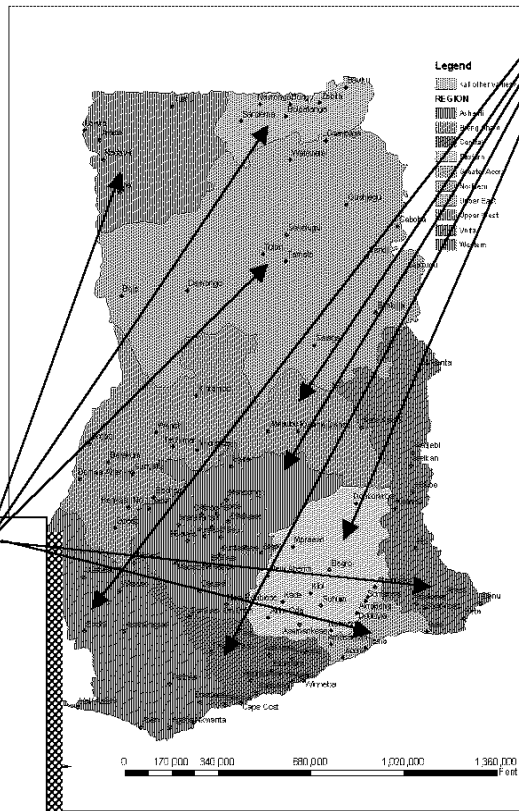


WHY WATER PRIVATIZATION IN GHANA MUST BE STOPPED

In the interest of two transnational corporations, vested interests in Ghana, foreign governments and the World Bank conspire to violate our Right to Water.

Water is Life



BUSINESS UNIT A

REGIONS

Greater Accra
Volta
Northern
Upper East
Upper West

BIDDERS

Northumbrian - British
Vivendi - French
SAUR - French

TERM OF LEASE

30 Years

NUMBER OF CITIES

27 Systems

POPULATION NOW

3.6 million

INVESTMENT REQUIRED

US\$ 1.351 billion

BUSINESS UNIT B

REGIONS

Central
Eastern
Western
Ashanti
Brong Ahafo.

TERM OF LEASE

10 Years

BIDDERS

Bi-Water – British
Nuon - Dutch
Generale Des'Eaux - French
Suez Lyonnaise – French
Skanska – Swedish

NUMBER OF CITIES

73 Systems

POPULATION NOW

3.9 million

INVESTMENT REQUIRED

US\$ 467 Million

WHY WATER PRIVATIZATION IN GHANA MUST BE STOPPED

In the interest of two transnational corporations, vested interests in Ghana, foreign governments and the World Bank conspire to violate our Right to Water.

I. THE MOTIVATIONS BEHIND OUR POSITION

1. Perhaps we should emphasise, from the outset, that the members of the Coalition Against the Privatisation of Water in Ghana (CAP of Water), of which ISODEC is a part, are motivated by the common desire, shared by government, to see that all Ghanaians have access to, and can afford, good quality drinking water at all times irrespective of their income levels, their ethnicity, gender, disability and location. Many of the CAP of Water members are themselves busy at this task as workers, managers, researchers, consultants, academics, engineers, students, community leaders, user associations, artisans, small businesses, faith-based organisations and charitable bodies. They bring to this debate a collective wealth of knowledge and experiences at multiple levels far in excess of what any single institution can command. More than that, they bring to the debate deep belief in the ability of Ghanaians and Ghanaian institutions to find their own solutions to their problems.

But we also believe that these solutions can arise and endure only if adequate debate and consultation is permitted, in an atmosphere of tolerance and transparency, and in the context of our young but maturing democracy. To this end, we urge, the Parliament, the District Assemblies, the Metropolitan Assemblies and Municipal Assemblies to bring their powers to bear to on the illegitimate transactions that are about to close these deals. In particular, we urge the Local Assemblies to place injunctions on the transfer of Water Systems belonging in their respective jurisdictions until they have investigated the whole-sale deals whereby their Systems have been bundled into two Business Units. A legitimate process of Water Sector Reform would have begun with local consent in the first place. After all, Water is Life!

II. WHAT WE SUPPORT IN THE REFORM OF THE WATER SECTOR

2. The members of the CAP of Water are the first to recognise the urgent need to reform public institutions, especially those with the responsibility for providing water, to enable them to use our limited resources efficiently to provide this most vital of public services effectively. We recognise the severe financial constraints that they face and the public perception of their performance as woefully inadequate, wasteful, even corrupt in parts.

3. But we also recognise that even as the public is critical about the performance of our public institutions, many recognise the valiant efforts of thousands of workers, managers and engineers who provide services amidst neglect and difficult constraints. It is these efforts that convince us that, under the right circumstances, Ghanaian workers, management and technical expertise, private businesses, artisans, community leaders, etc. can effectively reform the institution.

4. We believe that any reform must be aimed at achieving FULL protection of the right of all to potable water. This necessarily entails primary reliance on local expertise, enterprises and institutions. To this end, it must seek to strengthen rather than weaken public institutions. It must recognise and strengthen, rather than punish the efforts of workers and local management. In principle, it should be locally driven rather than foreign-interest driven. In many countries, Water Systems fall squarely within the realm of National Security.

5. Most Ghanaian experts in the Water Sector believe, as we do, that many regional public systems, combining urban and rural subsidiaries would have been more efficient to manage. Integrated regional systems would have more easily and fairly treated the large numbers of poor households in peri-urban zones, rural towns and villages by adopting a proper mix of public distribution, community management and private sector procurements. Higher tariffs charged to wealthier households would cross-subsidize systems in low income neighbourhoods. Where these fall short of guaranteeing the right to water, then general fiscal transfers must be mobilized mustering all necessary sacrifices in other sectors. Such an arrangement would have allowed Ghana to uphold the right to water, i.e. the right to life, while keeping the rich and poor integrated.

Such rights based approach to Water Systems Development is not without substantial economic benefits to the State of Ghana, the people of Ghana and their private sectors. With good growth rates in other sectors, the Water Sector can become a solid revenue earner for redistribution to other priorities. High level training institutes for home-grown Water Sector engineering and management, can help raise the operational standards throughout the country while also building the capacity to tackle the myriad of water-related problems, be it irrigation for agriculture, managing wetlands, aquifer preservation, and hydrology for industrial needs. Passing

the Water Systems to privatisation at this state will permanently retard our potentials and confidence in building up these capacities.

III. AND WHAT WE DON'T SUPPORT IN THE REFORM OF THE WATER SECTOR

6. Unfortunately, we are aware that much of the current reform process has been propelled by the World Bank and some bilateral donors using their lending and aid as punitive levers. For example, the Business Framework document and the Transaction Plan were developed by American consultants handpicked and hired by the World Bank. Ghanaian expertise in the Water and other social sectors was marginalized. The documents that operationalise the privatisation received exclusive validation and were not subjected to comparison with equally rigorous studies on other options available to our society.

7. The public, be it through parliament or the press, was never allowed to scrutinize, much less make input into these designs. Upon discovery of the documents, we were not surprised that the whole process was hidden from public view, because it was, indeed, heavily rigged to favour privatisation to foreign companies. The NPP Government, having inherited these underhanded processes from the NDC, had the option to bring them into the open. To our disappointment, we find that it went even further and put the process on a “fast-track ” implementation schedule avoiding debate for the sake of speedy adoption.

8. Whereas the government calls the reform Private Sector Participation (PSP) or Private Public Partnership (PPP), we call the process simply PRIVATIZATION. We do not oppose the involvement of the private sector in the delivery of discreet services competitively contracted to it by government, be these management services, the collection of tariffs, the provision of technology, the laying of pipes. Indeed, what we oppose is the deliberate crafting of the process to privilege ONLY foreign companies, passing monopoly control of ALL urban systems to them in very long lease contracts.

9. The Business Framework Document and the Bid Package detailing the contracts to be executed with two such foreign monopolies are remarkable for their lack of confidence in the intellectual and professional potentials and capacity of Ghanaians. They basically assume that we are inherently incapable of fixing our own problems. Fundamental economic and social interests of Ghana are sacrificed to ensure profits that will be remitted to the coffers of the transnational corporations.

10. Our arguments against the privatization process can be grouped into 4 main issue areas:

- A. It is the result of deliberately narrow reform options, excluding all options of reforming the public institutions.
- B. The framework is largely imposed by external interests in a non-transparent process that has deliberately avoided public scrutiny and democratic debate. The fast-track process now nearing closure of the deal undermines democracy.
- C. It is, by all description, a BAD DEAL technically and financially.
 - i. No foreign direct investment forthcoming, only more government debt
 - ii. Myth about efficiency and technological supremacy of the foreign company
 - iii. No BOT¹ - a lease that might never end
- D. The lease transaction and tariff formulae violate the rights of the poor to consume potable water.

A. Deliberately narrow reform options, outruling investments to revamp the public institutions

11. The Water Sector Restructuring Secretariat (WSRS) and the World Bank Director have claimed that the decision to pursue privatization was taken after “hundreds of millions of dollars” were sunk into GWSC and that various attempts to reform it were made to no avail. In reality, between 1992 and 1995, when the decision to privatise was made, GWSC was not restructured in any meaningful way. It was but starved of funds. The World Bank and bilaterals like DFID were in no way inclined, at the height of their adjustment drive, to fix or bolster public service institutions. We all know that. The privatisation decision was thus reflexive, except that a whole edifice had to be constructed to shatter Ghana’s tradition of excellence in public institutions. That much, the World Bank Country Director admitted in a recent BBC documentary. Once the World Bank took charge, it pursued the reform agenda in a manner consistent with the Structural Adjustment Programmes of the day: cost-

¹ BOT = Build – Operate - Transfer

recovery, minimal role of the state and privatisation. It subsequently locked these decisions into its conditionality framework, namely, the Country Assistance Strategies (CAS).

B. The framework is largely imposed by external interests in a non-transparent process that has deliberately avoided public scrutiny and democratic debate.

12. The key studies were commissioned and paid for by the World Bank and bilateral donors such as DFID. None of those studies were tendered in Ghana. The consulting firms all happened to be ideologically favourable to privatization and had a track record of working for large private water companies. All the studies concluded that the model of privatisation being proposed by the World Bank, their direct client, is the best one for Ghana. That said, the implementation was driven by the forceful conditionalities of the IMF and DFID loans. Consider the list of foreign consultants:

- **Louis Berger** a consulting firm based in New Jersey, USA prepared the first report. According to its website, Louis Berger's remit was "to encourage private sector participation in the Ghana water sector." Louis Berger's whole expertise is in the field of infrastructure privatisation.
- **Louis Berger** was also asked, following subsequent reports on tariffs and Halcrow's survey of different public/private partnership options (see below), to prepare a final Business Framework Report, which included an implementation plan for Ghana's urban water supply. It recommended breaking urban supplies into two enterprises for lease to private operators. Louis Berger did not look at other reform measures outside of Privatization.
- **London Economics**, a UK-based consultancy firm, which approaches water resource problems from the standpoint of market economics, was chosen to prepare a report titled Willingness and ability to pay and its impact on tariffs. The report recommended a single tariff structure and rejected the notion of a social tariff.
- **Halcrow & Halcrow**, another UK-based firm of consultants, prepared a further report on the privatisation, again, funded by DFID. Like Lois Burger Halcrow & Halcrow were not asked to look at renewing the public sector - only privatisation.
- **W.S. Atkins**, also a UK-based firm, produced the Assets Revaluation Study, a 12-volume work largely drawing on GWSC staff and data resources. W.S Atkins determined the lease value and investment requirements that shaped the final privatisation instrument, namely, the bid document that the public has never seen.
- **Stone and Webster**, based in Louisiana, USA, produced the framework for privatisation from which the World Bank and Government of Ghana are believed to be working. Stone and Webster are still currently retained by the Ghana Water Restructuring Secretariat as Transaction Advisors – its work is also funded by DFID.
- **The Adam Smith Institute**, the most extremist think-tank on privatisation one can find in the UK, is advising the PURC on tariffs. The Adam Smith Institute believes in "corporate governance with weak regulation".

13. Worst still, the office promoting privatisation on behalf of our government, the Water Sector Restructuring Secretariat (WSRS), is directly funded by the World Bank, with salary scales determined outside of the public sector system. Bilateral donors are also bankrolling this secretariat directly. In our view, this makes this body's neutrality as a technical, rather than a propaganda unit, quite suspect.

14. While privatization and the market economy is promoted as the answer to poverty reduction, the Privatization of Water in Ghana is clearly not an open market operation in which the hands of government play a minimal regulatory role. In fact, there is a major intervention by European and North American Governments, with the support of the IMF and WB, making the entry of their own private sectors virtually assured and risk free. They are doing for their businesses precisely what they discourage our government to do for its private sector. They do so by making financing contingent upon the terms and outcomes favouring companies that belong to them.

15. The privatization of water, we are afraid, has not just been a simple business transaction between the government of Ghana and a few businesses competing for a short-term service procurement. It is not at all an open market transaction. It is, in fact, the result of very deft political manoeuvrings by a consortium of donor countries committed to promoting the interests of their own corporate citizens. After all, they stand to gain millions from these transactions. These, we know, are positioned in the bilateral and multilateral institutions, the WB and the IMF especially, whose policy instructions are grounded on the Washington Consensus. In

Ghana these policy instructions have been in effect in the form of the Structural Adjustment Programs (SAP) for nearly 25 years now, having earned us the reputation of “star pupil” of Africa.

16. All bilateral and multilateral loans and grants, and now HIPC and Paris Club debt cancellations, have been made conditional mainly on privatization of the most essential and lucrative portions of public services. Even DFID of UK is withholding funds for the Kumasi Water Improvement Project, a totally self-contained project approved long ago, pending the execution of contracts leasing the two giant Business Units. It is clear from successive Article IV Consultations with the IMF and the Letters of Intent submitted by the Government of Ghana, that the IMF and the World Bank have been exerting pressure on government to rush the privatisation of Water and other major public services.

17. What about local consultation and public scrutiny? The typical approach was for foreign consultants to undertake the research and report their findings to a carefully selected group of “stakeholders”. In some cases foreign “stakeholders” exceeded or equalled local ones. Typically, these workshops were in inaccessible locations – expensive hotels, including Akosombo. At no time were the options published in any newspaper or publicly debated over the radio or public forums with those who thought differently. The public was neither told the terms of the contract awarding process, nor the background of the companies. Basically, the public has been kept in the dark.

18. The decision to privatize Urban Water in a workshop setting, with arbitrarily chosen “stakeholders”, where the majority were foreigners, is a legally questionable procedure. GWSC is a vital asset of the people of Ghana and should never be disposed of through such irregular procedures. In our view the appropriate process would have been a major public debate as well as legislation in parliament with the options presented as follows:

- Ways to revamp the systems through further restructuring and investment in the public institutions responsible for Water, including all the roles that other Ghanaian institutions, such as the Kwame Nkrumah University of Science and Technology and the Politechnics, as well as the private sector could play, and, where necessary, the essential gaps that foreign expertise could be brought in to fill.
- Ways to set up the Public Systems for cooperation among and participation of the Ghanaian private sector and civil society. In our view, entry of the foreign private sector, especially giant transnationals, would be justified only in emergencies or other short-term bottlenecks, where major threats to the right to water are overwhelming the nation.

19. A democratic and parliamentary procedure would have resulted in a commission of Ghanaians and advisors from any part of the world, especially the developing world, to create the framework for improving all water systems. Their mandate would have been to design the systems, financial and technical, that would enable Ghana to achieve full observance of the right to water. These would have been accountable strictly to the people of Ghana and all branches of government, including Local Assemblies, and not the World Bank and its “workshops”.

20. We have **serious misgivings about ALL the transnational corporations** that are now on the short list. In particular, we have apprehensions about the two Transnationals that are likely to win the bid. We state our reasons and the measures that the Parliament and Local Assemblies should take to protect the people of Ghana from the risks of leasing our systems to these Corporations:

- Officials in WSRS have claimed that they have investigated and have found no reason to question the integrity and honesty of the companies. However, almost all of the companies are widely reported by major newspapers and watch-groups to have been prosecuted for corruption. Some of them have even seen their CEOs convicted and jailed. After contracts were executed in other developing countries, some of the same companies have been known to flout tariff and performance regulations, often displaying utter contempt for public protest. Yet the Government of Ghana still refuses to disclose the full details of the tendering process and the profiles of the companies involved.
- The Parliament and the Local Assemblies must demand to see the records of WSRS showing the method of investigation and the results of the investigations of the shortlisted companies. We should also request that these records be made public to determine due diligence.

C. The whole Deal is a Bad one , Technically and Financially

21. The justification for the privatisation process as argued by the WSRS and government of Ghana (GOG) rests on 2 issues: “the foreign companies will bring badly needed financial resources (Hon. Kwamena Bartels quotes \$700mn) to extend, rehabilitate and renew the systems so as to extend water to up to 87% of urban dwellers over 10 years compared to the current access rate of 30%. The foreign companies will also bring badly needed efficiency to bear on the operations of GWC Ltd. in order to reduce waste and provide reliable flows. Greater

reach and greater efficiency will also eventually reduce the unit cost of water for consumers.” Unfortunately, as we explain below, the whole deal is packaged to deliver neither new capital nor technical efficiency.

C.i. No foreign direct investment forthcoming, only more government debt

22. The fundamental problem constraining access to water by majority of people is inadequate infrastructure, i.e. pipelines, pumping capacity, storage capacity, water treatment capacity, metering, etc. Under the terms of the contract, as set out in the Business Framework document, the foreign companies have no responsibility to raise funds for these investments – renewal and expansion. For this reason, MIGA² and IFC were dropped from the deal at early stage. This responsibility lies with the GOG who is expected to raise \$500mn in the first 2-3 years following privatisation from concessionary official sources, namely, the World Bank, the African Development Bank, bilaterals, etc., including grants. IDA³ will step in with a large infusion within the first three months of 2002. This will establish the Operating Investment Fund (OIF) from which the foreign company will draw for specific capital projects. It is practically forbidden to raise capital from other sources⁴.

23. If the raising of capital were a key objective of the privatisation process, the parameters, such as principal and interest payments, would have appeared in the incentive formula provided by the Transactions Advisor⁵. It does not, unlike similar privatisation processes in Brazil and elsewhere. The formula for the fee structure (how the private operator deducts lease payments from total tariffs) guarantees profits and bonuses but contains no provisions for cost of financing.

24. The WSRS routinely mentions an amount of \$1.8bn of investments required in the sector over the next 20 years, always leaving an impression that privatisation will have something to do with raising these monies. Again, this is misleading, as the foreign companies are expected to finance improvements strictly by ploughing in tariff revenues or drawing from the government’s concessional OIF (real interest rate 1%). Ghanaians today pay 47% for their business loans.

French Water Deal to Cost Kenyans \$25m

Peter Munaita, The East African, 7 August, 2000

(Emphasis ours)

“Nairobi City water consumers will have to dig deeper into their pockets to pay Ksh1.9 billion (\$25.3 million) in 10 years following the proposed management transfer of water billing and revenue collection from the Nairobi City Council to Sereuca Space of France. Sereuca Space, in a joint venture with Generale de Eaux and Tandiran, will not invest a single cent in new water reservoirs or distribution systems.

Nairobi deputy mayor, Mr. Joe Aketch, has opposed the deal, saying it will lead to a loss of 3,500 jobs in exchange for 45 staff, four of them expatriate, who Sereuca proposes to employ. The salaries of the expatriates appear utopian by Kenyan standards, with the average total pay rising from Ksh124.5 million (\$1.7 million) in the second year of the contract to Ksh293 million (\$3.9 million) at the end of the contract. The deal has also polarised opinion within the council, explaining why it was not implemented in April as initially planned. It was not clear whether the deal has been sanctioned by the Ministry of Local Government and Treasury due to the huge expenditure implications.

Analysts question the wisdom of giving away a department that accounts for three quarters of the council's revenue to a private firm which will not add any value either to the city's water distribution system or supply. The Nairobi City Council's water and sewerage department is supposed to reimburse the cost of the computer system and hardware to the contract at the end of the 10-year arrangement, with no provision for depreciation. Observers now contend that the sums to be earned by Sereuca, a subsidiary of Vivendi of France, which won a \$55 million tender for Kenya's second mobile phone provider, are exorbitant. Vivendi will provide cellular telephone services in Kenya in conjunction with the Sameer Group. They argue that the City Council should have opted for the commercialisation of the department.

... Although Sereuca systems could check against fraudulent billing, which costs the council Ksh192 million (\$2.6 million) a year, the sums payable to the contractor will still leave the council with no savings at the end of the contract.

Councillors want the contract cancelled and subjected to proper professional analysis and re-tendering.”

² MIGA = Multilateral Investment Guarantee Agency; it insures private corporations investing in developing countries against risks of political crisis or nationalization of assets. IFC = International Finance Corporation; A branch of the World Bank Group which promotes private investment through equity financing and capacity building.

³ IDA = International Development Association; the concessionary window, generally the only source from which the World Bank lends to poor countries. IDA terms are long and interests almost nil.

⁴ See Stone & Webster, p. 14.

⁵ See Stone & Webster p.18; Lessee Fee = $L/RCP_1 + IOME/RCP_1 + D/RCP_1 + R \times NFA/RCP_1$

Where: RCP= Revenue Creating Production L=Government Levies IOME= Indexed Operating and Maintenance Expenses
D= Depreciation NFA= Net Fixed Assets R= Lessee rate of return (as bid by lessee)

25. The foreign companies have the responsibility for collecting and retaining the income from tariffs. Periodically, they will invoice the GOG to cover all costs plus a profit and bonus mark-up. Their retained earnings will include a host of bonus points awarded to them as incentives for good performance, including the installation of meters supplied by the GOG.

26. To protect their profits, the IMF has imposed an automatic tariff adjustment formula. The foreign companies will have the right to automatically adjust tariffs if interest rates, exchange rates and inflation change. This does not only overly protect the companies at the cost of the taxpayer, but it clearly diminishes the value of the PURC. Moreover, in the event that tariff increases beyond the ability of some poor people to afford, the foreign company will pass the difference between the former and the adjusted bill to the GOG. Never before did the GWSC have it so good in its entire existence.

27. The foreign company will render our systems watertight, while also creating a gashing leak of capital through its right to repatriate 100% of profits in hard currency. It is encouraged to import most of the inputs that it needs, including human resources, a point emphasized by the WB staff in justifying the automatic tariff adjustments. This makes Ghana susceptible to transfer pricing – a common practice among transnationals whereby they purchase most imports from their own parent (or sister) companies at markups of 30% to 300% over world prices. In these ways, the deal adds a predictable pressure on our balance of payments, given that the production of water does not generate foreign exchange.

C.ii. Myth about efficiency and technological supremacy of the foreign company

25. In principle, the public realizes the benefits of privatization only when there is competition by many firms WITHIN a single market. Consumers benefit when firms are forced to under-price and outperform each other to win customers. The business framework now in operation does the contrary. It divides the country into two discrete units in which two winning bidders are awarded monopoly status in the markets served by their systems. Monopolies generally achieve higher profits by cutting costs and raising prices. Water monopolies are even worse. Their monthly bills threaten like an armed robber: “your money or your life.”

28. The largest failure in the GWSC has been not just in managing the water system, but, just as importantly, its neglect of the sewerage systems. One would expect that the technical strength that the foreign companies are supposed to bring to Ghana would include solutions to our sewer systems. In the majority of municipal systems of the world, sewer systems are part of the water systems. A good part of water supply is usually recycled from sewer. Primary sources such as, aquifers and rivers are protected from pollution by controlling the flow of sewer. Yet, the business framework exempts the private corporations from all responsibilities regarding sewer and industrial effluence.

29. The Information Memorandum (see p. 44) prepared by the transactions advisor, Stone & Webster, also points at many costly functions of the water system that have been omitted from the contract. For example, bacterial counts at the tap are not required as part of the performance criteria. In the performance matrix there a slot for **Health** with a possible high score of “0” (zero, to be sure). On the whole, economic performance, namely, returns on investment gets a maximum score of 60%, service quality, such as reliability and chlorination gets a maximum of 30% and 10% is discounted as bonus for installing new meters.

30. Besides elimination of sewer management and service to Low Income Communities in the performance criteria, profitability or “cost recovery” is being achieved through massive retrenchment of the employees of the GWCL⁶. We have learned that there are lists of all the employees of GWCL that will be transferred to the new Business Units and those that will be laid off. Moreover, the layoffs (the dirty work) are supposed to be done by GWCL before assets are transferred to the lessees of the two business units. As might be expected, the World Bank has offered Ghana a loan to finance severance pay for all that will be sacked.

31. By the arrangements described above, our supposedly inefficient, corrupt and incompetent State has been burdened with the most daunting tasks of rural water, small town systems and sewerage – a set up that is sure to make it fail. On the other hand, the potentially profitable bits are left to the foreign companies – a set up certain to make them shine. Why would such naturally “efficient players” require such intense cherry-picking to show positive results?

32. Who then is more efficient? The GWSC that survived with all the difficult bits? Or, the foreign companies that will only operate by off-loading these bits to the GOG? GWSC, no doubt, would have attained perfection, if they had the power to discard difficult Sewerage, and the costly rural and small town systems, while raising tariffs without restraint. These calculations have helped us understand what a valiant job GWSC did,

⁶ The lists were drawn by W.S. Atkins as part of their valuation studies and are annexed in Schedule 11 of the Bid Package.

considering the circumstances. With robust financial and capacity support and less political interference, it can perform up to the highest standards of management and, above all, Ghana's ideals of social justice.

C.i. No BOT⁷ - a lease that might never end

33. The terms of the two leases have been changing almost weekly, depending on who is representing WSRS and MOF on the media. In the bid documents it is thirty years for Business Unit A and ten for Business Unit B. Nowadays, we hear a tactical verbal retreat to ten years for both. Since all leases can be renewed as they expire, the initial terms are of less importance than the role of the lease-holder preparing the owner for the transfer and operation whenever the lease expires. In the current bid package, there is no indication as to how the transfer of assets back to GWCL will be achieved, if the capacity building of GWCL is not spelled out (as in most BOT contracts) as one of the services of the private operator. In fact, we find that the GWCL will have been so weakened that it will not know what to do with the assets 10 or 25 years hence. Ghana's Ambassador in the US even said that if the Transnationals perform well during the first terms of the lease, they Government might sell the systems outright to the contractors. This leaves us with the conclusion that these leases are more like rent with option to buy.

D. The lease transaction and tariff formulae violate the rights of the poor to consume potable water.

34. The whole arrangement treated the Rights of the Poor to Water shabbily. First, the Information Memorandum is quite explicit in that it excludes the Low Income Communities from the anticipated benefits of privatisation. In their own words: "... it is fair that the operator will need to devote considerable time in the early stages of the contract to rehabilitation of an existing system and other priorities, rather than expansion to LICs..."⁸ Thus the urban poor will not see any network in their neighbourhoods for over five years after the takeover. Secondly, the Willingness and Ability to Pay study explicitly rejects a social tariff. Even if a social tariff were to be introduced – the WSRS these days speak of the "life-line tariff" - there is no data on multiple household, i.e. *compound house* structures to implement such a tariff effectively. Thirdly, the findings of the Social Mapping Study conducted by ISODEC, which expressed poor people's concerns about privatisation and their suggestions about ways of restructuring the sector to cater for poor people's interests, were not taken into account either in drawing up the Business Framework Document or the bid document. We are almost certain that the bid document is devoid of the foreign companies' obligations to the rights of the poor.

35. Finally, and more worryingly, the IMF requires PURC to present an automatic tariff adjustment formula to the GOG in the last Article IV Consultations⁹. Such a formula, if presented will effectively incapacitate PURC as a regulatory body, leaving immense power in the hands of the foreign companies to control who has access to water and how much they pay for it. This formula is lethal to the poor and potentially pits the poor against these companies and the state. We are concerned that such development is a threat to democracy, for it removes the State from its core responsibility of protecting the basic rights of the weakest in society.

IV. OUR APPEAL

36. In view of the above, we appeal to the Government of Ghana:

- ❖ To suspend the implementation of the privatisation process and instead to launch the debate anew. Subsequently, to initiate an intensive, properly financed search for local solutions and options to building local capacity in both the private and the public sectors.
- ❖ To protect our sovereignty and the life-security of ALL its citizens from foreign interests that are overly driven by the profit-motive.
- ❖ To Publish the profiles of the foreign companies and the terms of the bid document. As part of this debate,
- ❖ To encourage the WSRS to act as a professional technical advisory body rather than emotional proponents of the IMF/WB model of restructuring.
- ❖ To put a halt to any steps to retrench workers.

We appeal to the Parliament, the District Assemblies and the Metropolitan and Municipal Assemblies, the Press and the Good People of Ghana to ask questions now, and demand full disclosure of the documents and processes that went into preparing the bid packages for privatising the urban water systems.

⁷ BOT = Build – Operate – Transfer

⁸ Stone & Webster, p. 41

⁹ Article IV Consultation, IMF and GOG, Condition #11, June 2001

- ❖ We call on the Local Councils, to summon all the documents and contracts under which the Water Systems of their jurisdictions have been bundled in Business Unit A and Business Unit B. We also urge that regional cooperation among the Local Assemblies be initiated to look at the best options for reforming and revamping the Water Sectors such that every Ghanaian's right to safe and adequate water can be protected and guaranteed effectively. (See Attachment B)
- ❖ We call on the press and the media to heighten their investigative reach regarding the past and the present processes under which Water is being privatised. We urge that the press reach beyond our borders to verify corruption charges that abound regarding the Transnational corporations now shortlisted to takeover Ghana's Water. We beseech the press to cover the experiences of other African countries and even systems in Europe and North America, where water has already been privatised. Did they benefit or did they lose? Did they regret and reverse or did they make progress and continue? The time to look is now. Not after it is too late.
- ❖ We call on the technical and management professionals of the Water Sector throughout Ghana to bring their own learning and experience, their familiarity of water systems throughout the world, into the discourse on the proper strategy for reforming the sector in our country. We rely on your collective abilities and ingenuity, energized by your love for your country and your people can make the sector work to achieve full protection of the right to Water. Giving up on you where water is concerned means giving up on all Ghanaians where all our country's problems are concerned.
- ❖ The precedence of caving in to external pressure does not bode well for our young democracy. The Privatization of Water is the first sign that the IMF/WB have hijacked the government's accountability to its citizens. We fear that these institutions, through their conditionalities, have broken the will of the government to say *NO*. IMF is already insisting that the Ghana Commercial Bank and National Investment Bank, Tema Oil Refinery, Electricity Company of Ghana, the Cocoa Board and others must also go on the auction block regardless of what the people of Ghana want. We therefore request that the Parliament and the Local Councils act to put a moratorium on ALL privatization of major public services. We urge a legal injunction on the execution of existing contracts and all forms of transfers (lease, sale, liquidation or custody) of Ghana's public assets, subject to legislation that protects such processes from undue influence by external interests.

PERVASSIVE CORRUPTION IN PRIVATE COMPANIES

Corruption is a systematic feature of privatisation processes, in water as much as any other area. The reasons for this have been well summarized by a World Bank paper: “... *the privatisation process itself can create corrupt incentives. A firm may pay to be included in the list of qualified bidders or to restrict their number. It may pay to obtain a low assessment of the public property to be leased or sold off, or to be favoured in the selection process ... firms that make payoffs may expect not only to win the contract or the privatisation auction, but also to obtain inefficient subsidies, monopoly benefits, and regulatory laxness in the future*”.¹

This is borne out by experience in the UK, where police say that ‘the overwhelming majority of corruption cases in Britain are connected to the award of contracts. Compulsory contracting-out in local government, and the new Private Finance Initiative have produced an explosion in the number of such deals’²

UK multinationals adopt the same approach to overseas contracts, as emerged in 1999 when former government minister Aitken was jailed for lying to cover up a meeting to broker such bribes: - UK multinational GEC had agreed to pay a commission worth 10 per cent of the value of possible sales into an account controlled by Aitken’s solicitor.³

Bribery by the water multinationals in France

Two of the French water multinationals have been convicted of paying bribes to obtain water contracts in France.

- In Grenoble in 1996, a former mayor and government minister and a senior executive of Lyonnaise des Eaux (now Suez-Lyonnaise des Eaux) both received prison sentences for receiving and giving bribes to award the water contract to a subsidiary of Lyonnaise des Eaux.
- In Angoulême, the former mayor was jailed in 1997 for two years, with another two years suspended, for taking bribes from companies bidding for contracts, including Générale des Eaux
- Executives of Générale des Eaux were also convicted of bribing the mayor of St-Denis (Ile de la Réunion) to obtain the water concession.⁴

The same companies - Suez-Lyonnaise and Vivendi, together with Bouygues – have been investigated for corruption practiced by their construction divisions, in a scandal described as ‘an agreed system for misappropriation of public funds’.⁵ The companies ran a corrupt cartel over building work for schools in the Ile-de-France region (around Paris) between 1989 and 1996. Contracts worth FF2.8 billion (about US\$500m) were shared out by the three groups.

Lesotho: multinational bribes for water scheme

Water was the source of corruption in Lesotho, where subsidiaries of a dozen multinationals - from the UK, France, Italy, Germany, Canada, Sweden and Switzerland - are being prosecuted for paying bribes to obtain contracts in the Lesotho Highlands project – a huge water supply scheme. The companies include Suez-Lyonnaise, Bouygues, and RWE, the German energy and construction group which is expanding into water.⁶

¹Rose-Ackerman, Susan (1996) *The Political Economy of Corruption: Causes and Consequences, World Bank Public Policy for the Private Sector Note No. 74, Washington DC: The World Bank.*

²Guardian, 3 October 1996

³Guardian, 6 March 1999

⁴Hall, D. (1999) *Privatisation, multinationals, and corruption, in Development in Practice 9(5): 539-556.*

⁵Le Monde, 10 December 1998

⁶Business Day (South Africa) July 29, 1999

The Metropolitan Assemblies and Municipal Assemblies of the towns and cities listed below are not aware and have not consented to the leasing of assets of their water systems. Should they not be allowed to examine their options before telling their constituents to pay tariffs to a foreign company they know nothing about?

Water Systems in Business Unit A

Upper East	Upper West	Northern	Greater Acra	Volta
Bwaku	Tumu	Gambaga	Accra	Nkwanta
Navrongo Bongo	Lawra	Walewale	Amasaman	Kete Krachi
Zebila	Jirapa	Gashiegu	Tema	kadjebi
Bolgatanga	Nadawli	Saboba	Ada	Jasikan
Sandema	Wa	Savelugu		Hohoe
		Tolon		Kpandu
		Tamale		Ho
		Yendi		Akasti
		Zabzugu		Adedom
		Bimbilla		Sogokope
		Damongo		Denu
		Bolo		Keta
		Salaga		
5	5	13	4	12

Water Systems in Business Unit B

Western	Central	Eastern	Brong-Ahafo	Ashanti
Juabeso	Dunkwa	Donkorkram	Kintampo	Ejura
Wiawso	Fosu	Mpraeso	Wenchi	Manpong
Enchi	TwifoPraso	New Aberim	Atebubu	Offinso
Asankragwa	Asikuma	Begro	Kwame Danso	Anona
Tarkwa	Swedru	Kibi	Kete Krachi	Effiduase
Daboase	Ejumako	Kade	Techiman	Mankranso
Half Assini	Abura	Suhum	Nkoranza	Kumasi
Axim	Dunkwa	Akim Oda	Drobo	Ejisu
Agona	Apam	Asamankese	Berekum	Nkawie
Nkwanta	Winneba	Nsawan	Domaa Ahenkre	Kuntansase
Takoradi	Saltpond	Dodowa	Sunyani	Juaso
	Cape Coast	Akropong	Bechem	Bekwai
	Elmina	Somanya	Kenyasi No. 1	Nkwanta
		Atemposu	Tepa	Manso
			Goaso	Obuasi
				New Edubiase
				On Offin
				Bibiani
11	13	15	15	18