

---

# GATS AND DEMOCRACY

## A JOINT PUBLICATION OF THE SEATTLE TO BRUSSELS NETWORK (JULY 2001)

There is growing concern in Europe, as elsewhere, that the WTO's General Agreement on Trade in Services (GATS) represents the greatest threat to democracy to come from an international economic agreement since the Multilateral Agreement on Investment, defeated in October 1998. European Commission negotiators are proposing extensions to GATS which would fundamentally undermine citizens' right to determine their own social and environmental priorities for the future. In addition, they are pushing forward proposals which will not only have an impact on service delivery in Europe, but also put immense pressure on developing countries to liberalise service sectors of export interest to European companies.

As described in the articles below, current GATS negotiations on domestic regulation threaten to subordinate social and environmental policy goals to the commercial advantage of multinational corporations. There is considerable concern that GATS rules could now be applied to public goods such as education, health and water – key services which are considered too important to entrust to the WTO's free trade agenda.

Despite the potentially profound impact GATS will have, negotiations continue without national or European parliamentary scrutiny. In addition, the European Commission has been granted fast track authority for almost all service sectors at its Nice intergovernmental conference in December 2000. This widening of the democratic gap is aggravated by the fact that the Commission lends its ears more willingly to the chief executives and business interest groups of the continent's most powerful corporations than to truly concerned citizens.

GATS represents a particular challenge to democracy in that it offers countries few possible means of retracting their commitments. Any country wishing to withdraw a service sector commitment must wait three years from the time the commitment was first made, and then offer acceptable compensation to other WTO members before the withdrawal can be effected. In the words of David Hartridge, until recently Director of the WTO's Services Division, commitments made under GATS are effectively "irreversible".

Under GATS, therefore, it becomes practicably impossible for citizens of a country to reclaim basic public services once they have been liberalised, or to introduce new regulations on social or environmental grounds. Moreover, the WTO positively welcomes this anti-democratic aspect of GATS. In its own question and answer introduction to the Agreement, the WTO Secretariat recommends GATS to pro-liberalisation governments for the political assistance it can bring them in "overcoming domestic resistance to change".

This collection of articles from members of the Seattle to Brussels Network focuses on the threat to democracy represented by GATS. The articles have been contributed by individual member organisations and do not necessarily reflect the views of all members of the Network. At the same time, all members share the central conviction that there should be no further expansion of GATS without a full, public and independent assessment of the impact of further services liberalisation on democracy and people's rights. We call on the WTO Council on Trade in Services, meeting in Geneva from 9 to 18 July 2001, to initiate such an assessment.

# CONTENTS

GATS AND PUBLIC SERVICES .....4

GATS AND DOMESTIC REGULATION .....6

  

GATS AND THE RIGHT TO REGULATE.....8

GATS AND CORPORATE POLITICAL POWER .....10

GATS AND THE ENVIRONMENT .....12

  

GATS AND WATER.....14

GATS AND EDUCATION.....16

GATS AND HEALTH CARE .....18

  

CONTACTS.....19

SEATTLE TO BRUSSELS NETWORK .....20

### **GATS 2000: WHERE ARE WE NOW?**

Negotiations are currently underway at the World Trade Organisation (WTO) in Geneva aimed at expanding the General Agreement on Trade in Services (GATS). The original text of GATS was agreed in 1994, and the current GATS 2000 negotiations are part of the 'built-in agenda' which the WTO inherited on its formation in 1995.

GATS is a very broad agreement, dealing with every service imaginable. Its rules apply to all levels of government. The agreement is not only confined to cross-border trade, but covers other methods of service delivery, including the commercial presence of multinational companies inside the borders of WTO member states.

In their initial phase, from February 2000 onwards, the current negotiations focused on the development of a negotiating 'roadmap', finally agreed in March 2001. Negotiations have now entered the 'market access' phase, with countries beginning to make requests for other member countries to liberalise more of their services under GATS. At the time of writing, over 80 request proposals are on the table, the vast majority coming from powerful WTO players such as USA, the European Union and Canada.

These negotiations take place in the context of the EU's attempts to launch a new round of international trade negotiations – including services – at the WTO Ministerial Conference to be held in Qatar in November 2001.

---

# GATS AND PUBLIC SERVICES

MARKUS KRAJEWSKI

## WORLD ECONOMY, ECOLOGY & DEVELOPMENT (WEED)

There is an ongoing public debate about GATS and public services such as energy, water, health, education, communication (basic telecoms and postal) or transportation services supplied by public entities. GATS covers all services “except services supplied in the exercise of governmental authority”, which are defined as services “supplied neither on a commercial basis, nor in competition with one or more service suppliers” (Article I.3). The central question is whether public services are excepted by Article I.3, or whether they fall within the scope of GATS.

While this question may seem rather technical, it is of great importance in the context of GATS and democracy. The supply of public services is often the necessary basis for a democratic and open policy-making process in a country, most obviously in the cases of education and communication. Access to services such as water or health care is often seen as a human right. Yet other public services are also supplied to ensure that certain basic needs of the entire population are met, such as transport or energy.

Given their central importance to democratic and social integrity, governments should be free to choose methods of supplying public services so that all members of society have access to them at affordable prices. The threat of GATS is that it may effectively limit policy choices or make the provision of public services more difficult.

If a service is one of the 160 covered by GATS, all horizontal disciplines (such as the Most-Favoured-Nation requirement) apply to it. In addition, if a member state makes specific commitments concerning market access and national treatment, GATS determines the scope of those commitments too. For example, a member state with specific commitments in the postal

sector is unable to protect its national postal service against foreign express delivery services. Similarly, a member with a national treatment commitment in higher education might have to extend subsidising programmes in the higher education sector to foreign suppliers.

There is no agreed understanding of “services supplied in the exercise of governmental authority” among WTO members or even within the WTO Secretariat. The latter in particular seems to apply different approaches depending on the circumstances. In the 1998 Background Note on Health and Social Services (WTO document S/C/W/50), the Secretariat argued that in cases where private and government-owned hospitals coexisted, it would be “unrealistic... to maintain that no competitive relationship exists”. Consequently the exception clause of Article I.3 would not apply.

Yet three years later, presumably as a result of growing public criticism, the WTO Secretariat did a complete U-turn. In its 2001 Special Study No 6 on Market Access (pages 123-124) the WTO Secretariat stated that “the existence of private health services in parallel with public services could not be held to invalidate the status of the latter as governmental services”.

So what is the true meaning of Article I.3? At best it is unclear. However, based on generally accepted principles of international treaty interpretation one can also argue that GATS covers most public services. It could be held that supply ‘on a commercial basis’ means that a price is paid for the service, so that any service not supplied free of charge is thus supplied commercially. Consequently almost any public service would be covered by GATS, because usually at least some price is paid for the service.

Similarly, a service supplied ‘in competition’ could be understood as a situation where at least two service suppliers provide comparable services and target the same market. For example, it could be argued that public and private schools compete with each other, inasmuch as they both provide children of a certain age with a certain amount of general education and are targeting the same market.

Considering that GATS disciplines restrict policy choices, a broad scope of GATS could be detrimental to national economic, social and environmental policies. It would therefore be highly dangerous to leave decisions about the exact scope of GATS to the WTO’s disputes

settlement system. Rather, WTO members should take ‘legislative’ steps to exclude public services from GATS. Such steps could take the form of an amendment to GATS or an authoritative decision of the WTO Ministerial Conference or the WTO General Council. These legal instruments would have to clarify that according to the collective understanding of WTO members all public services are considered to be “supplied in the exercise of governmental authority”, without further conditions attached.

**For further reading, see:**

***Public services and the scope of GATS*, Markus Krajewski, CIEL Research Paper, May 2001; available at <http://www.ciel.org/>**

---

# GATS AND DOMESTIC REGULATION

CLARE JOY

## WORLD DEVELOPMENT MOVEMENT

Unpacking GATS Article VI.4 on domestic regulation exposes possibly the single most controversial item on the current negotiating agenda, and also one of the greatest threats that GATS poses to democracy. Concern is all the greater because it is not clear whether rules developed in the current negotiations on Article VI.4 will apply to all service sectors or only those where specific commitments have been made.

Regulations in the services sector are complex and can relate to core government policy goals. They are often designed to meet ‘non-economic’ goals such as environmental or social objectives. Such regulations vary from country to country and also within countries, where local governments and municipalities are often in charge of implementing regulations.

Many of these regulations remain outside the scope of GATS articles related to specific commitments (Article XVI, Market Access and Article XVII, National Treatment). They escape these GATS rules because they neither discriminate against foreign suppliers (thus treating domestic and foreign firms equally), nor impose quantitative restrictions (numerical limitations on the number of suppliers in a sector). The regulations in question include those associated with qualification requirements and procedures, technical standards and licensing requirements, as outlined in Article VI.4.

None of the above terms are precisely defined in GATS. Yet WTO Secretariat reports shed some light on how such regulations can be considered ‘trade-restrictive’. Qualification requirements, for example, clearly refer to professional accreditation and educational requirements. Licensing requirements could include authorisation regulations for the setting up of

retail stores (often affected by zoning and planning restrictions). Technical standards include a much broader range and according to the Secretariat would encompass regulations affecting the rules according to which the service must be performed. This could, for instance, apply to quality regulations in the water industry.

To deal with such regulations, Article VI.4 negotiations are developing a ‘necessity test’. Under this, WTO member states would first have to prove that their regulations were necessary in order to achieve a WTO-sanctioned legitimate objective. Second, they would have to show that no alternative measure was available which would achieve the same objective and be less trade-restrictive. So even if a goal such as environmental protection is considered a ‘legitimate objective’, technical standards on those trading in that sector may not be considered the least trade-restrictive way of achieving that objective, and would therefore fall foul of the necessity test.

In some countries, for example, companies face regulations on the use of ozone-depleting chemicals. This is a technical standard regulating the way they perform their service. However, industry might argue that a greater emphasis on economic incentives rather than government controls would be a less trade-restrictive way of achieving the same environmental objective – such as an emissions fee requiring firms to pay a tax on their pollution equal to the level of external damage.

The necessity test is deeply problematic, as there is almost always the possibility of there being a less trade-restrictive alternative to a particular policy choice. Moreover, when they are implemented, less trade-restrictive measures are

not always the most effective way of meeting social or environmental policy objectives. In the above case, for example, companies will continue to pollute if it is a price worth paying.

Many government regulations which could be threatened by Article VI.4 are tools through which citizens and affected communities can challenge the activities of service companies operating in their local area. Complex judgements decide the appropriateness of domestic regulations in the services sector, ensuring a balance between public interest and commercial considerations. These

judgements must not be allowed to pass from elected governments to WTO disputes panels.

GATS already leaves government regulations open to a WTO disputes challenge through market access and national treatment commitments (under Articles XVI and XVII – see ‘GATS and the Right to Regulate’, below). Current negotiations threaten to extend the mandate of trade rules beyond simply non-discrimination, and directly challenge the crucial role that local and national governments play in regulating services.

---

# GATS AND THE RIGHT TO REGULATE

JESSICA WOODROFFE

## WORLD DEVELOPMENT MOVEMENT

Bizarrely, supporters of GATS express deep indignation at any suggestion that the agreement limits governments' ability to regulate. Bizarre because, at heart, GATS is an agreement designed to reduce government regulation. As the WTO Secretariat acknowledges in its background note on Application of the Necessity Test (WTO Job no 5929), there are "two potentially conflicting priorities: promoting trade expansion versus protecting the regulatory right of governments".

GATS rules get closer to the heart of democratic decision making than other trade agreements. Governments regulate economic activity both to protect their citizens and to influence how the rewards of economic development are distributed. This has proved particularly important if citizens in developing countries are to benefit from an influx of foreign investment. Yet GATS rules apply to 'commercial presence' as well as cross-border trade, thus restricting the ability of governments to act when a foreign company begins operations inside its border.

When a government fully commits a service sector in its Schedule of Specific Commitments, Article XVI on Market Access and Article XVII on National Treatment apply. Under national treatment rules, members agree to eliminate legislation which favours domestic companies over foreign corporations. So, for example, a government which has agreed to full national treatment rules for its tourism sector could be challenged by another WTO member for granting concessions to firms committed to employing local people. This would be seen as discriminating against foreign companies, on the grounds that they might find this a more difficult condition to meet than domestic businesses.

Market access rules go even further, limiting quantitative regulations on market share or the number of firms which can operate in an area, even if they apply equally to domestic and foreign firms. If, for example, a government had agreed full market access rules for its tourist sector, it could be challenged for limiting the number of hotels in a particular area, even if this was designed to protect the long-term viability of the tourist industry in that region. Legislation requiring investors to form joint ventures with local partners could also be threatened.

Persistent in their defence of the agreement, GATS advocates have argued that the 'right to regulate' is protected because governments can list limitations that preserve the right to impose policies like those mentioned above. This takes us to the very heart of the problem: under GATS, the ability to regulate is the exception rather than the rule.

The first problem is that this is a one-off right that members can exercise only at the point of making a commitment. This demands an unrealistic level of knowledge. Negotiators must know all the possible regulations that exist across a broad range of services, even though they are trade rather than social policy experts.

Such regulations are often implemented by local governments. Yet GATS is negotiated through national governments, by trade officials with very little awareness of the kind of restrictions regional governments impose on foreign investment. This has already proved to be an issue in India. In Kerala, one affected community found the State unable to impose restrictions on foreign investment in the tourism sector as a result of the national government's GATS commitments.

This 'one-off right' has a particularly worrying impact on future democratic decision making, as negotiators must also predict what policies governments may want to implement in the future. This severely restricts the ability of social pressure groups to bring new issues, such as the environment, onto the agenda.

Secondly even if limitations are made, they are not secure. They become targets for removal in future rounds of negotiations. In the current phase of negotiations, WTO members are required to increase the number of sectors committed to GATS and to remove limitations within sectors which they have already committed.

Developing countries are at a disadvantage on all counts. With a much more limited negotiating capacity, they are less able to predict which regulations they should protect. With less negotiating power they are more likely to find these protected regulations under threat in future negotiations. Finally, they will be more deterred

by the dangers of a potential challenge from another WTO member (and the sanctions which follow) than a stronger trading partner would be.

Advocates of GATS usually argue at this point that there are some provisions enabling governments to change their minds. As explained in the introduction to this collection, these provisions make commitments effectively irreversible, particularly for developing countries.

Demand for regulation often comes from communities which experience the negative social and environmental costs of investment, as in the Indian case above. GATS ties the hands of elected governments trying to respond to such demands. Regulation may also be needed if governments are to respond to demands for equity from its citizens. Again GATS ties the hands of governments. But perhaps most worrying are the demands of future citizens which we cannot predict, and which governments will be unable to respond to as a result of GATS.

---

# GATS AND CORPORATE POLITICAL POWER

ERIK WESSELIUS

## CORPORATE EUROPE OBSERVATORY

The GATS 2000 negotiations largely follow a double corporate agenda of undermining public services and of deregulation. They constitute a veritable threat to democratic decision making by putting private interests above the public interest. This corporate bias is not accidental, but the direct result of systematic and sustained political pressuring by transnational services corporations, usually working through dedicated pressure groups like the US Coalition of Service Industries (USCSI) and the European Services Forum, and using the prestige of business leaders to lend weight to their demands.

Corporate lobbying for a multilateral agreement on services started in the early 1980s. At that time major US services corporations, united in the USCSI, were able to get the issue on the agenda of the GATT Uruguay Round. David Hartridge, former director of the WTO Services Division, has publicly acknowledged that “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.”

Corporate pressure was equally strong during the negotiations of the WTO Financial Services Agreement (an annex to GATS) in the mid-1990s. This time, European financial service providers joined forces with their US counterparts in the Financial Leaders Group, bringing together the world’s biggest banks and insurers. According to former EU Trade Commissioner Leon Brittan, “the close links established between EU and US industry... were an essential factor in obtaining the final deal.”

In fact, Commissioner Brittan considered the Financial Leaders Group such a success that

he wanted to use it as a prototype to create momentum for the GATS 2000 negotiations, originally scheduled to be launched at the WTO Seattle Ministerial. In his words, “The example of the EU-US Financial Leaders Group – involving a group of business leaders to provide high-level momentum to the negotiations – has been the model for the creation of a new mechanism for Europe. A similar deal will be needed for the next round of services liberalisation negotiations.” Thus in early 1999 the European Services Forum (ESF) and the high-level European Services Leaders Group (ESLG) were created, with Brittan’s active support.

The ESF and ESLG have privileged access not only to the Trade Directorate of the European Commission but even to meetings of the Committee 133 of the European Council – a remarkable fact, considering that these secret meetings are closed to members of the European Parliament itself.

The good understanding between DG Trade and the ESF was attested last year, when upon a “spontaneous application” by ESF managing director Pascal Kerneis, DG Trade granted the ESF 49,200 euro as 50% of the expected costs of the international conference on GATS 2000 that ESF organised in Brussels on 27 November 2000.

Or to give another example of the close links between corporate and government elites, consider the career of Leon Brittan after his resignation from the European Commission in 1999. Having been appointed vice-chairman of investment bank UBS-Warburg in October 1999, he now lobbies the European Commission on behalf of International Financial Services

London (IFSL), representing the interests of the City of London financial industry.

In the spring 2001 issue of *IFSL World*, Brittan turned his attention to the industry's need to fight off criticism from civil society, writing that "non-governmental organisations have staked a claim in the international debate [on] globalisation, the international institutions and the WTO in particular". Business, he

contends, "cannot afford to ignore them. What we have to do is to take the debate on and win it."

The previous paragraphs demonstrate the extent to which corporate interests are shaping the WTO agenda on trade in services. Challenging corporate political power should be a central feature in the international campaign to bring GATS to democratic account.

---

# GATS AND THE ENVIRONMENT

VICE YU, DAVID WASKOW AND ALEXANDRA WANDEL  
FRIENDS OF THE EARTH EUROPE

Services are key factors in the transnational production chains that shape today's global economy. They touch nearly every aspect of the natural world and the environment, including energy extraction and production, transport, water, travel and tourism, construction, distribution, waste disposal and sewage. The activities of multinational service corporations – including oil companies, electricity producers, waste disposal businesses, private water companies and hotel chains – have major environmental impacts around the world.

Once the market access and national treatment provisions of GATS are applied to particular sectors (as they are intended to be under the current request-offer negotiations), the following kinds of regulatory actions to protect the environment could be found WTO-illegal:

- limitations on the number of oil or gas extractive operations in a particular market or community;
- restrictions on the volume or number of bulk surface or groundwater extractions by a water service operator;
- requirements for the use of a certain percentage of renewable sources in electricity supply that disadvantage the cross-border provision of electricity from another country that does not use such renewable sources;
- a ban on the use of nuclear energy in electricity supply that disadvantages a foreign nuclear power producer;
- limitations on the number of diving boats allowed on coral reefs;
- preferences for granting of resource extraction licenses (such as for fishing) to members of local or indigenous communities.

In addition, Article VI imposes restrictions on the domestic regulatory efforts of governments, including environmental laws and regulations affecting service operations. These restrictions currently apply to the particular sectors in which countries have taken commitments, but the current negotiations could expand the restrictions to all service sectors.

The Article VI criteria place restrictions on 'technical standards', which can include almost any type of environmental law or regulation. To be acceptable under Article VI, environmental protection must be "based on objective and transparent criteria" and must "not be more burdensome than necessary to ensure the quality of the service". That effectively means that a country must cross a number of hurdles to show that its environmental regulatory efforts are appropriate.

First, the country must prove to a WTO disputes panel, in the event of a challenge, that its environmental standards are objective. Under that requirement, panels might demand proof that the environmental standard is based on absolute evidence that the harm that will be caused is scientifically ascertainable. Such a requirement would depart from the standard precautionary approach, which requires scientific proof of environmental safety for a product or service and would allow for regulation even when there is a lack of full scientific certainty of possible harm. While environmental protection has traditionally rested on the principle of requiring producers to demonstrate safety, past WTO decisions have shifted much of the burden of proof to the regulators.

Second, in what has come to be known as the 'necessity test', a country must prove to a WTO

disputes panel that its environmental protection rules are the least burdensome possible. In other words, a country cannot simply adopt a reasonable regulatory approach, but must instead identify a full range of alternative approaches and adopt the approach that will affect the economic interests of foreign service operators the least.

Such requirements under GATS can clearly hinder – if not entirely halt – reasonable efforts to protect the environment. Proposals in the current negotiations are aimed at extending the reach of these requirements to all service sectors. GATS requires that any disciplines needed to implement these domestic regulation requirements be adopted across all sectors, and negotiations are currently underway that would do just that. The adoption of a ‘necessity test’ across the board, as the European Union has proposed, would have a significant and chilling impact on domestic regulatory efforts.

The latest EU environmental services negotiations proposal also includes a major new area to be subject to GATS disciplines: water. Water supply is rapidly becoming a privatised sector, with large multinational companies increasingly collecting, extracting and distributing bulk and retail water (see ‘GATS and Water’, below). Estimates value the worldwide water and wastewater industry at between US\$300 and US\$800 billion annually. The EU proposal would expand the access of these water supply corporations by bringing water

collection, purification and distribution under GATS disciplines.

Given increasing water scarcity in many communities, both in developing and developed countries, the proposed inclusion of water collection in GATS raises troubling concerns. Market access commitments, which prohibit quantitative restrictions, could limit the right of governments to restrict the amount of water taken from lakes, rivers and groundwater sources. The resulting increased pressure on water sources could lead to sustained environmental damage.

The GATS agenda is very similar to other efforts, such as the failed Multinational Agreement on Investment, to give greater rights to multinational corporate investors at the expense of democratic structures. If the GATS regime is broadened, these investors will have much easier access to foreign countries and powerful new tools to fight attempts to regulate their activities. Internationally mobile corporations – not citizens or the environment – will be the primary beneficiaries of an expanded GATS. Current negotiations should be put on hold until these critical environmental and social issues are addressed.

**For further reading, see:**

***A Disservice to the Earth: The WTO General Agreement on Trade in Services (GATS) and the Environment, Friends of the Earth US, available at:***

**<http://www.foeeurope.org/trade/wto/wto.htm>**

---

# GATS AND WATER

BERTRAM ZAGEMA

MILIEUDEFENSIE (FRIENDS OF THE EARTH NETHERLANDS)

Water is scarce, and increasingly so as reserves are depleted and populations (as well as per capita water consumptions) grow. Currently 31 countries, mostly in the Middle East and Africa, are facing water shortages. By the year 2025 a further 17 countries will be added to this list, including Ethiopia, India, Kenya, Nigeria and Peru. Because of its scarcity, many people believe that water may well become the oil of the 21st century, in reference to the wars that might be fought over it. Indeed, water is already a significant source of tension between countries such as Israel and Palestine, or Hungary and Slovakia.

Yet some big transnational corporations have now given a different meaning to the war over water. These companies look at water as an enormous potential market they can make money in. According to the World Bank, the water markets of the world are worth up to US\$800 billion, which makes them comparable in scale to the fossil fuel market. And corporations see GATS as a vehicle for opening up these water markets.

Traditionally water management, from harvesting to distribution, has been predominantly a government responsibility. But governments are increasingly handing over authority to private corporations by giving them either ownership, operation concessions or management contracts over water delivery and treatment systems. Among the advocates of this trend, apart from the water companies themselves, is the World Bank, which in many cases has prescribed governments to privatise and has also offered loans to countries to facilitate water privatisation.

The main arguments used to support privatisation are that private capital can thereby be mobilised to invest in water infrastructure and/or the

expectation that a private company can build and operate water systems more efficiently. Evidence, however, suggests that the contrary is true.

In 1989, when much of Britain's water was privatised, asset management plans and maximum price levels were agreed between the companies and the regulator. However, most companies underspent on investments and used their soaring profits to pay shareholders and management. Meanwhile, the infrastructure is crumbling, leakages are not repaired and sewers have been overflowing.

Between 1989 and 1997, the companies involved were successfully prosecuted 128 times. Among other things, they were charged with failure to meet leakage targets, as well as with water pollution and illegal sewage discharge. The penalties, however, have not been severe. Northumbrian, a subsidiary of Suez, was fined less than £10,000 for supplying contaminated water to 15,000 customers in 1997.

The Argentine capital Buenos Aires has had a similar experience. In 1993 a consortium of Suez and Vivendi was granted a 30-year concession. In 1999 the regulator concluded that "the main goals set at privatisation have not been met, in terms of the raising of water quality standards or in expansion of the system." Yet the regulator has little power to call the companies to account.

One universal feature of water privatisation seems to be that prices increase. Because of the monopolistic character of a water distribution system, privatisation does not involve consumer choice. At best, companies negotiate price levels with government regulators. The result is often that prices increase by tens or even hundreds of percent, wherever you are: from Paris, France

(300% between 1984 and 1997) to the Bolivian city of Cochabamba (200% in 2000 alone).

In Cochabamba high prices sparked civil protest, with tens of thousands protesting in the streets against the privatisation imposed by the World Bank. The government eventually cancelled the contract with Bechtel, and now faces a US\$40 million compensation claim.

The World Bank-induced privatisation of water in the Ghanaian capital Accra – already highly controversial even before its enactment – may meet a similar fate. Yet while consumers face (spectacularly) higher bills as a result of water privatisation, the chief executives of the water companies have seen their salaries increase by similar degrees. Privatisation of water management also changes the logic of the system. The public goals of sustainable water management and universal delivery are replaced by the profit orientation of private companies.

Commitments on water market liberalisation under the framework of GATS would make it very difficult for countries to regain control over their water once they have given it away. GATS is

error-unfriendly: once a sector is liberalised and water companies have been privatised, it becomes very expensive to return the system to public hands, or even to renegotiate a contract. Had Bolivia's water system been included within the country's GATS commitments, it would have been virtually impossible to restore public ownership in Cochabamba.

The Dutch government decided not to privatise water in 1999 on the understanding that it was too vulnerable and too valuable a public good to gamble with. Any country should have the right to take such a decision, including countries which have in the past privatised their water system and now want to reverse that decision. Water management should be guided by public, not private interests. And decisions over the future of water should remain at all times under democratic control.

**For further reading, see:**

***The Final Frontier*, Gil Yaron, Citizens' Council of Corporate Issues, March 2000; available at:**

**[http://www.canadians.org/blueplanet/final\\_front\\_intro.html](http://www.canadians.org/blueplanet/final_front_intro.html)**

---

# GATS AND EDUCATION

ALEX NUNN, UNIVERSITY OF MANCHESTER

JESS WORTH, PEOPLE & PLANET

Education has long been a corollary of democracy as it gives 'the people' the necessary skills, knowledge, reasoning and confidence to make democracy meaningful. However, the freedom of education and thus the vitality of democracy is under threat.

Education has come to be seen as a global market opportunity worth an estimated US\$2 trillion per year. This realisation has led business lobbying groups, such as the powerful European Roundtable of Industrialists, to argue that: "too often the education process is entrusted to people who appear to have no dialogue with, nor understanding of, industry and the path of progress... The provision of education is a market opportunity and should be treated as such."

GATS is clearly now regarded as one mechanism to achieve this end, by removing such barriers to global trade in education 'products' as accreditation restrictions, investment ceilings, government monopolies, selective application of government subsidies, professional qualification restrictions and visa requirements.

The USA is already explicitly targeting Higher Education (HE) in its requests for sectoral liberalisation through GATS. Given the weakness of the 'exemption' for public services (see 'GATS and Public Services', above), education at all levels may be covered by the horizontal provisions on domestic regulation, which apply to all services. The European Commission (which negotiates in the WTO on behalf of EU member states) has also demonstrated its commitment to the liberalisation of public services, as well as Public Private Partnerships in education. Given that the Commission's 'Towards GATS 2000' statement of intent calls GATS "first and foremost an instrument for the benefit of business", the

coverage of education by GATS would contribute to the extension of private initiatives to education at all levels throughout the world.

There are many shapes that this expansion of private involvement may take, each bringing its own challenge to the vitality of democracy. In fact, GATS will essentially speed up and spread a process which is already happening to education in many countries – notably the USA and UK. The experiences of these countries provide a salient indicator of where our public education systems could be heading under GATS.

In the USA, commercialisation in schools is rife and most openly manifest in massive advertising programmes such as the Channel One project, which beams a daily news broadcast containing lucrative advertising programmes into 350,000 classrooms. In return, schools receive free use of satellite dishes, VCRs and television monitors as well as other Channel One broadcasts. Other examples of advertising direct in the class room are 'free' materials such as exercise books bearing company logos, or even texts such as the *Decision Earth* environmental kit paid for by Procter & Gamble (a leading nappy producer), which extolled the environmental benefits of disposable nappies over their cloth alternatives. The motivation for business is not just that "School is the ideal time to influence attitudes, build long-term loyalties, introduce new products... to generate immediate sales" (as US company Lifelong Learning Systems puts it), but that it offers the chance to inculcate long-term patterns of consumerism generally.

Governments are interested in promoting private sector involvement in education as a means of tailoring the country's skills base to the needs of business. To this end the New Labour government

in the UK has launched a raft of policies and proposals aimed at generating “entrepreneurship, motivation, teamwork, creativity and flexibility”. Higher Education too is to provide the ‘transferable skills’ necessary to the workplace.

More worrying still is the tendency towards the commercialisation of Higher Education research. As more research funding comes from the private sector, it is increasingly tailored to commercial needs. Even where funding is sourced from the public sector, governments – eager to boost competitiveness – attach commercial priorities to it. The implications range from the gradual deselection of research not seen as commercially useful to the direct curtailment of academic freedom by forcing the termination of the contracts of individuals who are critical of powerful commercial sponsors.

The UK, following in the footsteps of the USA, has embarked upon a more advanced stage of private involvement in schools, out-sourcing aspects of school building, maintenance and education delivery. The motivation for the private sector is that long-term government contracts can be extremely profitable, but only where costs can be reduced by lowering wages and cutting quality, as has been the case with UK hospital ancillary services. Further profits can be generated by ‘asset stripping’, as demonstrated by a proposal to privatise one school in London (Pimlico), where the profit motive was the real-estate value of its playing field.

The intrusion of these private sector motives into education, especially under GATS rules, threatens to bring about tiered and inequitable education systems. GATS rules may effectively prevent government subsidies from being selectively applied to public services. This raises the possibility of having a basic government-funded education system, with funding given to all providers, and then allowing individuals to enhance this by paying top-up fees to providers with varying ‘brand images’, or for the provision of ‘optional extras’ at an additional charge. In other words, GATS could dramatically boost the trend away from universal and equal access to

free, publicly provided quality education, towards the spread of education systems based on the ability of pupils and students to pay.

In the developing world the situation is even more serious and the anti-democratic challenges even more stark. Whilst the provision of any education is obviously better than the provision of none, programmes run by multilateral agencies in partnership with the private sector, motivated by the potential for developing cheaper workforces and new consumers for both educational and other products, have serious implications for the development of autonomous democracy. The perceived potential for profit making is highlighted by the degree of interest from both traditional and e-Universities in emerging markets, especially China.

The provision of business-focused education for profit also threatens the long-term sustainability of cultural and linguistic diversity, especially through the dominance of the English language. Indeed, universities in Europe and Asia are already beginning to offer degrees taught only in English: the language of international business.

The redefinition of education as a profit-generating ‘product’, through GATS, threatens to destroy the professionalism of educators, to asset-strip schools and to focus educational priorities solely on profit, the production of a compliant workforce and willing consumers and to nullify challenging innovative social criticism.

**For further reading, see:**

***The Threat to Higher Education*, Jess Worth, People & Planet (2000); available at: [www.peopleandplanet.org/tradejustice/gats.rtf](http://www.peopleandplanet.org/tradejustice/gats.rtf)**

***The WTO and the Millennium Round: What is at stake for Public Education?*, Education International (1999); available at: <http://www.ei-ie.org/main/english/index.html>**

***GATS and Resistance: The Case of UK Higher Education and Knowledge-Based Restructuring in an International Context*, Alex Nunn, available from: [alexandernunn@hotmail.com](mailto:alexandernunn@hotmail.com)**

---

# GATS AND HEALTH CARE

SARAH SEXTON

THE CORNERHOUSE

Health For All has long been the goal and rallying call of health movements worldwide. The challenge has been not only achieving it, but also working out how to do so. The key is tackling the things which make people sick in the first place: lack of food, clean water, shelter and livelihoods; exposure to various kinds of pollution, such as pesticide residues and toxic emissions; and inequalities.

If people do get sick, however, restoring health involves ensuring that health care services of a certain kind and quality are accessible to all. A general principle to ensure equity in health care has been to provide services according to need and to finance them according to ability to pay. The least regressive approach is for public entities to provide health care services and pay for them out of general taxation, as in Britain and Canada. Even the *Financial Times* comments that this is the fairest, most economical, most efficient and least bureaucratic way of funding the great bulk of health care.

Provision of services by for-profit entities paid for by private insurance or out of patients' own pockets is the most reactionary, as in the US system, which is the most expensive in the world and yet yields some of the worst health indices among industrialised countries. Universal social insurance, such as is common in continental Europe, falls somewhere in the middle.

GATS could facilitate the development of health care markets where health care services are bought and sold: bought by those who have the money to do so, and sold by those aiming to make a profit for their shareholders. Those who

don't have the money – or whom insurers consider too risky, too old or too sick – lose out. What gets sold, moreover, is not health care to society but health products and procedures to individual consumers.

In a health market, a two-tier system quickly develops. The for-profit sector creams off healthy and wealthy patients, public subsidies and staff, leaving a reduced public sector to deal with emergencies, to train staff and to cope with the elderly, the chronically sick and the poor – those who most need health care.

If GATS is revised so as to require domestic regulations to be the least burdensome to trade and even pro-competitive, principles which underlie health care being accessible to all could be restricted. Cross-subsidising (through which one service effectively subsidises another) is one such principle. There would be no place for uncompensated health care, unprofitable admissions to hospitals, research, education or public health activities – all chronic money losers from a business point of view.

The challenge in striving for Health For All is to retain publicly funded and provided health care services, and to modernise and improve them based on the principles of democratic accountability, effective delivery, adequate funding, fairness at work and equality of access.

**For further reading, see:**

***Trading Health Care Away? GATS, Public Services and Privatisation, CornerHouse Briefing no 23 (July 2001), available from <cornerhouse@gn.apc.org>***

---

## CONTACTS

Sarah Sexton  
The CornerHouse  
PO Box 3137  
Station Road  
Sturminster Newton  
Dorset DT10 1YJ  
UK  
tel: +44 1258 473795  
fax: +44 1258 473748  
cornerhouse@gn.apc.org  
<http://cornerhouse.icaap.org>

Erik Wesselius  
Corporate Europe Observatory  
Paulus Potterstraat 20  
1071 DA Amsterdam  
THE NETHERLANDS  
tel/fax: +31 20 612 7023  
ceo@xs4all.nl  
<http://www.xs4all.nl/~ceo/>

Alexandra Wandel  
Friends of the Earth Europe  
29, rue Blanche  
B-1060 Brussels  
BELGIUM  
tel: +32 2 542 0185  
fax: +32 2 537 5596  
alexandra.wandel@foeeurope.org  
<http://www.foeeurope.org/trade/about.htm>

Bertram Zagema  
Milieudefensie (FoE Netherlands)  
PO Box 19199  
1000 GD Amsterdam  
THE NETHERLANDS  
tel: +31 20 550 7387  
fax: +31 20 550 7310  
Bertram.Zagema@milieudefensie.nl  
<http://www.milieudefensie.nl>

Jess Worth  
People & Planet  
51 Union Street  
Oxford OX4 1JP  
UK  
tel: +44 1865 245678  
jess@peopleandplanet.org  
<http://www.peopleandplanet.org>

Markus Krajewski, Peter Fuchs, Peter Wahl  
World Economy, Ecology & Development  
(WEED)  
Bertha-von-Suttner-Platz 13  
D-53111 Bonn  
GERMANY  
tel: +49 228 766 1322  
fax: +49 228 696 470  
Peter.Wahl@weedbonn.org  
Markus.Krajewski@hamburg.de  
<http://www.weedbonn.org/>

Clare Joy  
World Development Movement  
25 Beehive Place  
London SW9 7QR  
UK  
tel: +44 20 7274 7630  
fax: +44 20 7274 8232  
clare@wdm.org.uk  
<http://www.wdm.org.uk>

# SEATTLE TO BRUSSELS NETWORK

## TAKING ACTION AGAINST CORPORATE GLOBALISATION

The Seattle to Brussels (S2B) Network is a pan-European NGO network campaigning to promote a sustainable, democratic and accountable system of trade that benefits all. The network includes development, environment, human rights, women's and farmers' organisations, as well as research institutes. The S2B network was formed in the aftermath of the WTO's 1999 Seattle Ministerial to challenge the European Union's corporate-driven agenda of continued global trade and investment liberalisation. It has also developed as a response to the increasing need for European coordination among NGOs.

Active groups in the Network are all supporters of the Shrink or Sink WTO Statement (see <http://www.canadians.org/campaigns/campaigns-trade-notforsale.html>) and of the Open Letter to Pascal Lamy (<http://www.foeeurope.org/trade/>

[wto/open\\_letter\\_to\\_Lamy.htm](http://www.wto/open_letter_to_Lamy.htm)). In both these statements groups call on governments to stop a new comprehensive round of trade talks in the WTO, to roll back the power and authority of the WTO and to develop a sustainable, socially just and democratically accountable trade system. For more information, contact: [sos-wto-eu@yahoogroups.com](mailto:sos-wto-eu@yahoogroups.com).

Many of the groups involved in this publication were at an international campaign meeting and press conference on GATS held in Geneva in March 2001. This was attended by civil society organisations representing 30 countries from Africa, Asia, Europe, North and South America. Many are signatories to a campaign statement launched in March 2001. This international statement on GATS can be found on the web at [www.polarisinstitute.org](http://www.polarisinstitute.org).