

# PERMANENT PEOPLES TRIBUNAL

Hearing on

## Neo-liberal Politics and European Transnational Corporations in Latin America and the Caribbean

10-12 May 2006 - Vienna, Austria

Case study: **Suez in Uruguay**

Sector: **Potable water and sanitation services**

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Summary:

Suez has worked in Uruguay since 1998 through its Spanish subsidiary, Aguas de Barcelona, when the potable water and sanitation service concession in the area of Maldonado Valley was granted to the Aguas de la Costa company.

Privatisation had serious economic, social and environmental effects: excessive rates, the exclusion of broad sectors of the population from access to water, elimination of public taps and drying up of sources of water that could be made potable.

National authorities and multilateral bodies such as the World Bank and International Monetary Fund (IMF) played a significant role in this process.

For example, in 1999, when the public State Sanitary Works (*Obras Sanitarias del Estado*, OSE) company signed the last loan agreement with the World Bank, the state-run company committed to expanding the privatisation of services to other areas of the country (World Bank, draft of the programme document for the proposed structural adjustment loan and the proposed special structural adjustment loan to Uruguay, 2002).

In 2002, meanwhile, the ball was in the IMF's court. At one of the most dramatic points in the Uruguayan economic crisis that was triggered by the collapse of the financial system, the IMF promoted the deregulation and privatisation of various sectors through a Letter of Intent signed with the Uruguayan government. One of the objectives stated in the document was to "open to private initiative activities previously reserved for the public sector" (IMF, Letter of Intent with Uruguay, 2002).

The privatisation of water services (in which the Spanish company Aguas de Bilbao also participated) sparked strong public opposition, leading in 2004 to the approval of a constitutional reform promoted by the National Commission in Defense of Water and Life (*Comisión Nacional en Defensa del Agua y de la Vida*, CNDAV) that prohibited the private management of water services. The issue was approved in a referendum by 64.7 percent of Uruguayan voters during the national elections in 2004.

During the campaign promoting the constitutional reform, Suez lobbied hard to prevent passage of the measure. Although there is no proof of this, it should be noted that the political party that led the campaign against the reform (which included an extensive media campaign) later had the manager of Aguas de la Costa run on its ticket for mayor of Montevideo, the capital of the country.

Suez used existing Bilateral Investment Protection Treaties (with France and Spain) to threaten the Uruguayan government, saying it would take the case to the World Bank's International Centre for Settlement of Investment Disputes (ICSID).

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<sup>1</sup> This case was prepared by Carlos Santos (REDES-AT), with the collaboration of Guillermo García Duchini (CNDAV) and Fernando Willat (PIDHDD Uruguay Chapter).

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Giving in to those threats, on 20 May, 2005, the executive branch issued a decree that ran counter to the constitutional reform, allowing Suez to remain until its contract expired in 2018.

Suez finally announced that it would withdraw from Uruguay, after the Uruguayan government — in the wake of several months of negotiations — decided to purchase all the shares of Aguas de la Costa that were owned by Aguas de Barcelona (a subsidiary of the French company Suez). The agreement involves payment of US\$3.4 million to the multinational company for 60 percent of Aguas de la Costa. Finalisation of the purchase requires the passage of a law that will be presented to Congress on 18 April.

During the time the company has operated in the country, the following incidents have been recorded:

- a.) violation of international human rights norms, by excluding sectors of the population from access to water.
- b.) violation of the national Constitution, after it was reformed in a referendum (in 2004) to prohibit private management of water services.
- c.) lobbying international financial institutions, the International Monetary Fund and the World Bank, to encourage the Uruguayan government to “liberalise” potable water and sanitation services, opening them up to private investment.
- d.) the use of bilateral investment protection agreements to threaten the Uruguayan government with action before the World Bank’s International Centre for the Settlement of Investment Disputes (ICSID).