Network for Cooperation in Integrated Water Resource Management for Sustainable Development in Latin America and the Caribbean

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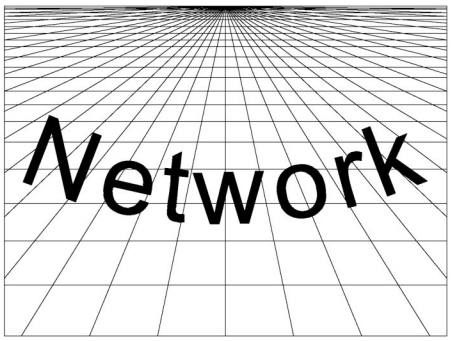
Concerns surrounding transfer pricing have long been recognized by ECLAC. The issue came to light in the 1950s in connection with the difficulties Latin American countries faced in terms of widening deficits in their trade balance and balance of payments. One cause of these deficits was the overvaluation of imports and undervaluation of exports in transactions in goods and services between companies that had an international relationship (parent companies and their affiliates in the countries of the region), which had a negative impact on our economies' external-sector accounts.



Various studies carried out in the 1980s by the United Nations Centre on Transnational Corporations (UNCTC) found that transactions within companies made up a significant proportion of international trade (40%-45%), which highlights the importance of this issue.

In addition to the macroeconomic impact of the lack of transfer pricing control mechanisms and inefficient regulation (along the lines of the concerns expressed by ECLAC in the 1950s and 1960s), there are also microeconomic consequences in connection with the organization of markets, distortion of price systems, efficient allocation of economic resources, the conditions required for competitiveness and various issues relating to economic efficiency.

Control of transfer pricing in the drinking water and sewerage industry is a key public-policy issue, with regard to the structural dimensions of development and growth strategies, and to formulation of public policy for competitiveness and efficiency. Improving the capacities of the region's countries in this area is a task that cannot be deferred and that the Natural Resources and Infrastructure Division has already begun to tackle by cooperating with relevant government authorities (see Circular N° 32), organizing a workshop (a report on which is included in this issue, see "***Meetings***"), and planning the publication of a study entitled "***Control de precios de transferencia en la industria de agua potable y alcantarillado***" (*Control of transfer pricing in the drinking water and sewerage industry*), by Michael Hantke Domas, for early 2011.

Patricio Rozas

In Peru, the Water for All Programme (Programa Agua para Todos) was designed and launched as a political initiative during the 2006 presidential campaign of the then candidate Alan García. Although it is still too early to assess the impact of the programme, a study entitled "***Inversión en agua y saneamiento como respuesta a la exclusión en el Perú: gestación, puesta en marcha y lecciones del Programa Agua para Todos (PAPT)***" (*Investment in water and sanitation as a response to exclusion in Peru: design and implementation of and lessons learned from the Water for All Programme*) by Hernán Garrido-Lecca (see "***Publications***") analyzes the design and implementation of the programme, identifies some of its problem areas and, taking account of the experience gained from its execution so far, proposes some public-policy guidelines for the drinking water and sanitation sector in Peru for the coming years.

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The study presents the programme not only as a mechanism for expanding the coverage of drinking water supply and sanitation services, but also as an example of what it refers to as a "*cost-based approach*" to the alleviation of extreme poverty or indigence. After identifying indigence as an exclusion problem separate from the challenge posed by poverty (in the sense that extreme poverty falls outside the market system), State intervention is presented as the only way of tackling it. In addition to conditional cash transfers ("*demand-driven approach*"), one-off interventions are being proposed to reduce what the study refers to as unavoidable expenses in order to free up family cash flow and increase the income available for satisfying basic needs, and ultimately to generate a small amount of savings and allow the family to transition towards poverty levels that at least involve inclusion in the market. What is the rationale for the Water for All Programme?

According to SEDAPAL, the company responsible for water supply and sanitation services in Lima and Callao, families living in extreme poverty in these areas consume about 3 cubic metres of water per month (which they buy in drums for 10 nuevos soles (S/.) per cubic metre). Each family's water bill therefore totals S/. 30 per month. In 2006, families connected to the SEDAPAL network paid S/. 1.06 per cubic metre of water. Therefore, if the families living in extreme poverty were connected to the network and consumed the same amount of water as before they were connected, each family's monthly water bill would, in theory, fall to S/. 3.18.

In December 2006, the Ministry of Housing, Construction and Sanitation commissioned a study into the impact that connecting to the public water network had had on the first households to be involved in the programme. Of those households (which averaged 5.3 persons), 70% had an income of between S/. 200 and S/. 600. Connecting to the public network led to average savings of S/. 15.60 for 56% of those households, with 21% of households saving over S/. 20.00.

Of those surveyed who were not connected, 63% said they would buy more food with the savings made by connecting to the water network, thus confirming the theory that this would increase disposable income. The main benefit of connection was better hygiene and fewer diseases, according to 89% of those surveyed (that is to say that most of those surveyed were not aware of potential savings); while only 12% pointed to the savings to be made (higher disposable income) as a benefit. Lastly, the study found that households that were not connected consumed an average of 3.2 cubic metres of water per month.

The empirical evidence shows, however, that once connected to the network, families living in extreme poverty went from consuming 3 cubic metres per month to 10 cubic metres per month—more than tripling their water consumption. Despite this, their monthly spending on water still went down from S/. 30 per month to only S/. 10.60 per month in 2006, representing a monthly saving of approximately S/. 20.

If a family's monthly nominal income is S/. 400, an additional S/. 20 per month as a result of the connection to the public water and sanitation network represents a 5% increase in income. However, if we consider that 50% of nominal income is spent on unavoidable expenses, the increase in disposable income is 10%. ***This is the true impact of the Water for All Programme***.

Unlike traditional programmes that are demand-driven, the Water for All Programme, being a cost-based approach, entails a one-off investment cost (not a recurring cost) since the families themselves then pay for the service with only a small, pre-existing cross subsidy that covers an initial consumption block. Therefore, in terms of sustainability and from a fiscal point of view, the Programme requires a one-off effort, which does not jeopardize its continuity or the beneficiaries chances of escaping from extreme poverty.

The Water for All Programme helps reduce gastrointestinal diseases caused by a lack of basic services and inadequate sanitary conditions, which leads to savings in medical costs, medication, and lost working days, as well as lower costs and a higher nominal income and, therefore, an additional increase in disposable income, which can be used to satisfy (in part) the needs of families living in extreme poverty.

A study by researchers at the University of the Pacific in Lima estimates that households in the lowest quintile of the population experience an average of four episodes of acute diarrhoeal diseases per year at a total cost of S/. 75 per episode (S/. 23 direct cost to the family and S/. 52 cost to the State). Therefore, acute diarrhoeal diseases in households living in extreme poverty result in a loss of disposable family income of S/. 92 (S/. 23 x 4). In addition to the direct increase in disposable income generated by the Water for All Programme, the estimated monthly saving from lower health costs will also lead to an indirect increase in disposable income—taking account only of the elimination of the episodes of acute diarrhoeal diseases—of about 4% per month (***resulting in a total increase in disposable family income of 14% per month***).

Lessons learned from experiences in Germany, France and England

Below we present the conclusions of the study entitled "***Servicios de agua potable y alcantarillado: lecciones de las experiencias de Alemania, Francia e Inglaterra***" (*Drinking water and sewerage services: lessons learned from experiences in Germany, France and England*) (LC/W. 334, July 2010) by Jean-François Vergès (see "***Publications***"). This study was prepared as the InWEnt (Capacity Building International, Germany) (now Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)) contribution to the Regional Conference on Policies for Economically Efficient, Environmentally Sustainable and Socially Equitable Drinking Water and Sanitation Services (see Circular N° 31). The aim of this study is to present and analyse the provision of drinking water supply and sewerage services in Germany, France and England (and Wales), with an emphasis on economic efficiency, social equity and environmental sustainability. This exercise is justified by the influence that these national models have had in all regions, owing to the usefulness of the lessons learned in these three countries, and also the fact that major national or multinational companies from these countries have a direct or indirect presence throughout the world.

When many different approaches and models produce similar results it is difficult to identify with certainty which factors boost efficiency, which is understood as the relationship between the cost of service provision and its quality and quantity. Nevertheless, the following points are worthy of note:

- In England, the quality of regulation, as well as the independence, rigour and public transparency of the regulatory body, seem to be the most relevant factors relating to efficiency in the water supply and sewerage sector. Without OFWAT, the Water Services Regulation Authority, consumers would probably suffer in terms of tariffs and quality of service, to the benefit of the shareholders of the private service providers.

- This type of regulation seems to be possible only where there is a public regulator and private providers, as is the case in England, the United States and Chile. The regulation of public service providers, especially municipal providers, by a national regulator is, in practice, much more difficult and controversial, and is generally not accepted by local or subnational governments.

- The second advantage of the English model is the use of economies of scale and scope and the benefits derived from designating areas of service to match river basin areas. Taking advantage of such economies is also an important factor contributing to the efficiency of French private service providers, in the context of a highly developed country, and these efficiencies of scale and scope probably offset the many weaknesses of the sector.

- Calling into question the municipalization of services is a constitutional and ideological taboo in many countries. However, the municipalization of services represents a serious structural problem, especially in countries such as Germany and France where there are numerous small municipalities.

- It seems clear that the comprehensive privatization approach adopted in England (and also the one being implemented in Germany) is much more efficient than the French model of lease contracts, which

lack transparency and allow private providers to make large profits without taking on a significant financial risk.

- On the basis of the economic analysis of service provision in the European Union, it is possible to anticipate that the more advanced countries in Latin American will face certain challenges over the coming decades. The first, which will be very costly, is to universalize access, using the same technological solutions, to drinking water supply services and perhaps also to sewerage services in both urban and rural areas. The second, which will be even more costly than the first, pertains to environmental protection and involves the expansion of urban wastewater treatment to the same level of sophistication as in the European Union (tertiary treatment to eliminate nutrients and other contaminants related to urbanization and modern agriculture). Third, water consumption per person and total urban consumption can be expected to decrease in response to the inevitable tariff hikes and it would therefore be prudent to avoid over-investing in excess capacity, which is a problem in the European Union.

- In the various contexts of Latin America, shortfalls in the provision of drinking water and sanitation services are not all necessarily attributable to the sector itself. Often the lack of coverage in poor neighbourhoods is not the fault of the service providers, but a reflection of more general problems (long resolved in Western Europe) associated with low ability to pay, social inequality and urban development.

- The problems associated with economic and social inequalities between urban areas can be solved in part by incorporating cross subsidization in tariff systems or extending service areas to make geographical transfers between rich and poor neighbourhoods possible.

- Sizeable and long-term public subsidies will be needed to develop networks in low-income rural areas, as was the case in the European Union.

- However, it is the environmental and sanitary externalities of the services—of which consumers are usually unwilling to take on more than a small proportion—that justify substantial public interventions. European experience has shown that these public interventions seem to be needed most where the protection of water resources against industrial and agricultural contamination is concerned, but that they do not necessarily have to take the form of budget allocations or public subsidies. The effective application of environmental protection standards is often enough and, indeed, preferable.

- Considering the worrying rise in environmental problems that affect water resources, society must adopt a culture of environmental awareness (as it has in Germany, for example) and, for the long term, it must recognize that a price has to be paid to correct deficiencies.

- Lastly, following the European Union model, the definition of common standards within the regional economic units could help to achieve the goal of universal service, eliminate the distortion of competition between the member countries and protect the environment. Such common standards foster the process of service quality homogenization and the adoption of better practices that can be applied while respecting different national structures and traditions.

Investment protection treaties and implications for the formulation of public policy

The previous issue included an initial presentation of a study entitled "***Tratados de protección de las inversiones e implicaciones para la formulación de políticas públicas (especial referencia a los servicios de agua potable y saneamiento)***" (*Investment protection treaties and the formulation of public policy (with special reference to drinking water and sanitation services)*) by Juan Pablo Bohoslavsky (see "***Publications***"). In this issue, we present part two of the recommendations on what countries could do to foster the sustainability, predictability and legitimacy of the system for protecting foreign investments, while promoting the positive externalities of such investments.

Improving regulation

Since the decisions taken by regulatory agencies (in the broad sense, these include economic regulators, water authorities and environmental agencies) can have serious legal consequences in the light of bilateral investment treaties (BITs), it would be advisable to establish permanent consultation systems with the offices responsible for negotiating such agreements, defending the State in arbitral tribunals and promoting foreign investment. This would reduce the risk of arbitral claims being brought. At the same time, the technical and political staff of the regulatory agencies should receive training on how the bilateral investment treaty system works (see Circular N° 26).

It is inevitable that changes and improvements will be made to the regulation of public services at some point and due process must be observed in order to guarantee regulatory transparency. This includes the obligation to make public the relevant governmental, legislative and judicial measures of general application, to answer queries regarding their meaning or scope, not to demand compliance with norms that have yet to be officially published, to administer justice in a uniform, impartial and reasonable manner, to maintain independent administrative tribunals, and to institute procedures that guarantee that independence.

As to the material aspects of the new regulations, they should be inspired by and promote common principles and better regulatory practices. In addition, the regulatory instrument used must be proportional to the outcome sought. In this connection, since regulation involves the coherent mobilization of the various elements it comprises, it would also be advisable to explain how specific measures fit into the overall regulatory plan in order to demonstrate its systemic logic.

The technical and legal considerations of the new regulations should be formally laid down so that arbitrators who have to interpret their purpose and meaning can refer to them.

The regulatory agencies and the State lawyers specialized in BITs should put together a code or protocol to follow in the event of a substantial change to regulations that could affect foreign investors. This process should involve prior consultation between government agencies, dialogue with the community and investors, and tests to ensure procedural due process, legitimacy (consistency with the regulatory principles) and proportionality.

Principles that can and must be applied in arbitrations

Both the officials who design and implement State regulations and the lawyers who defend States in investment arbitrations can and must apply, and demand the application of, the regulatory principles pertaining to the public services. The body of regulatory principles is a frequently overlooked legal component in investment arbitrations, while its use in judicial practice and its formal recognition are broadly consolidated in countries such as the United States, United Kingdom, and some Latin American countries. These principles foster a healthy and sustainable balance between the consumer welfare and the profitability of companies providing public services. The principles include transparency, efficiency, good faith in the business judgment and reasonable provision for regulatory change.

Each of these principles can, in turn, be subdivided. Efficiency, for example, prevents,

among other actions, the provider from taking on an excessive amount of debt, charging unreasonable tariffs, counting worthless assets as part of its capital base, and from resorting to predatory contracting practices or transfer pricing systems. These are some of the elements that make it possible for the State to guarantee the provision of the service and for the company to make money, and it is the only way to ensure that a system managed by private agents functions properly and continues to expand, in particular to provide coverage for the most vulnerable.

At the same time, these principles impose limitations on the State. Not only because they prohibit in general what is referred to as regulatory opportunism, but because they make it possible for investors to benefit from the guarantees offered by administrative law, which ensure good governance: legality, access to information, proportionality, transparency, reasonableness, due process, among others. In regulatory terms, this can mean, for example, an obligation to apply objective and transparent rules for allocating subsidies.

The notion that regulation serves the public interest must not be used as a smokescreen to conceal the ignorance, negligence, or corrupt intentions of officials. Nor is this notion restricted—from a broader perspective that goes beyond regulation—exclusively to smoothing out the imperfections of the market, rather it should embody, to a certain extent, the true values of equality in democracy. This means that the economic objectives of regulation cannot be dissociated from the social goals that all democratic systems must promote. In other words, as well as constituting a central element of regulation the principle of efficiency, for example, also creates, by its very nature, the material conditions for achieving higher social objectives, such as equity and access to public services in decent conditions, which without doubt support the idea of government measures serving the public interest.

Evidence that the regulatory principles also limit arbitrary state behaviour, especially during legal proceedings, can be seen in the fact that the notion of regulatory transparency has begun to be applied in BITs and arbitrations to define the scope of the standard of fair and equitable treatment and thus protect investors from abuses by the State.

The regulatory principles govern an important number of investments that end in international arbitrations, and they are vital for indicating the course of action that investors and regulators must take. Regulatory principles can even be complemented by (non-binding) soft law instruments in the form of codified corporate governance practices (such as the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises or the United Nations Global Compact), which also define the responsibilities of investors. It would be advisable to codify practices specific to the regulation of public services.

The relevance of incorporating these principles into applicable law at the global level (especially in relation to arbitration) is the right thing to do in legal terms, in the sense that they are legal principles that will fill an existing gap in this area that is presently covered by arbitrators resorting to interpretations that stray progressively from domestic legal parameters, without the backing of a sound international legal basis. It also counts in their favour that they involve economically robust rules for investors and their host communities, which foster sustainable foreign investments.

Under BITs, State conduct is subject to mandatory oversight, making these treaties part of a body of law that is referred to as global administrative law. The legal standards that govern State power and the control thereof should therefore play a key role in investment arbitrations: since these are not commercial arbitrations between private entities, but rather involve States, arbitrators must observe the norms of public law and their translation into international law. These technical considerations mean that the common regulatory principles in fact form part of the tenets of international law that arbitrators must observe when identifying the applicable law in investment disputes.

It is true that countries are developing their regulatory techniques at disparate rates. This is simply a reality and reflects to a large extent the different sociological and political characteristics, stages of development and legal traditions of those countries. Despite the differences involved, the economic and legal bases of the regulations resulting from the various models tend to overlap and, furthermore, the methodological tools offered by global administrative law enable countries that have not had private companies operating their public services for long to perfect their regulations by interacting critically with more developed and consolidated principles. In concrete terms, countries that have a relatively limited experience of regulating private entities can benefit from incorporating into contracts and, where necessary, building on the advanced principles and practices that are set out in this study. This is a concrete example of how interactions between legal systems lead to positive developments.

Improvements are usually gradual, since they rely on the bureaucratic and political mobilization of various agencies and sometimes even parliaments. However, they can be swift: the Guidelines for the Extraordinary Review of Rate Formulas in Case of New Projects and Advancement of Investments included in the Improved Master Plan adopted by the National Superintendency of Sanitation Services (SUNASS) of Peru (see Circular N° 31) are an example of highly sophisticated regulations. This shows that learning materials on importing regulatory procedures could also potentially be shared between Latin American countries.

Experts in public services use the term "*benchmarking*" (regulation by comparison) to refer to a systematic and continuous process of comparing the performance of the utilities in question with best practices or competitors. Through this process they identify ideal models that can guide service providers in the right direction. This is a common practice in regulatory agencies. This study proposes that benchmarking should also be applied in relation to investment contracts, with a view to establishing operating standards on the basis of sophisticated principles that will lead to improvements in the system.

If a government regulates activity in accordance with the general principles of the sector (and benchmarking is an effective method of checking this) it reduces the risk of investors submitting an arbitral claim. The good faith underpinning such measures is justifiable insofar as they are backed by the regulatory principles and are the outcome of a transparent decision-making process. As confidence in regulatory principles grows, it should lead to the strengthening of other areas, such as democratic principles, participation, transparency, due process, legitimacy, proportionality and other relevant principles stemming from administrative law.

Changes to BITs

Fundamental regulatory principles should be applied in their existing form (since as general legal principles they constitute current law and do not require legal reform). Nevertheless, the way in which the standards to protect investors are established in BITs, without being subject to a meticulous consolidation process, grants arbitrators a level of discretion which can be used to make an expansive interpretation of investors' rights. Once the regulatory principles in question have been systematized to a sufficient extent, the countries of the region should modify their BITs to embody explicitly those principles in applicable law.

Specific norms for public services should be established in BITs precisely because of the special social, economic and political relevance of investments in the sector, especially in Latin American countries. The Millennium Development Goals (MDGs) have a direct connection with the quantity and

quality of the provision of drinking water supply and sanitation services.

The changes to BITs suggested here require the accomplishment of two complementary tasks. The first is to include the promotion and standardization of best regulatory practices in a globalized economy among the aims of BITs. The second is to provide more concrete, explicit and economically robust rules to enable States to adopt regulations legitimately and in good faith, while at the same time eliminating regulation that is opportunistic, arbitrary or that strays from the regulatory principles, thus protecting investors against abuses and bad faith. These definitions would lend greater predictability to the dispute settlement system for foreign investments.

As the substantive rules should be established by States and not by arbitrators, efforts should be made to codify and develop those rules with a view to achieving a balance between the interests of investors and the countries that host them. This necessarily entails the harmonization of regulatory norms within each State and also at the intergovernmental and global levels. Taking as a starting point the areas where a basic consensus on regulatory principles as they apply to public services has been reached (who would disagree with a drinking water provider being efficient?), the teams that negotiate BITs should take advantage of the work of the experts who can identify clearly those principles and come to an agreement on how they should be formulated.

The more specific BITs are, the more flexible they are, by incorporating principles that make it possible to find a new and sustainable balance between the interests of investors and host States, and adapting to the new realities that force a State, in good faith, to improve regulation. In addition, this objective can be met through a harmonious interpretation of States' international obligations, which involves observing and applying the law in a comprehensive and balanced manner, and not only the norms aimed at protecting foreign investments.

This proposal would not interfere with the umbrella clauses, since they do not negate the State's capacity to regulate the investor's activity in the public interest. In fact it would provide a clearer definition of what should be considered a violation of the State's commitments to investors. One indication that the application of the traditional investment protection standards is not wholly satisfactory to the States that belong to the BIT network was the drastic decision by India and Singapore, upon ratifying their most recent BITs, not to include a most-favoured-nation clause or a full protection and security clause, or the fair and equitable treatment standard.

In the treaty signed between the United States and Uruguay in 2004, one of the clauses that was introduced shows that the changes to BITs suggested in this study have political underpinnings. The BIT provides that "except in rare circumstances, non-discriminatory regulatory actions by a Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations". Much can also be made of the part of the BIT model adopted by the United States in 2004 that provides that nothing shall "preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to … international peace or security, or the protection of its own essential security interests". The model BIT issued by Norway in 2007 expressly provides that States can establish government measures to protect public health, safety or the environment, without this implying a breach of the BIT. The model BIT issued by Canada in 2004 is even broader in scope, since it allows for reasonable regulatory measures that typically provide protection for the banking system.

The trend in recognizing the basic regulatory functions of the State has gained ground, predictably, in the wake of the recent global crisis. States demand more policy space in times of crisis. At the same time, a change has been seen in global investment trends. Many developed countries are exporters and, increasingly, also importers of capital, which explains, in part, for example, why China's BITs have ever more in common with the text and philosophy of the United States' model BIT issued in 2004.

The proposed changes, which also entail a greater level of responsibility and cooperation on the part of the investor, have already started to gain ground in an, as yet, small proportion of arbitral case law. Honest conduct, a serious assessment of the risks posed by an investment (which includes anticipating foreseeable regulatory changes) and reasonable action by the investor have gradually started to be introduced as variables in some arbitral awards in recent years. According to a recent arbitral award, any businessman or investor knows that law evolves with time. What is prohibited, however, is that the State behave in an unjust, unreasonable or inequitable manner in the exercise of its legislative power.

The changes to BITs that are being proposed here are largely independent of the level of development of the country party to these treaties. The way in which the United States government has addressed the economic crisis, differentiating between national and foreign companies when drafting and implementing its rescue packages, calls into question its observance of the standard of fair, equitable and non-discriminatory treatment. The government will surely need a solid international legal basis on which to justify its decisions if a foreign investor challenges it in the international arbitral tribunals, and the changes to its BITs play a central role in this regard.

The legal framework put forward seeks to capture the essence of the ideological change that the global economic crisis is bringing about worldwide. Arbitrators' lack of awareness of the social, economic and political impact of their arbitral awards is inconsistent with the growing need to create global systems of rules that ensure that all actors of the global economic system co-exist and interact harmoniously.

As part of the activities organized within the framework of the "Sustainability and Equal Opportunity in Globalization. Component 1, Theme 4: Building Commitment, Efficiency and Equity for Sustainable Water Supply and Sanitation in Latin America and the Caribbean" project undertaken jointly by ECLAC and the GIZ and financed by the German Federal Ministry for Economic Development and Cooperation (BMZ), the ECLAC Natural Resources and Infrastructure Division organized two workshops, which are described below.

Workshop on the Control of Transfer Pricing

The Chilean Superintendency of Sanitary Services (SISS) is concerned with how to address the ownership of water supply and sewerage companies by business groups or, more precisely, by conglomerates and their influence on tariffs. The legal framework in force requires that water utilities must hold a public tender in order to acquire goods and services from related companies. However, it says nothing about sales of goods and services from water utilities to their related companies, which is particularly relevant where unregulated businesses are concerned.

Furthermore, the legal framework does not provide for the benefits of synergies and economies of scale resulting from the joint activities of related water companies to be transferred to consumers. Case law, to date, does not shed much light on the complexities

of the relationship between water utilities and their related companies. It also fails to provide much of an explanation as to how to tackle the business entities set up by the water utilities to develop their unregulated businesses. It is not known how other regulated sectors or comparative legislation address these issues, how to clarify the incentives to engage in cross subsidization or how to go beyond the purely formal oversight of compliance with the legislative provisions in force.

For these reasons, the SISS requested the technical assistance of the Natural Resources and Infrastructure Division with a view to continuing its institutional process of studying and developing the concept of regulatory techniques to address transfer pricing. That assistance consisted of: (i) organizing the Seminar on Transfer Prices (see Circular N° 32); (ii) drafting a study entitled "***Control de precios de transferencia en la industria de agua potable y alcantarillado***", due for publication in February 2011; and (iii) holding the ***Workshop on the Control of Transfer Pricing*** (ECLAC Headquarters, Santiago, Chile, 24 September 2010).

The debates in the workshop were organized into the following five sessions: (i) the opening of the event and an introduction to the issue of transfer prices and control mechanisms; (ii) a presentation on the regulatory experience of Argentina in this field; (iii) a presentation on the experience of the United States; (iv) the impact of international investment protection treaties on national capacity to regulate and control public services; and (v) the conclusions and recommendations ensuing from the study and the discussions.

Workshop on International Investment Protection Treaties and the Regulation of Public Services

On 19 November 2010, a workshop entitled "***International Investment Protection Treaties and the Regulation of Public***

- The implications of BITs for formulating public policies on the regulation and provision of public services, especially in the drinking water supply and sanitation sector.
- BITs and international arbitration in disputes relating to the provision of public services. The experience of Argentina in this field. Shortcomings in the arbitration system and how to address them.
- The implications of BITs for human rights, including the human right to water, and environmental policy.
- Experiences of regulating public services, particularly in cases of foreign private participation in their provision.

Regional Policy Dialogue on Water-Based Adaptation to Climate Change

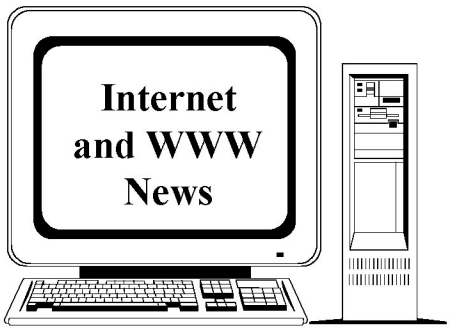
Aware of the growing need to plan measures to adapt to the impacts of climate change on water resources, the National Water Commission (CONAGUA) of Mexico and various intergovernmental bodies, national agencies, private companies and non-governmental organizations in Latin America and the Caribbean have initiated a ***Regional Policy Dialogue on Water-Based Adaptation to Climate Change***, and presented the initial results during the Sixteenth Conference of the Parties to the United Nations Framework Convention on Climate Change (COP16), which was held in Cancun, Mexico from 29 November to 10 December 2010. This process included the following activities:

- A Ministerial Panel held in Stockholm, Sweden, on 7 September 2010 during World Water Week aimed to present and share the initial reflections ensuing from the regional policy dialogue, compiled in the second draft of the regional position paper. Comparisons were drawn with reflections from other regions of the world.
- A panel entitled "Latin America and the Caribbean meet the regions and sectors on the water and climate change adaptation" was organized within the framework of COP16.

During this process, the regional position paper was drafted, revised and fine-tuned. The intention is that this effort does not come to an end in 2011, but rather serves as a platform to continue working on the issue through related events and processes, such as the Seventeenth Conference of the Parties to the United Nations Framework Convention on Climate Change (COP17) in South Africa, World Water Week in Stockholm, CODIA and the Sixth World Water Forum to be held in March 2012 in Marseilles, France.

Additional information, including more details on each event and the most recent version of the regional position paper, can be found at the following address:

WWW: http://www.conagua.gob.mx/aguaycambioclimaticolac
E-mail: aguaycambio@conagua.gob.mx



Some websites worth visiting for information on water-related issues are listed below:

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https://www.yunbaogao.cn/report/index/report?reportId=5_1544