

MEMORANDUM

To: environmentalists & governmental water service providers
From: Public Citizen's Harmonization Project
Date: July 16, 2001

Re: Proposal for Global Rules on Water Service Delivery

Summary

In May 2001, the French national standards body AFNOR (*Association Française de Normalisation*) proposed that drinking water regulations be brought under the purview of a global standard-setting institution called the International Organization for Standardization (ISO). ANFOR is tabling a proposal that would create a new committee in ISO to promulgate global rules for the management of drinking water, wastewater and rainwater sewerage. France is home to the largest water companies in the world. Best known for their trade in bottled water, these corporations also contract to provide water services to federal and local governments in the developed and developing world. There is little doubt that an ISO committee dominated by these industry giants would create global standards to encourage the privatization and contracting out of these water services. As ISO standards are specifically recognized by the World Trade Organization (WTO) as the world's presumptively "trade-legal" standards, any rules created in this committee could undermine domestic regulation of water and water services. An international effort is needed to keep a water management committee out of the ISO and to alert national and sub-national governmental authorities who provide water services to the dangers posed by this committee. The ANFOR proposal is available at www.harmonizationalert.org/links.htm#iso.

The International Water Crisis

On the face of it, the creation of quality standards for water services seems like a good idea. A staggering 1.3 billion people—one out of every five—do not have access to clean drinking water, and 2.6 billion people do not have access to water for basic sanitation needs such as bathing. The situation is likely to worsen, and spread to developed parts of the world if current patterns of water use continue. To better meet drinking and sanitation needs—as the proposal claims to—through quality services would seem to be a desirable goal.

Yet things are never as simple as they seem. The proposal, if adopted, would lead to even more control over public water supplies by global corporations. Accelerating private monopoly control over public water will only make the global water crisis worse.

Privatization of public water has long been promoted by international finance organizations such as the World Bank and the IMF, as well as by water sector 'experts,' as the solution to the water crisis. The argument made by proponents of privatization is that people do not have water for basic needs simply because the public sector has failed to deliver water efficiently. On these grounds, efforts have been made to privatize water services in several countries. Most often, the results have been disastrous: besides an overall decrease in water quality in many instances, there have been unprecedented hikes in prices (as much as 400% in some cases like Philippines), water riots in Bolivia, protests in Ghana and cholera epidemics and related deaths in South Africa.

Many organizations concerned with social justice and environmental issues have questioned the wisdom of corporate-led privatization domestically. Other organizations have launched campaigns to protect water from the global trade rules under NAFTA and the WTO. The effort to prevent an ISO committee on

water must be incorporated into these campaigns or the rules the committee will establish threaten to undermine both fights.

What is the ISO?

Founded in 1947, the ISO is a private standard-setting organization based in Geneva. It is a federation of national standards bodies from more than 100 nations. In some countries, national standards bodies are largely governmental. In other countries, they are private-sector business associations. In either case, there is a large formal role for industry in standards development, and industry representatives dominate the more than 2000 technical working groups of ISO.

When ISO started, its goal was to standardize sizes for light bulbs, screws, batteries, and other consumer products to facilitate trade in goods and help industry expand its markets. Internationally standardized bank cards and floppy disks are ISO success stories. When ISO stuck to product standards such as these, the organization generated little controversy or public concern.

In the past decade, however, ISO has been expanding its purview into a number of environmental, public health and worker-safety policy areas best left for governments. Controversy has surrounded ISO's efforts to develop standards for environmental products and eco-labels, as well as occupational health and safety standards. The "ISO 14000 series" of standards focuses on environmental management practices, including providing a best "environmental practice" seal. The standards have been criticized for not including performance requirements or enforcement mechanisms. The result is an industry honor system, which allows corporations to claim that they are engaged in environmental "best practices" without having to demonstrate their performance to anyone. Environmentalists are concerned that these standards, developed almost solely by industry, will become the dominant global rules which will eventually replace the wide variety of domestic rules and regulations in this area.

How are ISO standards tied to the WTO?

WTO rules are based on certain underlying premises, among them: domestic health, safety, and environmental policies must be designed in the "least trade restrictive" manner and national laws and standards should be standardized internationally so as to maximize economic efficiency in cross-border trade. This process of global standardization has been dubbed "harmonization" by the corporations that favor it.

WTO agreements oblige member governments to base their domestic standard-setting on specified international standards and on international standard-setting techniques. For example, the WTO Technical Barrier to Trade Agreement, which governs trade in non-food products, states: "Where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations...." The acceptable reasons for exceeding international standards are strictly limited to fundamental climactic, geographical or technical inappropriateness.¹

WTO agreements name specific international standards, such as those established by the ISO in Geneva and the Codex Alimentarius Commission (Codex) in Rome as presumptively complying with trade rules.²

¹ TBT Agreement, Arts. 2-4, in Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, GATT Doc. MTN/FA (Dec. 15, 1993), 33 I.L.M. 9 (1994).

² Codex is a quasi-governmental commission based in Rome that sets food standards through a process involving a large role for industry, but little involvement of public health or consumer interests.

Because ISO is officially recognized by the WTO, it is increasingly becoming the venue of choice for multinational corporations trying to dilute or circumvent national environmental and public health regulations. ***If formed, the ISO committee on water will set the world's "least restrictive standards" that will be the point of reference for any dispute in the WTO's powerful and binding dispute resolution system.***

Theoretically, international harmonization could occur at the lowest or highest levels of environmental or consumer protection or somewhere in between. However, under WTO rules, international standards serve as a *ceiling* which countries cannot exceed rather than as a *floor* that all countries must meet. The agreements provide for the challenge of any domestic standard that goes beyond international standards in providing greater citizen safeguards, but contain no provisions for challenging standards that fall below the named international standard. Thus, WTO rules on harmonization are likely to serve only as a one-way ratchet downward on domestic standards. Challenges of domestic standards that exceed international standards will be resolved in the binding dispute resolution system built into these agreements. The WTO's dispute resolution system operates behind closed doors with no role for public participants or observers. A nation that loses a challenge in the WTO must either change its laws and regulations or pay millions of dollars in punitive trade sanctions to the "winning" country. A variety of nondiscriminatory environmental and public health laws have been successfully challenged as barriers to trade in the WTO.

Since the creation of the WTO, we are no longer operating in a world where international standards serve as "voluntary," "consensus-based" rules, we are operating in a world where the very existence of an international standard can undermine the ability of a nation to maintain a different, higher standard.

What are the tasks of the ISO water committee?

The ANFOR proposal, if adopted, would lead to even more control over public water supplies by global corporations.

The charge of the proposed ISO water committee is the "standardization of service activities relating to the supply of drinking water and to wastewater and rainwater sewerage."³ Among other tasks, the committee would:

- 1) create a "common language" of water management for users, local or national authorities, public or private subcontractors, research departments, laboratories, etc;
- 2) draw up guidelines for the management of drinking water supply system, including all operations related to the management of untreated water resources, production, transport, storage, distribution of drinking water, maintenance and development of infrastructure;
- 3) draw up guidelines for the management of wastewater or rainwater sewerage systems, including all operations related to health-related needs of users and the protection of the environment and water resources: collection of waste water, rainwater, treatment prior to discharge, conditioning of sludge and residue.

In other words, the committee would develop rules on how to manage all aspects of water service and delivery. Those rules would no doubt include a large and formal role for the subcontracting or privatization of all aspects of service. France is home to the world's largest transnational water corporations—Vivendi Environment and Suez-Lyonnaise des Eaux. There is little doubt that these companies and others will be working within this committee to advance their business interest through the development of ISO standards.

³ ISO/TMB/TSP 194 May 14, 2001

Why ISO is the wrong venue

Every water system in the world is different. In some countries, water management is the business of the federal government. In the U.S., water quality standards are set by the federal government, but water services are provided by a diverse array of municipal governments. Other countries, like the U.K., have moved to privatize water services and still other nations have a mix of public and private water service provisions. In addition, a complex array of physical, hydrological, socio-economic, cultural, and political factors come into play. As such, generic international standards will be difficult to achieve and are likely to seriously conflict with local needs, regional legislation, and national standards. While it is not clear if such standards are needed or desirable, it is clear that ISO is the wrong venue.

According to a report for the Brussels-based European Environment Bureau, ISO's standards drafting committees are "made up principally of executives from large international corporations, national standards-setting firms and consulting firms."⁴ The report also notes, "Decision-making in ISO is by member associations and firms. Other participants, while they may be invited and are recorded as 'participants' in a 'consensual' decision-making process, do not have voting rights." ISO "has belatedly invited delegates from governments and citizen's groups; but has used this invitation, and the limited participation that ensued, to claim an openness while ignoring their substantive input."

ISO's new role under the WTO and expansion into regulated areas is causing increased alarm among environmental, consumer, labor and public health groups who have tried to participate in the ISO process. ISO is designed in a manner that makes meaningful NGO participation difficult. ISO has over 2000 working groups that meet all over the world making it prohibitively expensive for NGO's and poorer nations to attend ISO meetings. Only ISO members (national standards bodies) can vote. International NGO's can only participate if they are invited and even then only as observers. International NGO's cannot vote and are often not included in important conversations. In addition, members of the public have no right to observe ISO meetings, must pay for access to ISO standards and can be denied access to underlying data. There is no process for public comment on ISO standards.

The lack of transparency and diversity of stakeholders in the ISO process compromises the legitimacy of ISO standard-setting activities. If rules for water services provision are needed, they would be best addressed by governmental bodies operating on a national or regional basis in an open and democratic manner with participation by all interested parties, not just industry.

How does this relate to WTO services negotiations?

The timing of the current proposal to globalize and privatize standard-setting in water is striking, because it seems to be a companion effort of the European Union's on-going push to bring water under WTO rules via WTO services negotiations. The General Agreement on Trade in Services is one of more than twenty trade agreements administered and enforced by the WTO. The GATS was established in 1994, at the conclusion of the 'Uruguay Round' of the General Agreement on Tariffs and Trade (GATT), which led to the WTO's creation. The agreement provides for on-going negotiations to deepen and expand its coverage to more service sectors and more nations. Services will be one of the primary topics for discussion at the next WTO Ministerial meeting in Qatar in November.

⁴ Benchmark Environmental Consulting, *ISO 14001: An Uncommon Perspective - Five Public Policy Questions for Proponents of the ISO 14000 Series* (Nov. 1995), at 13.

The mandate of GATS is the 'liberalisation of trade in services'. In plain English, this means the dismantling of government barriers to the privatization of public services. Its aim is to make it impossible for governments to run public services on a not-for-profit basis, without the participation of private companies. GATS will allow the WTO to restrict government actions relating to public services through a set of legally binding constraints.

If you were Bolivian, you'd know why the world should be worried about the GATS. In the spring of 2000, under pressure from the World Bank the Bolivian city of Cochabamba sold the city's public water system to a U.S. water corporation. It was, the Bolivians were assured, all in the name of economic efficiency. The people of Cochabamba soon found out what that efficiency amounted to. Just weeks after the corporate flag had been raised over what had been a public utility, water rates were hiked up massively. Many of the peasant families of Cochabamba were required to pay up to a third of their wages for their water – more than they spent on food. The charges were crippling, and there was no alternative – even collecting rainwater to drink was made illegal.

Complaints had no effect on the water company, whose aim was now profit rather than public provision of a basic need. So Cochabambans took to the streets. In April, hundreds, then thousands, joined in demonstrations against the privatization of this most basic resource. Four days of strikes brought the city to a standstill. Tear gas was used, and martial law was declared. Cochabamba descended into chaos. Still the government, and the company, refused to give way. Protest leaders were rounded up at night. Dissenting media outlets were shut down. But the people did not give up. Eventually, after the military shot a 17-year-old boy in the face, even the government realized the game was up. Two days later, they signed an accord agreeing to return the city's water supplies to public control.

-- Maude Barlow, Council of Canadians, "The Last Frontier," The Ecologist, Jul. 16, 2001

If global trade rules governing water are developed and brought under WTO disciplines via the GATS or via the ISO, those rules will be designed to discourage government stewardship of the world's most precious natural resource and instead will promote market access and privatization for the benefit of multinational water corporations.

How you can defeat the ISO Water Committee

For the above reasons it is very important that ISO is not allowed to become the global standard-setting body for water services. In the past year, organized labor launched a successful fight to keep occupational health and safety issues out of ISO. A similar effort is needed to keep water, and other environmental and public health issues out of ISO.

- Write a letter to your international standards body and tell them no ISO committee on water management. A list of these standards bodies can be found on the ISO web page at: <http://www.iso.ch/iso/en/aboutiso/isomembers/MemberList.MemberSummary?MEMBERCODE=10>

In the U.S. contact:

Dr. Mark W. Hurwitz, President and CEO
American National Standards Institute
1819 L Street, NW, 6th Fl.
Washington, DC, 20036
202.331.3605

202.293.9287

mhurwitz@ansi.org

- Contact your government agencies that regulate water. In the U.S., call the EPA and tell them to keep ISO out of environmental standards:

Cynthia Dougherty, Director
Office of Groundwater and Drinking Water
US EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20460
Phone 202-260-5543
dougherty.cynthia@epa.gov

- Send this memo to your municipal water service provider.

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SAMPLE LETTER/SIGN ON LETTER:

To sign on to a US version of the letter to ANSI contact marybottari@home.com

Dear (National Standards Body),

We are writing to express our strong objections to the proposal from the French national standards body (AFNOR) to create a water committee for drinking water and wastewater management in the International Organization for Standardization (ISO) in Geneva.

We believe that the global fresh water supply is a shared legacy, a public trust and a fundamental human right. The intrinsic value of the Earth's fresh water precedes its utility and commercial value and therefore must be respected and safeguarded from commodification, privatization and harmful trade rules.

We believe that ISO is the wrong venue for water standards and environmental standards as a whole.

- ◆ ISO's lack of transparency, public participation, and a diversity of stakeholders undermines its legitimacy to engage in standard-setting in highly-regulated areas such as water services.
- ◆ ISO has a history of setting weak environmental standards lacking performance requirements and enforcement. ISO should not be setting further standards in the environmental area.
- ◆ In many countries, water services are largely provided by governmental bodies. In the U.S., water services are primarily delivered by local municipal governments. It is completely inappropriate for a private sector organization like ISO to be developing standards for public sector activities.
- ◆ Given the complex array of physical, hydrological, socio-economic, cultural, and political factors that come into play, generic international standards are likely to seriously conflict with local needs, regional legislation, and national standards.
- ◆ Because of ISO special status under the World Trade Organization, poor water standards developed in the ISO could be used to attack conflicting domestic standards in the WTO's binding dispute resolution system, generating a race to the bottom in international water services.

The proposal for an ISO water services committee should be rejected, and ISO should refrain from generating further standards in the environmental area or in any other highly-regulated area.