
What do free trade agreements have to do with water here in Maine?

When a town signs a contract with a water company like Poland Springs, they are actually entering into an agreement with **Nestle**, a large multi-national corporation.

This means that a whole new set of rules come into play with the contract- rules found in international free trade agreements like the North American Free Trade Agreement, (**NAFTA**), and the World Trade Organization, (**WTO**).

What are these trade rules? How do they apply to water, or other natural resources? What could happen, and what can we do to prevent disputes?

International trade agreements like NAFTA go beyond just taxes and tariffs and contain hundreds of other pages, including **special rights for foreign investors**. These goodies were put in there by the multi-national corporations that wrote the free trade deals. They are a serious threat to state sovereignty and democracy.

For example, in **NAFTA's Chapter 11**, companies gain the right to challenge a federal, state, or local law of another country that is party to the agreement, if they feel that law is a “barrier to trade” or limits their right to profit. This doesn't just include profits they have already made or infrastructure they have, but they can sue for the **FUTURE PROFITS** they think they would have made had that law not been in place.

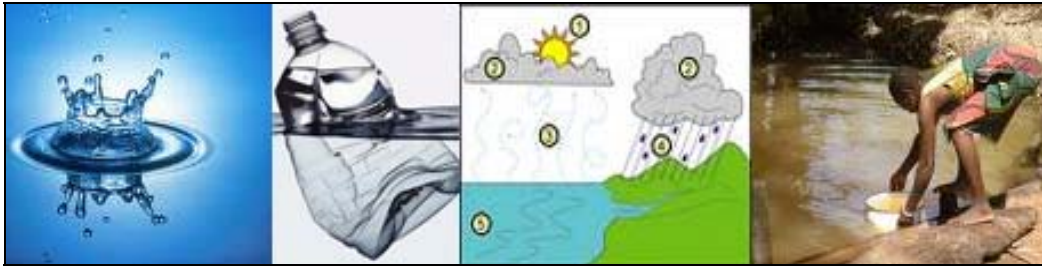
What kind of laws are we talking about? Anything they claim limits their ability to make money could be challenges, like environmental laws, labor laws, or public health and safety laws.

- **For example**, people in San Luis Potosi, Mexico didn't want a hazardous waste disposal facility located on top of an aquifer providing drinking water. The U.S. company, **Metalclad**, sued Mexico under NAFTA Chapter 11 – and they won. Local authority and autonomy was overridden by international trade policy.

In the WTO, these rights fall under the “technical barriers to trade” category among others. In this case, foreign countries, not companies, can sue one another.

- **For example**, the People's Republic of China recently sent letters to State Legislators in Vermont and Maryland **threatening to challenge proposed laws**- they hadn't even passed yet! In Maryland the bill limited toxins like lead in children's products, and in Vermont the bill regulated electronic waste.

In one of the many agreements under the WTO, the General Agreement on Trade and Services, or **GATS**, things get really interesting. The GATS brings services into the free trade model. Sectors have to be “committed” to be included, and this is all negotiated by the governments of the countries in the WTO.



Today, the GATS doesn't directly cover drinking water services as a committed sector, but the problem is how water will be defined. If it is bottled, is the commerce then a “**distribution service**”, which is included? Do utilities count, like public drinking water? Does bulk export of water? This is a major gray area that has yet to be addressed and could have a big impact.

It is important to note that if a country or a company decided to challenge a state law, the case will not be heard in state or federal courts. It would be heard in a **foreign trade tribunal**, with no transparency, somewhere else in the world. These suits take years and cost millions of dollars to litigate.

What could happen here in Maine?

We're not really sure how water in Maine could be affected. If a dispute came up between a bottling company and a Maine town or the state, the company could use international free trade agreements to pressure Mainers to do what they want.

- **What if** a town that had signed a contract with a company like Nestle decides in ten years that it needs to change it's water regulations. Nestle could possibly sue the U.S., on behalf of that town, for limiting it's right to future profits.
- **What if** future negotiations at the WTO commit water?

The bigger picture: Why does this matter?

Beyond water, this is a debate about **state sovereignty**. Should states and local governments be allowed to pass legislation they deem necessary? As written, current international free trade agreements limit states from doing that. This is a result of both real threats and a chilling effect that happens when states don't want to even possibly start a trade war so they don't pass much needed legislation.

The entire model of free trade agreements and the WTO is based on the idea that **foreign corporations should have the ability to interfere with democracy and public policy** instead of having to follow the rules like everyone else. Most people have no idea about any of this. Regulating natural resources is one of the most important tasks of state governments. *If this power is usurped by a foreign corporation, what does that mean for the democratic process?*