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# **The General Agreement on Trade in Services**

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Report of a seminar held by the World  
Development Movement on the World Trade  
Organisation's General Agreement on Trade in  
Services (GATS) at Friends House, Euston  
Road, London, on 29 March 2001

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# The General Agreement on Trade in Services

This is a report of a seminar on the General Agreement on Trade in Services (GATS) held by the World Development Movement (WDM) on 29 March 2001. The seminar was attended by 40 participants from trade unions and non-governmental organisations. In addition, messages of support were received from a wide range of unions and professional bodies who weren't able to attend on the day.

The objectives of the seminar were:

- to deepen our common understanding of GATS, exchanging experience across different disciplines and service sectors
- to set GATS in the context of the current trend towards liberalisation, privatisation and deregulation of public services
- to explore the implications of GATS for different service sectors, with a view to each organisation consulting their own membership on GATS

Although the seminar was organised by WDM, whose primary concern relates to the impact of GATS on developing countries, it was agreed that the seminar should concentrate much of its focus on the British context, so as to make use of the considerable expertise available on public sector experience in this country. The seminar was held under Chatham House rules; as a result this document presents a report of the day's proceedings without attributing comments to individuals.

## WHAT IS GATS?

A public opinion poll due to be published in a forthcoming Sunday newspaper claims that 12% of the British public have heard of GATS.<sup>1</sup> However, given how little public debate there has been on GATS, people may have heard of the acronym but not understand the trade agreement that lies behind it.

GATS is one of the 28 free trade agreements of the World Trade Organisation (WTO). Although attempts to launch a new trade round at the WTO's Seattle Ministerial in November 1999 failed, GATS is part of the 'built-in' agenda agreed when the WTO was conceived in 1994. As with the Agreement on Agriculture, therefore, the WTO is already committed to further negotiations on it. The GATS 2000 negotiations were launched in February last year.

As a result of these negotiations, the scope of GATS will expand. GATS is unique among WTO agreements in that it mandates WTO members to return to the negotiating table on a regular basis and expand their GATS commitments. Under GATS, WTO members are committed to 'progressively liberalise' their service sectors. In this respect, as the WTO itself acknowledges, GATS goes far beyond other WTO agreements.

In keeping with other WTO agreements, however, GATS can be enforced. The WTO is the only international body with the power to enforce liberalisation policies, which it does through the rulings of its disputes settlement panels. WTO rulings are binding on its member states, and the panels can authorise trade sanctions against members which are adjudged to be in contravention of WTO agreements.

### Broad coverage

GATS covers 160 service sectors in total, ranging from road building to water delivery, education, health care, telecommunications, tourism and insurance. Its main objective is twofold: to open

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<sup>1</sup> Subsequently published in *The Observer*, 15 April 2001

those sectors which are closed and to remove barriers to further trade in those which are already open. As with other WTO agreements, the main beneficiaries of this process of liberalisation are multinational corporations, and it is no surprise to learn that they were behind GATS in the first place. In the words of David Hartridge, Director of the WTO's Services Division, "Without the enormous pressure generated by the American financial services sector, particularly companies like American Express and Citicorp, there would have been no services agreement."

GATS identifies four different 'modes of supply' for trade in services:

- 1) **cross-border supply:** – where only the service itself crosses the border from one country into another (eg international telephone calls, internet services or telemedicine)
- 2) **consumption abroad:** – where individuals travel to another country to make use of a service there (eg tourists travelling abroad, or patients travelling to take advantage of health care provided in a foreign country)
- 3) **commercial presence:** – where a foreign company sets up a subsidiary or branch within another country (eg banks, water companies or transport companies setting up shop) in another country)
- 4) **presence of natural persons:** – where individuals travel to another country to provide a service there temporarily (eg nurses, software engineers or – as the WTO says – fashion models)

Mode 3 is the most controversial, since it effectively sets international rules on foreign investment. Under this part of the agreement, GATS threatens to introduce many of the elements of the Multilateral Agreement on Investment (MAI), negotiations on which were halted by international pressure in October 1998. Indeed, the WTO used to advertise GATS as the world's first multilateral agreement on investment, a claim it has since dropped.

Mode 4, by contrast, is of most interest to developing countries, since many of them derive substantial income from remittances of their citizens working abroad. It is also the one on which countries have made fewest commitments to date.

### **Government obligations**

Under GATS, governments are required to remove regulations on services which are deemed to be barriers to trade. As the WTO confirms, the requirements of GATS "will from the beginning necessarily influence national domestic laws and regulations."<sup>2</sup>

The commitments which governments are required to make under GATS fall into two categories:

- a) **General obligations:** – These apply automatically across all the 160 sectors covered by GATS, and include the central WTO principles of transparency and 'most favoured nation' treatment. Current negotiations on GATS have focused on a controversial new commitment: domestic regulation. This addresses the licensing and technical standards regulations which governments impose on service delivery, and aims to ensure that these are in future directed towards market liberalisation.
- b) **Specific obligations:** – These apply only to those sectors which governments have agreed to open to foreign competition, and include the controversial issues of national treatment and market access. In the national schedules which each country draws up under GATS, governments identify individual sectors and make specific commitments in the subsectors within them according to the four modes of supply listed above.

While countries are already committed to the full range of general obligations by virtue of their WTO membership, they will now come under increasing pressure to commit more of their service sectors to specific obligations as well. Despite WTO protestations to the contrary, the European

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<sup>2</sup> *An Introduction to the GATS* (WTO Secretariat, October 1999)

Commission acknowledges that this pressure to liberalise key service sectors is a 'fact of life'. The GATS negotiations are currently moving into this request-offer phase, where member states submit proposals on sectors to be opened for further liberalisation. Several countries have already started submitting their requests.

### **Are public services covered?**

The WTO has claimed that public services are excluded from GATS, insofar as Article I.3 of GATS exempts services which are provided "in the exercise of governmental authority". GATS defines such a service as one supplied "neither on a commercial basis, nor in competition with one or more service suppliers".

Yet there is considerable doubt as to how far this exemption will apply to public services. The increasing presence of the private sector in both the health and education sectors could undermine the exemption in Britain, for example, as it could be seen as providing a service in competition with the state. As the WTO itself contends: "It seems unrealistic in such cases to argue for continued application of Article I.3 and/or maintain that no competitive relationship exists between the two groups of suppliers or services."<sup>3</sup>

The WTO maintains that governments still retain the power to suspend GATS commitments on health and safety grounds. Yet governments can do this only once they have provided strict justification for their action – and their decision is always open to challenge through the WTO's disputes settlement system.

In practical terms, GATS is effectively irreversible. In order to withdraw commitments already made, countries must offer compensation in the form of other service sectors. This is only possible three years after the initial commitment is made, and must be deemed satisfactory to all other WTO members before the withdrawal can be effected.

The objective of GATS is to promote and enforce the liberalisation of trade in services. It is not a neutral agreement, as it presupposes the benefits of service liberalisation. Yet there has been no assessment of the impact which GATS will have on countries. An international campaign has recently been launched which calls for a halt to the current GATS negotiations until a full assessment has been carried out.

## **UNIVERSALISM AND PUBLIC SERVICES**

The central principle which has traditionally underpinned public service provision in Europe is the principle of universalism, under which all citizens are guaranteed access to public services according to need, not according to their ability to pay. This has been of particular importance within the health and education sectors, but applies across many other public service sectors too.

Universalism is made possible through a funding system based on progressive taxation and social insurance. This entails the pooling of risk across society, both in funding and in service delivery. Such cross-subsidisation is especially important in countries with growing social inequality such as Britain, where the difference in life expectancy between rich and poor has doubled from five to 10 years in the space of just two decades.

The model of 'new universalism' promoted by bodies such as the World Bank is based not on state provision but on the free market, with government ensuring a level of market regulation. Instead of risk pooling, the new model is based on capitation (payment on the basis of head count and individual risk) plus targeted subsidies – eg the British government's family tax credit.

Instead of cross-subsidisation, the new model of universalism requires the 'unbundling' of public services, typically including a separation of the infrastructure (network) from actual service delivery. The effect of this unbundling is to render the public sector inefficient, as it is no longer able to

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<sup>3</sup> *Health and Social Services* (WTO document no S/C/W/50, 18 September 1998), paras 37-39

spread risk across society and subsidise the high-cost elements of service provision through low-cost.

Universalism based on risk pooling has worked well, as examples throughout Europe attest. By contrast, market provision of services backed by government subsidies has been unsuccessful, as in the USA, where 55 million people have no health insurance. The introduction of targeted subsidies in Latin America has also failed. While the World Bank claims that failure is attributable to poor government targeting, there is a substantial body of academic research which shows that the problems go to the heart of the 'new universalism' model itself.

### **Privatisation of services**

In the unbundling of public services, it is typically service delivery that is privatised. Transferring ownership of the service network or infrastructure to the private sector is highly problematic, as shown most clearly in the British context by Railtrack. Capital markets require a rate of return commensurate with the large sums invested – and higher than service infrastructure is able to deliver. Indeed, this was one reason public services were entrusted to public ownership in the first place.

The experience of the water industry in Britain indicates how privatisation has failed to deliver the benefits promised. While customers were to pay for service delivery, the newly privatised water companies were supposed to attract investment from the capital markets for renewal of infrastructure. Yet in order to guarantee sufficient dividends to their shareholders, the water companies invested the capital in other companies rather than using it to upgrade the network, leaving customers to pay for the renewal of infrastructure as well as service delivery.

Water companies now find themselves with the same levels of debt as their publicly owned counterparts had prior to privatisation, and are trying to divest themselves of responsibility for infrastructure so that they can concentrate on the more profitable business of service delivery. Yet this does not address the basic problem of how to finance the investment needed to upgrade the network.

Where infrastructure remains in private hands, the government has used public money to bail out private companies – most notably, again, in the case of Railtrack. Investment raised through the government's Private Finance Initiative (PFI) or Public Private Partnership (PPP) schemes also entails the use of public finance to subsidise private profits, and exposes the public to higher levels of long-term debt than would be incurred by public sector financing.

### **The threat of GATS**

The WTO's mandate is to promote and expand free trade. Its interest in services stems directly from this need to generate more profits for international markets, not from any interest in service provision itself. As such, the WTO sees European public sector monopolies as barriers to the expansion of trade in services.

A particular concern for those working in the public sectors, is that a GATS working party has been established within the WTO to examine domestic regulation (Article VI of GATS) and national barriers to trade. The working party, which is not open to public scrutiny, aims to tighten up the wording of GATS Article VI.4, which sets the conditions under which governments are allowed to regulate their service industries.

Article VI.4 enshrines the principle of legal necessity, according to which government regulation is permitted only so long as it does not constitute an 'unnecessary' barrier to trade. Once the 'necessity test' is applied, it is the responsibility of the government in question to prove the legitimacy of any regulation it imposes, and to show that it is "not more burdensome than necessary to ensure the quality of the service". Ultimately, it will be the WTO's disputes settlement panels which rule on whether a country's regulatory system complies with these requirements.

There is concern that the WTO working party on domestic regulation may follow the line taken in the WTO's negotiations on telecommunications, which concluded in February 1997. These specified that provision of telecommunications services must be transparent and targeted on an individual basis – in other words, unbundled and not cross-subsidised. Adoption of a similar reading of GATS Article VI.4 could seriously challenge the provision of universalised public services.

## **THE VIEW FROM EUROPE**

As a free trade zone responsible for a fifth of all world exports, the European Union has always supported trade liberalisation. It is also a world leader in services, which already account for two thirds of the EU's GNP (but only a quarter of its exports). EU Trade Commissioner Pascal Lamy, a strong advocate of liberalisation, has argued that GATS negotiations should be incorporated into a new round of WTO trade negotiations so as to ensure they are concluded successfully.

Previously, the EU approached GATS negotiations on the principle of unanimity, which requires consensus among all EU member states. At the EU Intergovernmental Conference held in Nice in December 2000, however, member states granted the European Commission more autonomy in negotiations on trade in services. An exception was made for the health, education and social services sectors, which still require unanimity among EU countries. Most other sectors will now be negotiated on the basis of qualified majority voting instead.

Both Pascal Lamy and Britain's Secretary of State for International Development Clare Short have claimed that the education and health sectors of Europe are not open for negotiation under GATS. Yet the European Commission has argued that all sectors should be included in GATS negotiations, with no *a priori* exceptions, and has praised the work being undertaken by the WTO's working party on domestic regulation in examining national barriers to trade in services. Some staff have gone further still: Michel Servoz of the Services section of the Commission's Directorate-General for Trade has explicitly suggested that the health and education sectors are ripe for liberalisation.

### **In whose interest?**

GATS is of central interest to the US services sector. As Robert Vastine, President of the powerful US Coalition of Service Industries (CSI), has stated: "The overarching objective of the global business community in the coming negotiations should be both to broaden and deepen countries' GATS liberalisation commitments. A contestable, competitive market in every sector and in every WTO member country is the ultimate goal."

Of primary importance, however, is the attempt "to allow majority foreign ownership of health care facilities, and to seek inclusion of health care into WTO government procurement disciplines." The CSI laments the fact that, up to now, "Health care services in many foreign countries have largely been the responsibility of the public sector, [making it] difficult for US private sector health care providers to market in foreign countries." With added assistance from new US Trade Representative Robert Zoelick, the GATS negotiations could unlock the public health sector for US corporations.

The European Commission has also confirmed that GATS is "first and foremost an instrument for the benefit of business". Indeed, the Commission has co-funded several corporate lobbying events such as the 2000 European Business Summit, at which Gerhard Cromme of the European Roundtable of Industrialists suggested that all schools should be privatised to encourage competition and make them subject to market forces, on the grounds that "schools will respond better to paying customers, just like any other business." Cromme derided the "culture of laziness which continues in the European education system", where students "pursue subjects not directly related to industry and which have no practical application."

The Commission also co-funded the European Services Forum meeting of November 2000, at which Lamy enthused over the non-reciprocity of GATS and its benefits for European service providers. As he explained, "We have offensive export interests in the field of those services which

are regulated as public services. That is an important distinction between GATS and GATT. With GATS reciprocity is not the same – there is none. If we have a strong interest in the field of health we're not obliged to make commitments but can take advantage of opening up other markets.”

While business has been granted ever more access to EU decision making processes, the European Parliament has been increasingly excluded from them. The Parliament does not even have observer status on the EU's Article 133 Committee, the body of government representatives which meets in secret in Brussels to agree the Commission's positions for trade negotiations. Nor did the Parliament gain co-decision powers over those service sectors which were handed over to qualified majority voting in Nice.

While parliamentary scrutiny of the EU position remains so limited, the public has every right to be concerned at the safety of its service sectors. Nor should the focus be exclusively on GATS and the WTO. Bilateral trade agreements negotiated far away from the public gaze can introduce even more radical commitments. The treaty currently under negotiation between the EU and Mexico, for example, contains provisions on services which go much deeper than GATS.

## **THE INTERNATIONAL PERSPECTIVE**

GATS must also be seen in the context of the international trend towards a non-democratic world order. During the 1960s and 1970s the UN was strong and UNCTAD was the negotiating forum for international trade agreements such as the Generalised System of Preferences and the Integrated Programme for Commodities, which benefited the countries of the developing world. Indeed, GATT itself was based on securing preferential policies for countries of the South.

The Reagan/Thatcher era of the 1980s saw the UN progressively marginalised and the undemocratic Bretton Woods institutions take centre stage. A total of 70 developing countries were forced to accept damaging structural adjustment programmes as a condition of loans from the World Bank and IMF. The Uruguay Round of GATT expanded negotiations to include new areas such as services, investment and intellectual property rights, and established the WTO itself in 1995.

The WTO and its agreements should be understood in the context of this trend away from a democratic to a non-democratic world order. In sharp contrast to the WTO's claim that it is a rules-based organisation, the exclusion of developing countries from negotiations at each of its Ministerial Meetings has shown clearly that the WTO is a power-based institution, just as the World Bank and IMF are. WTO decisions are made through a process of concentric circles starting with the USA and EU, expanding to the Quad and G7, and eventually presented as *faits accomplis* to the countries of the developing world.

WTO debates on issues of the greatest importance to developing countries can take place without the presence of a single Third World delegate. Moreover, when African delegates raise objections to the decisions worked out in their absence, they often find that a US representative will phone their government and apply the requisite pressure to persuade them to change their stance. This ensures that the WTO remains a forum to negotiate market access for corporate interests.

The initial creation of the WTO was itself a triumph for corporate interests, for two main reasons. First, the WTO's disputes settlement system enables it to enforce the new free trade agenda in a way that was impossible under GATT. Second, the WTO is a 'single undertaking' which commits member states to all its agreements together. This was particularly significant for multinational corporations, which wished to secure faster deregulation of investment and services under TRIMs and GATS, and tighter regulation of intellectual property rights under TRIPs.

## **Resistance to GATS**

Opposition to GATS by developing countries led to the agreement's flexibility over market access and national treatment commitments. It also ensured that GATS is a non-reciprocal agreement, where commitments made by one member do not entail reciprocal treatment from others.



Yet GATS remains an extensive agreement, with wide-ranging consequences for the countries of the developing world. The experience of relatively strong economies such as Malaysia shows how a sharp rise in imports as a result of overseas competition can have a negative impact on a country's balance of payments, foreign exchange reserves and local industries. The commodification of public goods such as water has also led to extreme problems for many of the poorest communities of the developing world.

GATS poses a particular threat to people in developing countries, where only around 5% of basic services are provided by governments – and many of these have been greatly weakened as a result of structural adjustment programmes, leaving them all the more ready for privatisation. Local communities, on the other hand, provide the majority of services in the South. These community services stand little chance of competing with the multinational service industries of the USA and EU.

### **New international models**

It has become increasingly clear at the international level that liberalisation means a relocation of power towards multinational corporations. In the services sector, this shift has been accompanied by a seizure of public policy design by an international technocracy who maintain that market forces are the best servants of public interest. Public servants, by contrast, are not to be trusted – hence General Pinochet's invitation to the 'Chicago boys' to be his economic advisers in Chile, and Argentina's introduction of private sector policy advisers over the heads of the civil service.

This trend has resulted in a change to the model of public service provision, even where those services have remained in state ownership. Public Choice Theory marketises the relationships both between public services and their users and between public services and the workers which provide them. The commodification of public services opens new markets for an oligopoly of private service providers, but offers the public little in return.

A prime example can be seen in the rise of independent power producers, where states are typically tied to contracts with privately owned power plants which last anything between 10 and 30 years, and require them to pay for power whether they need it or not. In the Philippines, the highly efficient state power corporation was replaced, on the 'advice' of the World Bank and IMF, by private companies operating a 'take or pay' agreement. The arrangement is already directly responsible for causing \$9 billion of national debt.

In many situations the state has provided an increasingly feeble service, and privatisation has been heralded as a redemptive move. In such circumstances unions and local communities have learned that public services must be maintained at a sufficient level if they are to satisfy users and resist the threat of privatisation. In Porto Alegre, Brazil, local communities have increased the socialisation of decision making processes for municipal spending so as to take control of public service provision for themselves.

## **IMPACT ON INDIVIDUAL SECTORS**

### **Health**

The privatisation of health care in Britain has been led by the privatisation of ancillary services and of long-term and personal care, in which 400,000 beds have been transferred from the National Health Service to the for-profit sector. As a result, both patients and staff working in the sector have suffered from a decline in service and in working conditions.

The privatisation of this sector indicates how far the health agenda has been set by corporate interest. The provision of personal and social care for the old and disabled has been one of the least costly elements of the NHS. Yet rather than keep this service free at the point of delivery, as required by the principle of universalism, personal and social care was transferred to the private sector purely in the interest of those corporations which stood to profit from it. The same

considerations underlie the licensing of drugs which will benefit the pharmaceutical industry rather than patients.

While the government talks up the PFI as a means of keeping NHS management in public hands, PFI hospitals lock the government into debt to the private sector for between 20 and 30 years. Indeed, the PFI is the mechanism for preparing Britain's NHS for the US services sector, in line with that sector's stated interests in taking over Europe's national health services.

The privatisation of the health service in countries such as Britain sets the context for WTO negotiations. While the NHS may seem threatened by GATS negotiations, the WTO is in turn encouraged and influenced by the liberalisation policies already introduced into the health sector by the British government. It is therefore important to maintain a focus on both levels if we are to halt the trend towards liberalisation.

## **Education**

In the higher education sector, GATS negotiations are complementary to a process of commercialisation which is already well underway in OECD countries, including Britain. This process aims to redefine higher education as a product for sale. GATS represents the international aspect of that process, locking in the liberalisation which has already taken place domestically and enabling the product to be bought and sold on the global market.

Four factors stand behind the commercialisation of higher education in Britain:

- 1) **privatisation:** – This is the continuation of the Thatcherite privatisation programme, now repackaged as the 'privatisation by stealth' of PFI and PPP.
- 2) **flexibilisation of labour:** – Higher education is increasingly called upon to meet the needs of business by providing rapid retraining and reskilling of an increasingly flexible workforce.
- 3) **economic restructuring:** – In order for Britain to gain a comparative advantage in the EU's 'knowledge-based economy', higher education has assumed a critical role.
- 4) **global demand:** – Britain already earns an estimated £2.6 billion a year through higher education exports, and the government hopes to develop the industry's earnings capacity further.

Universities are already adapting to the implications of this process of commercialisation. A hierarchy of higher education institutions has developed to serve different levels of the labour market. Universities and businesses are forming strategic alliances, while the extension of market mechanisms has led to lower wages and greater job insecurity – particularly for those departments which are not perceived to be commercially useful. This aspect of commercialisation brings serious consequences for society as a whole, as the loss of the public service ethos raises the likelihood that only research and teaching which carry a commercial value will attract future funding. The function of universities as incubators of social criticism will be undermined by such a trend.

The abolition of grants and introduction of fees in higher education has already violated the principle of universalism and led to problems for both universities and students alike. GATS threatens to complete the commercialisation process by locking it into the framework of global competition and making the changes irreversible.

## **Water**

The privatisation of the world's water industry has advanced considerably in recent years. It is a heavily concentrated industry, with just two French companies (Vivendi and Suez) accounting for over 50% of world water sales. However, the vast majority of water systems in the world are still in public ownership, including most of those in Europe and the USA. (The staff at World Bank and IMF headquarters all receive their water from the municipal system in Washington DC.)

The main concern relating to water privatisation is the impact on cost, with attendant consequences for the health of those who can no longer afford access to clean water. In mixed

systems with both private and public water supplies, prices are invariably higher from private suppliers; costs in France, for example, are typically 10-15% higher than from the public system. As described above, the costs of capital for investment are higher for privatised water companies, and this in turn drives user charges up.

The daunting scale of investment required by public water systems can lead governments to turn to the private sector. However, it is more likely that countries will be driven to privatise their water industries as a result of ideological pressure to liberalise service sectors. Loan conditionalities imposed by the World Bank or IMF have often been responsible for persuading governments to embrace water privatisation. The World Bank has promised Ghana an extra \$100 million if it will privatise its water system – money which will be withheld if it refuses.

The developing world is a particular target for water privatisation, and especially the countries of Latin America. Yet it is developing countries which have seen some of the fiercest resistance to water privatisation. Popular resistance has succeeded in reversing water privatisation in both Bolivia and Argentina, while there have been strong protests against planned privatisations in Brazil, Sri Lanka, South Africa and Canada.

### **Post & telecommunications**

The post and telecommunications sector faces challenges at national, European and international levels. At the national level, where the sector employs around 193,000 people across the UK, post and telecommunications have had different experiences. While the telecommunications sector was among the first to be privatised (1984), the Post Office has only just lost its national monopoly in March 2001. It will now operate under licence, rebranded as Consignia.

Many other OECD countries have followed a similar pattern, with a deregulated telecoms industry and a postal service still within the public sector – although New Zealand and the Netherlands have privatised their postal services too. The telecoms sector provides a good example of the impact of unbundling on services, as costs are now charged individually per service rather than being pooled and cross-subsidised on a sector-wide basis. The result of this shift is that domestic rates have risen more than business rates, even if technological advances have so far shielded consumers from the full effect of the increases.

The uniform tariff system operated by the postal sector, on the other hand, is resistant to unbundling, given the political sensitivity of having people pay more for postage simply because they live in a remote village rather than a central conurbation. This resistance is a particular bugbear to the European Commission, which is keen to see a liberalisation of European postal services. It should also be noted that many post offices fulfil a far broader social function than just the mechanical delivery of letters, an aspect which the commodification of services is unable to acknowledge.

While there is increasing political pressure to unbundle the services provided, the companies themselves are lumping together an ever greater number of roles. Gas companies now provide electricity, water and telecommunications, while electric companies offer a similarly wide range of services. The era of industry-specific services seems to be drawing to an end, leaving the way open for the consolidation of the services industry and the creation of a few giant corporations with commercial presence and interests worldwide.

## **ENVIRONMENTAL IMPACTS**

GATS threatens to have a significant environmental impact in such sectors as tourism, transport, environmental services and construction – the very services identified as prime targets for liberalisation by the EU and USA. As negotiations require ever greater commitments from governments, so the potential for environmental damage will increase.

One particular problem facing governments is that they must register their commitments to service sector liberalisation before they are fully aware of what the environmental consequences might be.

Moreover, any restrictions which governments might wish to introduce on environmental grounds – such as limits on oil companies, on hazardous waste or water extraction – would potentially expose them to challenge before a WTO disputes settlement panel as having introduced an unnecessary barrier to trade. As in all such cases, a country would also have to prove that its environmental regulations were the least possible restriction on competition.

The mere prospect of being arraigned on these grounds may dissuade governments from introducing even the most positive environmental requirements, such as promoting renewable energy sources or restricting the use of nuclear power. For developing countries in particular, the threat of being taken to a WTO disputes settlement panel brings with it significant cost implications, as well as the threat of unauthorised trade sanctions from more powerful economies. They may be doubly unwilling to take a stand on environmental grounds.

GATS allows for an increase in the exploitation of public goods for private profit. This includes 'end of pipe' services such as water, energy and environmental services. At the same time, however, GATS does not include the possibility of exempting exhaustible natural resources – a safeguard which was included in the GATT agreements on trade in goods.

Critically, GATS locks in national commitments to liberalisation and makes it almost impossible to reverse those commitments once made. This is of particular concern for the environment, since the WTO makes no provision for environmental impact assessments to be carried out in advance. The free trade agenda is being pushed forward with no consideration for environmental concerns.

## **KEY ISSUES**

GATS is only one part of the story. Liberalisation and privatisation have proceeded apace in individual countries as well as through regional and bilateral treaties, often even further than envisaged under GATS. It is crucial to focus our opposition at all different levels – national, regional and international – if we are to succeed in turning round the current trend.

Yet GATS is still a key element in this overall picture, and deserves our continued attention for several reasons:

- Strategically, GATS is important as a means of drawing together different campaigns while keeping the focus firmly on the central issues. It is particularly useful in providing a unifying focus for European campaigns in defence of public services and international movements against the current form of globalisation.
- There is still much to play for. Many countries still have an extensive range of services in public ownership, provided to all citizens on the basis of universal access. The current GATS negotiations are embarking on a process of horse trading in which many of these sectors will be surrendered to liberalisation and the market as a result of pressure from the powerful services industry.
- Even in those countries where liberalisation is already well advanced, GATS poses a particular threat in its capacity to lock governments in to liberalisation. Under GATS, many policies which could previously have been overturned by popular resistance will become irreversible. It is unclear whether the success of the Bolivian people in reversing water privatisation would have been possible under GATS.
- The British government is playing a central role in pushing forward GATS negotiations, given the extensive interests of the British services industry in gaining access to markets overseas. This makes it doubly important to continue pressure at the domestic level with a view to influencing international developments.

Public services need regulation under a rules-based system. Yet the best form of regulation is public ownership. In rejecting public service liberalisation, we should remember that we already

have a proven alternative model in the universalism of public services which has proved so successful until now.

## **WHERE TO NOW?**

There is a window of opportunity currently open as the GATS negotiations enter their request-offer phase. At the end of 2001 that process will be intensified and many governments will be pressured into signing up to extensive liberalisation commitments, unless there is sufficient international action to protect public services from mass market opening through GATS. It is essential that we use the coming months to inform the wider public of the threat of GATS and build up popular resistance to it.

### **Lobbying government**

The opposition to GATS within Britain has gained widespread support. Several NGOs and unions have engaged in dialogue directly with the Government. Thousands of people have written letters of concern to the Department of Trade and Industry and/or their MP. At the parliamentary level, over 250 MPs have signed Early Day Motion 260 – the fourth most highly supported of all current EDMs (which total 706). The text of the motion reads:

“That this House welcomes the statement in the government’s recent Globalisation White Paper that recognises the role of government in ensuring that basic services are provided to all; notes that negotiations to expand the reach of the WTO’s General Agreement on Trade in Services (GATS) are underway; further notes that the GATS applies to all tradable services, including public services, if they are provided commercially or in competition with other suppliers; further notes that the GATS applies to all levels of government, including local authorities; is concerned over the lack of parliamentary and public debate on this agreement given its far-reaching implications; and calls for the government to ensure that there is an *independent* and thorough assessment of the likely impact of the extension of the GATS on the provision of key services both in the UK and internationally, particularly on the poor in developing countries.”

A new EDM along the same lines will be presented after the forthcoming General Election, and it is essential that membership and campaigns organisations keep up the pressure on MPs to demand an assessment as described above. The majority of eligible MSPs have also signed up to a similar motion in the Scottish Parliament.

The DTI has been taking the lead on GATS for the British government, and there has been little debate on its implications within other government departments. It would be useful to seed such debate within DfEE, DFID, DoH and DETR by approaching Ministers in those sectors.

### **Sharing research**

While it is important to lobby for comprehensive impact assessments of GATS at national, European and international levels, there is already a substantial body of research on the impacts of liberalisation – for example, the impact of privatisation on patients and health care workers, and the environmental impacts of liberalisation. It is also important to provide theoretical criticism of liberalisation on the basis of alternative models, especially since it is often difficult to use empirical evidence across different sectors.

All such material should be made widely available both within Britain and overseas (see the resource list below for a sense of what is already easily accessible). It should also be noted that government funding is not forthcoming for this sort of research; trade unions should consider it a priority to fund such projects instead.

**John Hilary**  
**April 2001**

## ONLINE RESOURCES

All websites listed contain information and reports on GATS and/or public services.

WDM GATS campaign	<a href="http://www.wdm.org.uk/campaign/GATS.htm">http://www.wdm.org.uk/campaign/GATS.htm</a>
GATSwatch	<a href="http://www.xs4all.nl/~ceo/gatswatch/">http://www.xs4all.nl/~ceo/gatswatch/</a>
PSI Research Unit	<a href="http://www.psiu.org/">http://www.psiu.org/</a>
Friends of the Earth International	<a href="http://www.foei.org/">http://www.foei.org/</a>
Unison PFI / PPP website	<a href="http://www.unison.org.uk/pfi/">http://www.unison.org.uk/pfi/</a>
Canadian Centre for Policy Alternatives	<a href="http://www.policyalternatives.ca/">http://www.policyalternatives.ca/</a>
Public Finance	<a href="http://www.cipfa.org.uk/publicfinance/">http://www.cipfa.org.uk/publicfinance/</a>
Third World Network	<a href="http://www.twinside.org.sg/">http://www.twinside.org.sg/</a>
Education International	<a href="http://www.ei-ie.org/">http://www.ei-ie.org/</a>
Consumers International	<a href="http://www.consumersinternational.org/">http://www.consumersinternational.org/</a>
WTO services pages	<a href="http://www.wto.org/english/tratop_e/serv_e/serv_e.htm">http://www.wto.org/english/tratop_e/serv_e/serv_e.htm</a>
Text of GATS	<a href="http://www.wto.org/english/docs_e/legal_e/26-gats.wpf">http://www.wto.org/english/docs_e/legal_e/26-gats.wpf</a>
Global Services Network	<a href="http://www.globalservicesnetwork.com/">http://www.globalservicesnetwork.com/</a>
US Coalition of Service Industries	<a href="http://www.uscsi.org/">http://www.uscsi.org/</a>
European Services Forum	<a href="http://www.esf.be/">http://www.esf.be/</a>
European Commission: trade in services	<a href="http://europa.eu.int/comm/trade/services/index_en.htm">http://europa.eu.int/comm/trade/services/index_en.htm</a>
DTI world trade pages	<a href="http://www.dti.gov.uk/worldtrade/">http://www.dti.gov.uk/worldtrade/</a>

## KEY BOOKS

- *GATS: How the WTO's new 'services' negotiations threaten democracy*, Scott Sinclair (Canadian Centre for Pol
- *Public Services or Corporate Welfare: Rethinking the Nation State in the Global Economy*, Dexter Whitfield (Plu
- *Redesigning Public Services*, Brendan Martin (Zed Books, forthcoming, autumn 2001)
- *In the Public Interest?*, Brendan Martin (Zed Books, 1993 – new reprint now available)