in and of itself, protect a State's right to use and continuously regulate water resources.'¹² Water use may be granted for decades to corporations that exercise full control over the pricing and distribution of water, and the government – instead of regulating this to ensure public access to water, environmental protection, etc – in fact faces the threat of having to pay financial compensation to foreign water companies for infringing their rights. This means that all future policy decisions on re-regulating the water sector are subject to an assessment of financial liability.

The GATS not only involves the removal of barriers to corporate profit such as public water services. It is also designed to lock these changes into place, preventing the re-introduction of public sector measures to manage the water supply, even in the interests of water conservation. A democratic change in government leading to attempts to reverse water privatization, or state intervention to deal with a crisis in water access, could be challenged under the GATS and costly trade sanctions imposed under WTO rules. In fact, under the GATS governments will be locked into a process of assessing all future water policies in terms of the possible negative impact on private sector interests: "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."¹³

As recent experiences of water privatization have shown, control of water supply and distribution by private corporations does not mean a complete withdrawal of the government. In many cases governments provide public financial support and subsidies to guarantee profitability during the contract.¹⁴

Already 31 countries suffer water scarcity and it is predicted that by 2025 demand for fresh water will exceed supply by 56%. In many countries in the South accessibility to water is already an urgent global problem. Yet this crisis will be exacerbated by the fact that corporate profitability will be the primary determinant of access to water under the GATS: "Unsustainable water privatization – based on the introduction of principles like full cost-recovery which the GATS would allow – could mean charges are introduced for basic access to water supplies, and even the collection of rainwater."¹⁵

There is no doubt that the GATS will have a far-reaching impact on rural communities, especially in developing countries where access to water in rural areas is already severely inadequate. In many cases access to water is

¹² GATS, *Water and the Environment: Implications of the General Agreement on Trade in Services for Water Resources*. CIEL and WWF International Discussion Paper, October 2003.

¹³ Tim Concannon, *Stealing our Water: Implications of the GATS for Global Water Resources*, Friends of the Earth (FoE), October 2001.

¹⁴ *Water in Public Hands: Public Sector Water Management – a necessary option*, commissioned by Public Services International (PSI), 2001.

¹⁵ "Stealing our Water", 2001.

secured through poorly financed local government services or community-based public utilities – public services that would be devastated by foreign competition. In a joint communiqué to the WTO in October 2001, the governments of Cuba, Dominican Republic, Haiti, India, Pakistan, Peru, Uganda, Venezuela and Zimbabwe raised questions about the impact of the GATS on rural communities: “For the rural sectors in many developing countries, these basic services may not even be provided by the state, but by communities and local authorities which use currently common resources, such as water...”¹⁶

The demands of these governments fell short of challenging the logic and long-term consequences of the GATS. The real point is that by turning these “common resources” into private resources these rural sectors – where nearly half a billion agricultural workers work and live – would face accelerated ruin. The threat to agricultural workers and farmers in these rural communities concerns both their access to water as a human right and access to water for the agricultural production on which their lives depend.

The GATS and Workers’ Health, Safety & the Environment

It is also critical to understand that the GATS also applies to environmental services related to wastewater and water pollution. So while corporations are redirecting water away from agriculture and polluting the water supply, the GATS requires that services for waste water treatment and recycling, including the recovery of polluted rivers, are also open to foreign corporate control and dictated by corporate profit. This nexus of excessive water use and industrial water pollution on the one hand, and profit-driven water conservation and treatment on the other, symbolizes the fundamental unsustainability of water resources under the GATS regime: “Since maximizing profits often means encouraging increased consumption, it is not in the interest of water corporations to promote water conservation.”¹⁷

There are many ways in which the expansion of corporate control of water under the GATS will affect agriculture in general and agricultural workers in particular. This includes:

Rising Water Costs: Increased corporate control of water leads inevitably to increased water charges and related costs, thereby increasing the cost of water inputs into agricultural production. As past experience demonstrates, employers are likely to offset rising production costs by reducing labour costs – either by reducing workforce numbers or cutting workers’ wages. At the same time, workers will face rising water costs in their own communities as corporate water suppliers introduce cost-recovery fees. This will increase the living costs of workers and their families.

Intensifying Competition: Corporate control over water distribution will intensify competition over water use, with a high risk of water being redirected towards industry and away from agriculture due to the greater capacity of

¹⁶ “Assessment of Trade in Services”, Special Communication to the World Trade Organization, October 9, 2001.

¹⁷ Polaris Institute, *Global Water Grab: How corporations are planning to take control of local water services*, January 2003, p.2.

industrial firms to pay higher charges for water and to privately subsidize water supply infrastructure. This will have the effect of reducing agricultural production, which threatens to reduce employment in agriculture. At the same time, the rural communities where agricultural workers live will also be forced to compete with both industry and agriculture for access to water.

Water Use: Declining water availability or rising water costs will force major shifts in agricultural production. This is especially so in countries and regions affected by water scarcity, drought or desertification. Shifts away from crops requiring significant water inputs to crops requiring less water will lead to changes in farming practices and employment, and may undermine local food production. Higher income cash crops using less water (e.g. cotton) may replace essential staple foods (e.g. rice), therefore undermining local food security. As such the viability of certain crops is under threat.

Water Harvesting: As experiences in countries such as Bolivia have shown, water harvesting by foreign corporations extends to rainwater collection. This has a serious impact on rain-fed crops as well as preventing groundwater recharge through rainwater. The loss of groundwater recharge in turn affects agricultural production. Even rainwater collection for drinking water in communities is threatened by corporate claims on water rights and the introduction of water charges.

Water and Health: Corporate control of water and rising costs affects agricultural workers' access to clean water, both at work and at home. On farms and plantations clear water will be rationed or restricted in use. This may limit the drinking water available to workers, which may have severe health effects. In rural communities the loss of access to affordable, clean water has a direct impact on community health, especially if rising costs force people to use unclean water for drinking or the preparation of food.

Pesticides and Water: On-farm water restrictions and/or rising water costs may also mean that agricultural workers are denied use of water necessary to clean themselves after exposure to or use of agro-chemicals. Every year 40,000 people die from pesticides and 3 to 4 million are poisoned. The health and environmental harm caused by agro-chemicals extends to rural communities where agricultural workers live. Access to clean water both on farms and in rural communities is necessary – but not sufficient – to reduce the effects of exposure to pesticides.

Corporate Cleanup? The disposal of obsolete pesticide stocks (a major source of soil and water contamination in rural areas) may be treated under the GATS as a commercial environmental service. The entry of foreign corporations into this 'market' distorts the priorities and methods of pesticide stockpile disposal, as well as discriminating against poorer communities. Corporate contamination cannot be resolved through and corporate cleanup.

Water and the Environment; Opening up water conservation, wastewater treatment all other environmental services to foreign corporate control threatens to increase the environmental damage caused by industrial pollution. Corporations cannot be relied on to limit water pollution caused by agriculture or to reduce pesticide runoff into water supplies. Recovery of water and soil polluted by pesticides and water treatment will be treated as

commercialized environmental services subordinated to the logic corporate profit. Poorer affected communities will not receive such services since cost recovery is a key determinant in corporate decision-making. Despite the need to reduce toxic contamination of water on farms and in communities, user fees and other charges will be applied. Water treatment services will be withheld from those communities too poor to generate sufficient returns for companies.

Occupational Health, Safety and the Environment: For agricultural workers, occupational health and safety (OSH) are inseparable from the environment.¹⁸ The functions of local government in dealing with the environmental problems directly linked to OSH in agriculture and community health, including the problem of chemical pesticide and fertilizer contamination of soil and underground water, are treated as commercial, profit-driven activities that threatens to exclude poorer regions and communities and establish cost recovery as the goal – not the environment and health of food workers. Narrow exceptions in the GATS allowing environmental protection are limited to situations where life or health is at risk, and do not apply to agricultural crises or the food needs of rural communities.

These points illustrate the link between the ongoing water crisis and the rights and livelihood of agricultural workers. The GATS can only deepen this crisis by undermining the capacity of national and local governments to manage public resources, including water. The GATS therefore generates new barriers to achieving sustainable agriculture of which decent work is an integral element.

Conclusion and Recommendations

Advancing the decent work agenda establishes the criteria by which unions can assess and take action against the far-ranging privatization and commercialization of basic public services promoted under the GATS.

The real issue for unions is therefore the expansion of corporate power. Calls for transparency fail to address this central problem. While the negotiations are typically conducted in secrecy, the results of the process are often in the public domain. The task is to develop a coherent political response based on the recognition that the predatory nature of GATS-driven privatization is a process in which governments voluntarily offer up entire sectors. This involves the violation of basic rights. These violations often proceed in contravention of national laws, and most certainly in violation of international human rights Conventions, Covenants and treaties.

It follows from this that union activity to defend these basic rights must primarily target national governments.

The first step must be to halt the extension of the GATS and implement an extensive review of the social and environmental damage incurred by current GATS commitments. There is a provision in the GATS Agreement which in fact establishes a review procedure as a precondition for further negotiating

¹⁸ Peter Hurst, "Health, safety and environment in agriculture," *ILO Labour Education - Top on the agenda: Health and safety in agriculture*, Nos, 118/119, 1-2, 2000, pp.17-25.

rounds. Calls by developing countries to implement this review procedure have in fact been blocked. We can in principle demand the implementation of such a review.

However, this review procedure is inherently limited by the fact that it would be conducted within the WTO, and therefore takes place in the context of the WTO's fundamental commitment to corporate expansion. We cannot rely on the GATS to review and restrain itself.

Stopping the GATS in practice requires a comprehensive moratorium which would include halting further negotiations to expand the GATS and a freeze on all current GATS requests.

An essential element of such a moratorium must include the review and reversal of national laws and policies which have been introduced to comply with GATS commitments. This includes, for example, those policies and laws that have been introduced in many countries to permit foreign investors to become commercial suppliers of essential services such as water.

The moratorium gives us a necessary breathing space to organize a public review process in which unions can and must play a central role. Unions in several countries have played a proactive role in parliamentary hearings into the disastrous impact of service privatization. We can build on this experience to initiate national level public reviews of the impact of the GATS and use this to mobilize a broad public opposition.

Subjecting the GATS to public scrutiny in this way gives us a critical opportunity to redefine the meaning of public services away from the corporate notion of the public as a mere body of consumers. The labour movement has traditionally fought for the provision of public services as a fundamental human right and insisted on the obligation of governments to defend this right. Governments that abandon, or assist in coercing debt-burdened developing countries into surrendering fundamental human rights through the GATS must be held accountable. This is the first step in halting and reversing the GATS threat to food and agriculture.