

NEW RULES ON **SERVICES** THREATEN OUR AIR, WATER & LAND Make Trade Safe, Clean & Fair

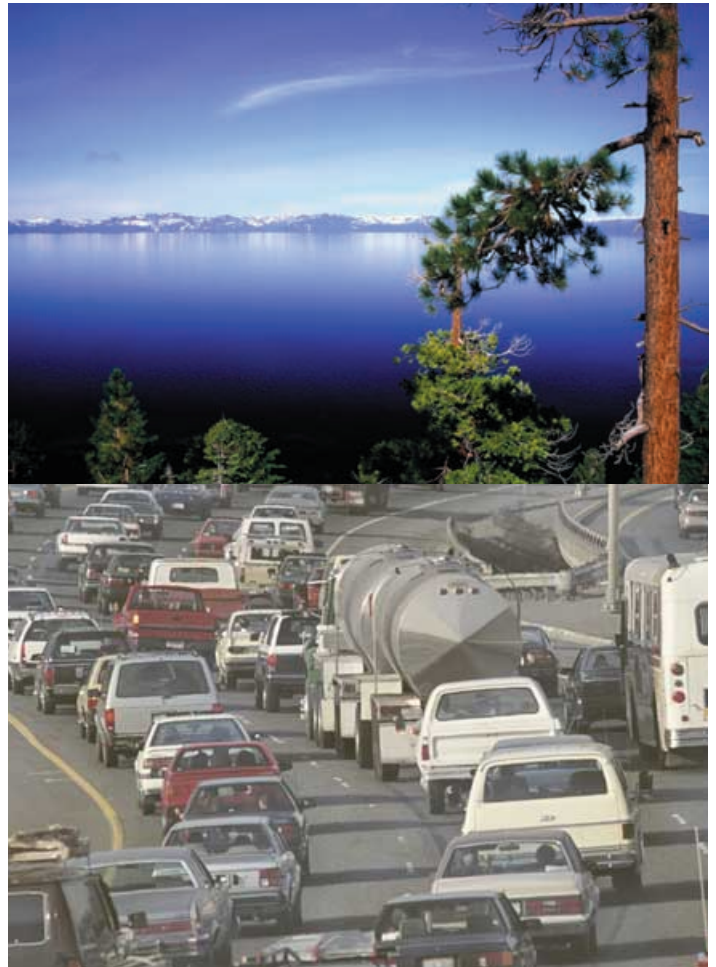
CLEAN AIR, CLEAN WATER AND OPEN SPACES ARE VITAL TO THE HEALTH OF OUR COMMUNITIES. BUT WITH LITTLE PUBLIC DEBATE, THE BUSH ADMINISTRATION IS NEGOTIATING NEW INTERNATIONAL TRADE RULES THAT WOULD MAKE IT MUCH HARDER FOR GOVERNMENTS TO PROTECT OUR AIR, WATER AND LAND. THE TRADE RULES WILL EVEN TARGET PUBLIC INTEREST LAWS AND POLICIES AT THE STATE LEVEL, YET STATE-LEVEL PUBLIC OFFICIALS HAVE NO SAY IN TRADE NEGOTIATIONS.

Putting Our Communities at Risk

We normally think of trade as the international shipment of “goods” – for instance, clothing, cars, or computers. But the new negotiations focus on trade in “services.” Representing 62 percent of the US economy, “services” are economic activities that supply a good on the market. If we think of water as a “good,” then the “service” would be providing water to homes and businesses.

The negotiations are taking place under the auspices of the 150-nation World Trade Organization (WTO) and its General Agreement on Trade in Services (GATS). The Bush administration is also promoting an expansion of the North American Free Trade Agreement (NAFTA) throughout the Western Hemisphere, creating a new Free Trade Area of the Americas (FTAA) that would also include a chapter on services.

The new agreements would limit governments’ ability to regulate services industries when a foreign provider is involved. Local, state and federal authority to ensure the quality and safety of such services as water supply, energy production, waste disposal, pollution control, construction,



mining, logging, factory farming, and land use could all come under attack.

Under the new rules, foreign governments could sue the United States for violations before secretive, three-judge trade panels. If a public-interest law is found to be in violation, the responsible government must change the law or the United States would face trade sanctions that could cost billions. If a state law is found to violate the new rules, the federal government can force the state to bring its law into compliance, even if doing so would weaken community safeguards.

HERE IS HOW KEY PROVISIONS OF THE SERVICES RULES COULD UNDO ENVIRONMENTAL SAFEGUARDS:

▲ *Is Smart Growth at Risk?*

YES. Under the services rules on “market access,” the home government of a foreign developer could use the WTO to challenge the right of a local government to restrict the size or location of a new residential or commercial development.

The home government of a foreign power company could also challenge Clean Air Act protections that prevent new power plant construction unless compensating reductions were made from other pollution sources. Governments could also be penalized for limiting the number of fishing licenses granted in coastal waters, the amount of waste dumped into a landfill, the amount of timber that can be logged from public lands, or the amount of water extracted from an aquifer. Even limits on mining or energy production in wilderness areas could be challenged as illegal restrictions on “market access.”

▲ *Is Clean Air at Risk?*

YES. The services rules would enforce a very broad version of “non-discrimination” that could threaten a wide range of environmental safeguards. Even if a law was written to apply equally to all companies, it could still be deemed to violate “non-discrimination rules” if a foreign company claimed it had been put at a competitive disadvantage. For instance, California recently passed a law that could require automakers to

reduce global warming emissions from cars. Germany could successfully challenge the new standards on behalf of Daimler-Chrysler’s car dealers as discriminatory. (Daimler-Chrysler could use the services rules, as well as the investment rules, to make its case since auto retailing is a service.) While the emissions standards might apply equally to all companies, Daimler-Chrysler could argue that its retailers suffered a greater competitive impact because the company would have to spend more than other automakers to meet the new standards. The services rules could thus be used to force California to weaken its emissions standards.

▲ *Is Clean Water at Risk?*

YES. Under the services rules on “domestic regulation”, our laws cannot be “more burdensome than necessary” to a foreign service supplier. This sweeping provision could unravel a wide range of protective laws and programs.

For instance, foreign water companies such as France’s Vivendi/Veolia are moving into the U.S. market, signing contracts to operate municipal water systems. If one of these companies signs such a contract and then local authorities decide to improve water quality, cutting into profits, the foreign company could then ask its home country government to challenge the new standards before the WTO, charging they were “more burdensome than necessary.”

We Can Do Better

Instead of the services rules now under negotiation, we need trade rules that protect the environment, uphold the authority of state governments, and strengthen communities while promoting commerce. The services disciplines should apply only to those domestic laws that openly discriminate against foreign service providers, and not to the much broader set of laws that might inadvertently create a competitive disadvantage for one company relative to another. In addition, the services negotiations should target market-distorting and environmentally destructive subsidies, such as those for the oil, coal, gas and nuclear industries. In this way, free trade principles could reinforce, rather than undermine, environmental protection and the authority of state and local governments.

TAKE ACTION: “Look Before we Leap”

Negotiations on the GATS and the FTAA are both slated for completion in 2005. In the meantime, citizens and government officials need to learn much more about the potential impacts on communities of these far-reaching agreements. We are calling on state and local government officials to analyze and report on how key laws and programs under their authority could be affected by the new services rules. To get involved, please:

- **Sign a postcard** asking state authorities to prepare a “Community Impact Report” on the services agreements.
- **Contact the Responsible Trade Program** to learn more.



For more information: Contact Margrete Rangnes at margrete.rangnes@sierraclub.org

408 C Street N. E. Washington, DC 20002 • TEL: (202) 547-1141 FAX: (202) 547-6009 • www.sierraclub.org/trade