

REPORTS ON SPECIFIC CASES:

GTZ in Bolivia: Privatization of water

A) basic information specifically related with GTZ:

The name of the TNC(s), consortium(s):

GTZ GmbH (Gesellschaft für Technische Zusammenarbeit; engl.: Corporation for Technical Cooperation): www.gtz.de

GTZ is one of the official development agencies of the German government. It's a state-owned private enterprise established as a limited liability company (GmbH) according to German company law.

Details of the country of origin:

"The Federal Republic of Germany (German: Bundesrepublik Deutschland , listen (help·info)) is one of the world's leading industrialised countries. Located in Central Europe, it is bordered to the north by the North Sea, Denmark, and the Baltic Sea, to the east by Poland and the Czech Republic, to the south by Austria and Switzerland, and to the west by France, Luxembourg, Belgium and the Netherlands.

Germany is a democratic parliamentary federal republic, made up of 16 states called Länder, which in certain spheres act independently of the federation. Historically consisting of several sovereign nations with their own history, culture as well as religion, Germany was unified as a nation state during the Franco-Prussian War in 1870/1871.

The Federal Republic of Germany is a member state of the United Nations, NATO, the G8 and the G4 nations, and is a founding member of the European Union. It is the European Union's most populous and most economically powerful member state. Germany also plays a role as one of the world's major powers."

<http://en.wikipedia.org/wiki/Germany>

Detail of the owners (biggest shareholders, CEOs):

"GTZ has the corporate form of a "GmbH" (closed limited company) in the private sector. It is owned by the German Federal Government. The Managing Directors are Dr Bernd Eisenblätter and Wolfgang Schmitt.

The GTZ Supervisory Board has representatives of four Federal Ministries: the Federal Ministry for Economic Cooperation and Development (BMZ), Federal Foreign Office, Federal Ministry of Finance, and Federal Ministry of Economics and Labour. Since 1998 the Supervisory Board Chairman has been State Secretary Erich Stather from the BMZ. Our Head Office is at Eschborn, near Frankfurt/Main.

Regional knowhow is consolidated in the Departments "Africa", "Asia/Pacific, Latin America/Caribbean" and "Mediterranean Region, Europe and Central Asian Countries". Technical knowhow is consolidated in the "Planning and Development" department. In addition to its activities for the Federal German Government, GTZ also works for a large number of international clients in its business sector GTZ International Services.

GTZ has offices in 67 countries worldwide. We are constantly expanding our external structure and transferring decision-making authority from Head Office to the field. This benefits the planning and implementation of the various projects and programmes.

GTZ also has offices in Berlin, Bonn and Brussels.

GTZ-AgenZ, the Agency for market-oriented concepts, with its head office at Frankfurt am Main, extends the range of GTZ consulting services in the field of political communication and strategic marketing. Headquartered in Frankfurt is the Centrum für internationale Migration und Entwicklung (CIM), a joint operation of GTZ and the Federal German Employment Institute. Since its formation in 1980, CIM has been acting as a placement agency with a development policy commission."

<http://www.gtz.de/en/unternehmen/1720.htm>

GTZ Supervisory Board:

"Representatives of the Shareholder

- * Erich Stather (Chairperson), State Secretary in the German Federal Ministry for Economic Cooperation and Development, Bonn
- * Dr. Peter Ammon, Director General in the German Federal Foreign Office, Berlin
- * Alexander Bonde, Member of the German Federal Parliament, Berlin (since 18 February 2005)
- * Jochen Borchert, Member of the German Federal Parliament, Berlin
- * Gerd Ehlers, State Secretary in the German Federal Ministry of Finance, Berlin (until 31 December 2004)
- * Antje Hermenau, Member of the German Federal Parliament, Berlin (until 31 December 2004)
- * Jürgen Koppelin, Member of the German Federal Parliament, Berlin
- * Peter Mießen, Director General in the German Federal Ministry of Finance, Berlin (since 18 February 2005)
- * Dr. Guido Peruzzo, Director in the German Federal Ministry of Economics and Labour, Berlin
- * Brigitte Schulte, Member of the German Federal Parliament, Berlin

"Representatives of the Workforce"

- * Hartmut Runde (Deputy Chairperson), GTZ, Eschborn
- * Jürgen Euler, GTZ, Eschborn
- * Petra Gerstenkorn, Unified Service Sector Union (ver.di), Berlin
- * Christiane Kalle, GTZ, Namibia
- * Willi Monigatti, GTZ, Eschborn
- * Cornelia Richter, GTZ, Eschborn
- * Thomas Schenk, Unified Service Sector Union (ver.di), Frankfurt am Main
- * Marlis Weißenborn, GTZ, Egypt

<http://www.gtz.de/en/unternehmen/4771.htm>

Management structure and procedures of decision-making (for e.g. the relationships between the headquarter and branches):



Name and relationships with the subsidiaries or the most important supply companies:

GTZ works for:

“GTZ works for the German Federal government and other clients, public or private sector, national or international, such as the EU, World Bank or UN organisations, and for private sector companies. Our main client is the German Federal Ministry for Economic Cooperation and Development (BMZ).

With a total turnover of 884 million euro in 2003, some 761 million euro came from projects and programmes for public clients, such as the BMZ and other Federal Ministries. Some 86 percent of GTZ turnover is under contracts from the German Federal Government. GTZ made 14 percent (c. 123 million euro) in 2003 from contracts from other clients and financing institutions, mostly international, and from private sector companies.”

<http://www.gtz.de/en/unternehmen/1732.htm>

“To bundle knowhow for optimal results in its work, GTZ cooperates closely with other organisations involved in development policy. These include the German Development Service (DED), Internationale Weiterbildung und Entwicklung GmbH – Capacity Building International, Germany (InWEnt), German Finance Company for Investments in Developing Countries (DEG) and – above all – the KfW Entwicklungsbank (development bank). The latter is responsible under commissions from the BMZ for financial cooperation with partner countries. Together with other interface organisations like the KfW, DED and InWEnt, we have numerous shared offices, for example in Egypt, Vietnam, Manila, India, Jordan, Guatemala and countries in southern Africa. They facilitate local coordination of technical and financial cooperation and relations with joint partners.

In addition, GTZ cooperates successfully with political foundations, the two major Christian churches and numerous NGOs at national and international level, including

German Agro Action, as the largest German NGO, and the World Conservation Union (IUCN).

Cooperation with the private sector is becoming increasingly important. In the past five years we have launched some 300 Public-Private Partnership (PPP) projects (i.e. joint projects between private sector companies and GTZ) in over 60 countries throughout the world.

Exploiting synergies for mutual benefit – this is the motto behind GTZ’s growing strategic alliances with important external partners from all areas of society. To give just a few examples, there are the alliances with the Bertelsmann Foundation, the “Europäisches Zentrum für Menschenrechte und Demokratisierung” (“European Centre for Human Rights and Democratisation”), the “Europäischen Dachverband der Unternehmensstiftungen” (“European Association of Corporate Foundations”), the Goethe Institut or the “Deutscher Städtetag” (“German Association of Municipalities”). These alliances all involve agreements between equal partners which enable both sides to achieve their goals better. Existing knowhow is augmented, new working areas and markets are opened up. A partnership which benefits both parties.

To improve networking and the efficiency of cooperation at a European level, the GTZ joined other European partners to form EUNIDA, the European Network of Implementing Development Agencies. Currently, the network covers the UK, Luxembourg, Belgium, France and Germany. EUNIDA is based on a GTZ initiative in 2000. The network seeks to use its services to mobilise the specific competences which the member organisations and their national governments have developed for cooperation with the European Union.”

<http://www.gtz.de/en/unternehmen/1734.htm>

Relationship with 'local' companies:

“ Cooperation with the private sector is becoming increasingly important. In the past five years we have launched some 300 Public-Private Partnership (PPP) projects (i.e. joint projects between private sector companies and GTZ) in over 60 countries throughout the world.”

<http://www.gtz.de/en/unternehmen/1734.htm>

Products and/or services that the TNC provides and in which places:

International cooperation for “sustainable development”: GTZ’s “main focus in international cooperation is on so-called Technical Cooperation. Far from being only centred on transferring technical knowledge” “GTZ promotes complex reforms and change processes” [sic] in the following areas:

- Rural development
- Economic development and employment
- Environment and infrastructure
- Good Governance
- Social development
- Cross-sectoral themes

Market quota, quota of sales:

GTZ: Facts and figures

€ million 2003 / € million 2004 / Changes on previous year in %

Turnover	884.8	878.8	-0.7
of which GTZ International Services	123.1	181.1	+47.1
Total operating performance	890.0	891.3	+0.2
of which GTZ International Services	129.6	189.3	+46.1
New contracts received	972.8	1,115.4	+14.7
of which GTZ International Services	160.0	214.6	+34.1
Income from public clients	746.8	692.2	-7.3
of which BMZ	695.1	626.6	-9.9
of which other clients	49.0	48.2	-1.6
of which cofinancing	2.7	17.4	>100.0
Total orders placed	273.3	250.5	-8.3
of which orders to suppliers	24.6	22.5	-8.5
of which orders to consulting firms *)	169.0	156.5	-7.4
of which orders to consulting institutions	31.9	34.0	+6.6
of which orders to independent appraisers/short-term experts	47.8	37.5	21.5
Number			
Ongoing projects	2,726	2,628	-3.6
Partner countries	131	131	0.0
GTZ Project staff in Germany and abroad	1,430	1,393	-2.6
of whom in projects for public clients	1,259	1,217	-3.3
of whom in GTZ International Services	171	176	+2.9
National personnel	7,081	6,971	-1.6
of whom professional and managerial staff **)	3,283	3,215	-2.1
Integrated Experts (CIM) ***)	668	664	-0.6
Total Head Office Staff ****)	1,042	999	-4.1

<http://www.gtz.de/en/unternehmen/1722.htm>

Number and type of employees - where are they being employed?:

Currently, the GTZ is implementing some 2,700 "development projects and programmes" in over 130 countries. GTZ has own offices in 66 of these countries.

In Latinamerica GTZ is active in 16 countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Rep., Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, and Peru.

Of circa 9,400 employees worldwide, some 1,000 people are employed at the GTZ's Head Office in Eschborn near Frankfurt am Main.

The existence or non-existence of trade unions in the company:

Yes.

The speeches, the practices and the policies on labor, environment, gender and on human rights in general:

CORPORATE PROFILE

"Our work is international cooperation for sustainable development. We operate worldwide.

GTZ provides viable, forward-looking solutions for political, economic, ecological and social development in a globalised world. We support complex reforms and change processes. All our activities are geared to improving people's living conditions and prospects on a sustainable basis."

<http://www.gtz.de/en/unternehmen/689.htm>

CORPORATE IDENTITY

"The GTZ is an international cooperation enterprise for sustainable development with worldwide operations. It provides viable, forward-looking solutions for political, economic, ecological and social development in a globalised world. GTZ promotes complex reforms and change processes, often working under difficult conditions. Its corporate objective is to improve people's living conditions on a sustainable basis.

We mainly work for the German Federal Government. Our main client is the German Federal Ministry for Economic Cooperation and Development (BMZ). The company also operates on behalf of other German ministries, partner-country governments and international clients, such as the European Commission, the United Nations and the World Bank, as well as on behalf of private enterprises. Currently, we are implementing some 2,700 development projects and programmes in over 130 countries. We have our own offices in 66 of these countries. Of our circa 9,400 employees, some 1,000 people are employed at our Head Office in Eschborn near Frankfurt am Main.

Our main focus in international cooperation is on so-called Technical Cooperation. Far from being only centred on transferring technical knowledge, this primarily involves communicating knowledge that enables people to shape their present and future on their own. For this, we strengthen individual initiative and the capabilities of people

and organisations, and lay the basis for stable development – for future generations as well. In our work, this is what we mean by sustainability.

Our development projects and programmes cover a wide range of themes and tasks. These include advising the government in Tajikistan, vocational training in Argentina, protecting the tropical forest in Indonesia and preventing AIDS in Kenya.

The GTZ was established in 1975. It is organised as a private company owned by the German Federal Government. We work on a public benefit basis, using all funds generated as profits exclusively for projects in international cooperation.”

<http://www.gtz.de/en/unternehmen/1698.htm>

SOCIAL RESPONSIBILITY

“As a company in international cooperation for sustainable development, GTZ feels committed to assume responsibilities in the ecological, social, cultural and political environment. We carry this responsibility over from our own company into cooperation with our partners.

We work with recognised international standards, our results can be measured and verified at any time. As a result of the corporate form and equity structure of our company, we are audited several times a year. Efficiency and ethics do play an equal role in our actions. Respecting human dignity and human rights is just as important to us as the responsible use of the environment and resources.

This prompted our company to become a member of the Global Compact in early 2004, which was announced in 1999 by UN Secretary General Kofi Annan. Key goals are protecting human rights, protecting the natural basis of life, appropriate labour and social standards, and fighting corruption. Some 1,700 companies worldwide have joined it.

Since 2001, GTZ staff have been working at the UN Global Compact office in New York. The GTZ center for Cooperation with the Private Sector, Berlin, coordinates the activities of the German Global Compact network under a commission from the BMZ and in close consultation with the Federal German Foreign Office. It organises dialogue fora and events for concrete implementation of the Global Compact principles, and is available as a contact on all questions relating to the Global Compact.”

<http://www.gtz.de/en/unternehmen/1718.htm>

INTEGRITY

“For GTZ staff members, integrity is very important in everyday dealings with each other and with business and project partners. Key conditions for the success of our company include not only the price and quality of our services, but also our good reputation, our integrity. This is rooted in our company’s self-image, and is a matter of personal concern to all our staff. Our Code of Conduct includes rules for dealing with conflicts of interest and avoiding corruption. They are important principles of management for supervisory staff.”

<http://www.gtz.de/en/unternehmen/1738.htm>

Any other indicator that is available and is considered relevant:

Has the TNC been subject to Tribunals or cases on Human Rights violations (either local, regional, national or international)?:

No.

B) activities and actors to be accused:

THE CASE: **GTZ in Bolivia: Privatization of water**

GTZ is **actively promoting a so-called 'German model' of private sector participation (PSP) in the water sectors** of several Latinamerican countries. A lot of these efforts are underway in Bolivia. Experiences gathered here shall be used in other countries as well.

Development agencies like GTZ play an **increasingly important role in detecting and creating business opportunities for transnational enterprises**. By **influencing legislation and regulation** they pave the way for private sector involvement in a broad range of state sectors. In doing so, they regularly **clash with social movements** fighting for accessible and democratically controlled public services.

The GTZ case exhibits the **close collaboration** of consultants, diplomats, government officials, development banks and European corporations, jointly **pushing for investor-friendly regulatory reforms**.

The Bolivian example also provides insights into development agencies' modified strategies, which after the series of failed privatisations turn to more gradual, steplike approaches of water commercialisation.

With annual investments of about 350 million € Germany is the second largest bilateral donor in the water sector. GTZ, the corporation in charge of implementing, inter alia, publicly financed water projects, closely collaborates with KfW Development Bank, the financing arm of German development assistance. Both institutions are executing a heavily funded 'public private partnership' programme of the German government which **aims at facilitating investments of German or other EU firms in developing countries**.

The German government chose **Bolivia as one of four reference countries** where a broad range of development projects are to be implemented,

particularly in water supply and sanitation as well as in irrigation. However, Bolivian social movements sharply criticise these activities, accusing GTZ of **paving the way for the privatisation of water supply and water resources**. According to these accusations, **GTZ strongly influenced Bolivian legislation** in order to get a legal foundation for so-called 'Sociedades Anónimas Mixtas' (SAM) in the water sector. SAMs are owned by public and private shareholders which may freely sell their shares, thus **enabling creeping privatisation of water works**. Furthermore, establishing SAMs also means to turn the whole area, where a SAM is operating, into a 'concession zone' and thereby **forbidding alternative legal forms for the collective use and ownership of water resources**. In the aftermath of the 'Cochabamba water war' Bolivian social movements fought successfully for the introduction of legal forms called 'Registro' and 'Licencia' into the new Bolivian water law which protect collective water systems, inter alia those of indígenas and campesinos.

In consequence of the "Cochabamba water war" the citizens' movement has achieved modifications of law 2029 which led to the new law 2066 for drinking water and sanitary supply, which was also passed in april of 2000. Most notably it was accomplished to anchor the rights of social organizations and local communities with regards to their own watersystems and -sources, which can be protected by the application for own juridical titles (licencia and registro) to the Superintendencia de Saneamiento Básico. While the 'licencia' (article 46) protects the rights of small communities, town districts and social organizations, which directly provide water and sanitary supply services, the 'registro' title protects the supply structures of indiginous and rural communities, farmers associations and unions which by means of the traditional system of 'usos y costumbres' self-administrate themselves (article 49). Furthermore article 50 respects their rights to dispose of their own water sources. In the same way article 34 ensures the autonomy of their supply systems to small cooperatives, neighborhood councils and independent settlements with regards to the concessionary as long as they dispose of the necessary juridical title and fulfill respective quality standards. Law 2066

therefore considerably limits the monopoly-rights of the concessionaries within their supply-area. Finally the new law 2066 has anchored important consultation-mechanisms. Before a local authority can undertake calls for tenders or sign contracts for supply-fees and prices the social organizations have to be consulted (articles 13(f) and 57). Jointly with them a written comment (the so-called 'opinión técnicamente fundamentada') has to be delivered to the Superintendencia, which has to authorize the documents for the call for tenders and the fees (see Ley 2066).

The terms for the implementation of law 2066 were to be elaborated by means of a national participative consultation process. The World Bank financed this process and the Bolivian government instructed the GTZ to coordinate and implement regional workshops, which took place between the end of 2000 and the beginning of 2001 in Cochabamba, La Paz, Sucre and Santa Cruz.

Instead of playing the role of the moderator the GTZ slipped into the role of a party and brought in own proposals for the implementation of the law, which envisioned the creation of regional water federations transcending municipalities in the form of a mixed-economy stock company, so-called "Sociedades Anónimas Mixtas" (SAM). **These regional water federations should be treated as regional concessionary areas where the alternative water titles Registro and Licencia are not valid.** Equally the GTZ supported a determining role of the Superintendencia de Saneamiento Básico which should regulate the owners of the different water titles (Registro, Licencia, Concesión) **without any form of participation of the social organizations and municipalities.**

In consequence of the **aggressive lobbying by part of the** GTZ (and intervening German embassy members) the presidential decree DS 26587 set the legal foundation for the mixed stock companies propagated by the GTZ.

The Plan Bolivia for the water and sewage sector for the period 2002-2007 elaborated by the GTZ by order of the bolivian government constitutes another affront and was equally realized without any

consultation of the water committees, cooperatives and alternative suppliers.

This **water sector policy for Bolivia jointly devised by GTZ and KfW is at the same time an integral part of a structural adjustment credit of the World Bank**, as can be seen in a respective Bank-document (World Bank 2004a: 21 pp. and annex 5). According to this the structural adjustment program was materialized by "close coordination and technical support of KfW and GTZ" and this especially with regards to the "water-, sanitary- and social protection components" of the program (ibid.: 36). At the same time the document refers to an announced German co-financing of the adjustment credit amounting to 8 million Euros, which could rise up to 21 million Euros (ibid.: 2).

A new law passed by the government in april of 2004 for the external financing of water suppliers and/or EPSAs (Entidad Prestadora de Servicios de Agua Potable y Alcantarillado Sanitario) constitutes another element **of the German Plan Bolivia propagated and aggressively promoted by the GTZ which furthers commercialization**. Law 2649 opened the way for all water suppliers (EPSAs) to get to know the promise of public funds, including concessionaries and private companies (World Bank 2004a: 21). According to law 2066 of april 2001 for the water and sanitary sector, however, only suppliers of the alternative water titles "licencia" and "registro" can draw on funds from public projects and programs (see law 2066). As these public programs finance themselves mainly by means of cooperation funding **the new law 2649 opens the possibility for water corporations active in Bolivia to benefit of state programs and international cooperation funds**. Social organizations presume the consortium Aguas del Illimani led by Suez, which in 1997 was assigned with the concessionary contract for water and sewage supply for La Paz and neighboring El Alto, to be the main beneficiary of this new law.

Therefore, the GTZ concept of SAMs not **only endangers municipal water works and water cooperatives but also existing systems of collective water provision in rural areas**. By doing so the GTZ politics in Bolivia **threatens the ESC-Right to Water, disrespects the UN International Covenant on Economic, Social and Cultural Rights (1966), the UN Millenium Development Goals, the UN Charter: Preamble and Chapter 1, paragraphs Two and Three (1945), and the UN Global Compact (1999)**.

Unfortunately, GTZ already managed to establish two SAMs in Bolivia, a third one is due to be launched in the southern province of Tarija. However, another SAM attempt in the Cochabamba province sparked protests of local communities which were answered with violent repression leaving several people injured.

Furthermore, shortly after the recent announcement of the Bolivian government to terminate the water concession of the Suez-led consortium 'Aguas del Illimani' in La Paz and El Alto, both cities' mayors suddenly advocated the GTZ model of a 'Sociedad Anónima Mixta' for the successor company. **This proposal ran totally against the will of El Alto's federation of neighbourhood councils FEJUVE** whose protests against Aguas del Illimani, that left nearly 200.000 inhabitants of El Alto unserved, forced the government to cancel the contract. FEJUVE now negotiates with government officials in order to create a non-profit water enterprise. Apparently, the two mayors' SAM proposal followed an **intervention of the German Embassy** that, according to a press statement, urged for an 'amicable' solution of the crisis and explicitly supported the creation of a mixed enterprise ('empresa mixta').

Finally, **the German Embassy threatened that without such a solution, Germany wouldn't provide any development aid for mitigating El Alto's water problems**. This **harsh German intervention** must also be seen against the backdrop of a 12 million € KFW credit for the enhancement of El

Alto's sewage disposal in the mid-nineties which served as a de facto subsidy for the multinational Suez.

Civil society organisations that have been criticising GTZ's role in the Bolivian water sector are the 'Coordinadora de Defensa del Agua y la Vida', the 'Asociación Nacional de Regantes y Comités de Agua Potable', and recently also FEJUVE in El Alto. The Vienna tribunal could be a valuable opportunity for these organisations to shed some light onto the **activities of one of the most important development agencies in the water sector world wide.**

It could also serve to highlight the role of these agencies in **preparing and facilitating investments of TNCs in developing countries.**