

**The
World
Trade
Organisation
Series n° 4**

**Behind
GATS 2000:
Corporate Power at Work**



by Erik Wesselius

TRANSNATIONAL INSTITUTE

TNI BRIEFING SERIES
No 2002/6

CONTENTS

Author:

Erik Wesselius

Design:

Jan Abraham Vos

Printing:

Drukkerij Raddraaier

Contact:

Transnational Institute

Paulus Potterstraat 20

1071 DA Amsterdam

The Netherlands

Tel: (31-20) 6626608

Fax: (31-20) 6757176

<http://www.tni.org/issues/wto>

<http://www.gatswatch.org>

Contents of this booklet may be quoted or reproduced, provided that the source of information is acknowledged. TNI would like to receive a copy of the document in which this booklet is used or quoted.

You can stay informed of TNI publications and activities by subscribing to TNI's bi-weekly email newsletter. Send your request to tni@tni.org

Amsterdam, May 2002

● Editorial	3
● GATS at a Glance	4
● Major Services Industry Lobby Groups	6
• US Coalition of Service Industries	
• Financial Leaders Group	
• European Services Forum	
● GATS Requests and Offers: Open Debate Required	10
● Stop the GATS Attack Now!	12
● Resources	14
● Notes	15

GATS 2000

In February 2000, the member states of the World Trade Organisation (WTO) began negotiations to expand the 1995 General Agreement on Trade in Services (GATS). Since the start of these GATS 2000 talks, concern over their possible outcome has grown, not only among citizens' organisations, but also among Southern governments and local and regional authorities world-wide. GATS critics point out that the GATS 2000 negotiations pose a threat to the provision of basic public services like education, health or water provision, and to governments' right to regulate, including policies targeting economic and social development or environmental protection. These threats are the direct result of a disproportionate corporate influence over GATS negotiations, both in the past and in the present.

A Corporate Agenda

According to the European Commission: "The GATS is not just something that exists between governments. It is first and foremost an instrument for the benefit of business."¹ To be more precise, the 1995 GATS agreement was the result of a sustained lobby campaign by the US Coalition of Service Industries, led by large US banks and insurance companies. In many countries, similar services industry lobby groups have been set up to influence the current GATS 2000 negotiations. The US Coalition of Service Industries and the European Service Forum work in close alliance with government negotiators, helping them to prepare GATS negotiating strategies and priorities. This booklet provides background information on the major services lobby groups and their GATS agenda.

IMF and World Bank conditionalities for financial support and loans have forced many developing countries to adopt extensive privatisation and liberalisation programmes. Global services companies stand ready to capture the most lucrative privatised public services, like energy provision, education, water supply or health care. Although most developing countries have made few liberalisation commitments under the 1994 GATS agreement, the current GATS round has the objective of increasing the number and quality of commitments. Once a coun-

try has scheduled GATS commitments for a specific services sector, the existing level of privatisation and liberalisation in that sector will be 'locked in' and WTO disciplines apply — all to safeguard the interests of foreign investors.

Acceleration of GATS Talks After Doha

At the WTO Ministerial Conference in Doha in November 2001, tight deadlines were agreed for the GATS 2000 negotiations. WTO member states have to table their detailed request lists for market access in services by 30 June 2002. Responses ('offers') to incoming requests have to be ready by 30 March 2003. On the basis of these requests and offers, WTO members will then engage in bilateral negotiations, with an overall deal on new GATS commitments to be brokered before December 2004.

Since preparations for GATS 2000 began in 1999, the big global services companies and their lobby organisations have worked closely with Northern GATS negotiators. As a result, WTO members such as the US, the EU, Canada and Japan have already prepared detailed lists of priority market access demands. They are now eager to move on to the 'real' (bilateral) negotiations. For Southern WTO members the situation is entirely different. If the tight Doha deadlines are maintained, they will enter bilateral negotiations from a disadvantaged position.

Stop the GATS Attack: Dismantle Corporate Power

In March 2001, hundreds of groups from around the world signalled the start of a global anti-GATS campaign by issuing the declaration *Stop the GATS Attack* (reproduced on pages 13-14 of this booklet). With the acceleration of the GATS talks after Doha, this campaign is now intensifying. Challenging the close liaisons between services lobby groups and governments, especially in the US and the EU, will be crucial to Stop the GATS Attack. Global trade rules can only contribute to progressive policy goals like environmental sustainability and fighting poverty, when trade policy is de-linked from serving the export interests of large transnational corporations.



GATS AT A GLANCE

Agreed in 1994, the General Agreement on Trade in Services (GATS) covers international trade in services. Services include activities like banking, insurance, retail and wholesale, tourism and transport, but also includes services that in most countries are provided as public services, like education, health care and water. The GATS falls under the umbrella of the World Trade Organisation (WTO) and is enforceable through the WTO's dispute settlement system.

GATS is of direct relevance to business as it lays down the framework of international rules within which services companies operate around the globe. Services account for around two-thirds of global production and employment and represent close to one fifth of total world trade. Trade in services has been growing rapidly since the 1970s and is closely related to economic globalisation. A large part of internationally traded services are used and produced by transnational corporations. Trade in services increasingly affects corporate performance and market structures across the spectrum of agricultural, manufacturing and service sectors.

As shown in Table 1, global trade in services is dominated by the US and the EU.

The GATS aims to increase global trade in services by removing restrictions to trade in services. Such restrictions include government measures like professional standards, taxation policies, legislation to protect the environment or government policies to maintain public services. This direct impact of the GATS on government policy choice, both at national and at local or regional level, is one of the main reasons for the growing opposition to the GATS 2000 negotiations.

The GATS operates in two ways. Some of its rules apply horizontally, to all services sectors, whereas others apply only to those specific services sectors where a government has made liberalisation commitments.

These commitments are listed in country-specific GATS schedules for each of the four different 'modes' of trade in services that the GATS distinguishes. The third GATS Mode, covering 'commercial presence', is perhaps the most important element of the agreement as it makes the GATS, in effect, the first 'multilateral investment agreement'².

TABLE 1. WORLD EXPORTS AND IMPORTS OF COMMERCIAL SERVICES¹
(IN BN EUROS AND % OF WORLD TOTAL)

	1992		2000	
	EXPORTS	IMPORTS	EXPORTS	IMPORTS
EU-15 ²	148.7 (28.0%)	140.8 (26.1%)	291.1 (24.3%)	286.1 (23.8%)
USA ³	126.4 (23.8%)	79.6 (14.8%)	297.8 (24.9%)	215.7 (17.9%)
JAPAN	38.1 (7.2%)	75.1 (13.9%)	74.1 (6.2%)	125.5 (10.4%)
CANADA ⁴	15.4 (2.9%)	23.2 (4.3%)	40.3 (3.4%)	45.4 (3.8%)
CHINA ⁴	7.0 (1.3%)	7.1 (1.3%)	32.7 (2.7%)	38.9 (3.2%)
REST OF WORLD	195.2 (36.8%)	212.9 (39.6%)	457.7 (38.3%)	489.5 (40.8%)
WORLD TOTAL	530.8 (100%)	538.7 (100%)	1193.8 (100%)	1201.2 (100%)

¹ Table taken from Eurostat News Release 117/2001, 8 November 2001, "The EU Figures for the Doha Conference". Data source: IMF. Figures excluding intra-EU transactions. Commercial services excluding government services.

² Intra-EU transactions are excluded. Intra-EU-15 trade in commercial services was worth 710.8 bn EUR in 2000.

³ Including this trade, the EU-15's share of world exports in 2000 was about 42%, and about 41% for imports.

⁴ Including repairs on goods & expenditures of foreign governments & international organisations in the USA, excluding postal & courier services.

⁵ Not by ranking order. Figures for Canada and China are given for comparative purposes only.

Box 1

KEY GATS RULES

HORIZONTAL (applies to all services sectors)
'Most Favoured Nation' treatment (GATS art. II) means that a country has to treat all foreign services and services suppliers alike. The Most Favoured Nation rule prevents countries from distinguishing between trading partners for social or political reasons. As an example, the MFN rule prohibits governments to take retaliatory measures against companies doing business with regimes that violate human rights.

VERTICAL (applies only to sectors where a government has scheduled commitments)
Market Access rules (GATS art. XVI) curtail all quan-

titative limits on services, whether they apply to foreign and domestic firms, or just to foreign ones. A country limiting the number of services suppliers in a sector (e.g. a limit on the number of beach resorts) could be challenged through the WTO dispute settlement system if that country had scheduled market access commitments for that sector.

National Treatment (GATS art. XVII) means that foreign companies must be treated the same as domestic firms. As GATS covers foreign direct investment (see Box 2), the national treatment principle may limit government policy options, for example regulations to ensure that investments primarily benefit local employment and local suppliers.

Box 2

BROAD COVERAGE

The GATS:

- applies to **all services sectors** ranging from banking, construction, education, postal services, health care, tourism, transport, water supply and waste management;
- applies to **all levels of government** from the national or federal to the local level;
- includes **all government measures** which "affect trade in services".

The GATS distinguishes four types of trade in services, or 'modes of supply':

1. **Cross-border supply:** Includes e-commerce, call-centres servicing clients abroad, international postal services.
2. **Consumption abroad:** Includes studying at a foreign university, getting medical treatment abroad, visiting another country as a tourist.
3. **Commercial presence:** Includes all foreign investment related to services provision, for example, bank branches to power plants or tourist resorts.
4. **Presence of natural persons:** Includes actors travelling abroad for film shootings or consulting and accountancy firms sending employees on short missions abroad.

Whereas the services negotiations during the Uruguay Round concentrated on building a multi-lateral framework of rules for trade in services, the GATS 2000 negotiations will be less about rule-making than about increasing market access over the whole range of services sectors. The large majority of today's GATS commitments were made by OECD countries, with most developing countries having made only a few commitments. The global services industry, backed by Northern govern-

ments, sees the GATS 2000 talks as an opportunity to significantly increase developed countries' market access and national treatment commitments. Thus, current levels of services liberalisation in the South would be extended and bound multilaterally. The GATS' bias toward the interests of Northern services industries is confirmed by the fact that market access negotiations have now begun without proper prior assessment of the effects of services liberalisation on developing economies.



US Coalition of Service Industries: Godfathers of GATS

The US Coalition of Service Industries (USCSI) is undoubtedly the most influential services lobby group in the world. Its origins date back to the mid-1970s. At that time, US financial services companies American International Group (AIG), American Express and Citicorp wanted to improve their access to what were at that time heavily regulated markets outside the US. They considered the inclusion of 'trade in services' in the General Agreement on Tariffs and Trade (GATT, the WTO precursor) as a good tool with which to force open these markets.

In 1981, the chief executive officers of AIG, American Express and Citicorp concluded that there was a need to form a broader business coalition to push the demand to include 'trade in services' in the GATT agenda. They mandated American Express Vice-President Harry Freeman to form a coalition of services industries that would reach well beyond New York financial circles. In 1982, the US Coalition of Service Industries (USCSI) was officially launched under Freeman's chairmanship.

Between 1982 and 1985, USCSI worked closely with the US Trade Representative (USTR) and the Department of Commerce to place services firmly on the global trade agenda. In late 1983, the USTR submitted a report to the GATT on the growing importance of services in the world economy, summarising existing international rules governing trade in services and suggesting possible approaches to a new regime. When the GATT Uruguay Round was launched at the September 1986 Punta del Este GATT Ministerial Conference, a Group on Negotiations on Services (GNS) was formed and negotiations formally started on a multilateral regime for trade in services within the GATT.

Complementing its work with the US Trade Representative, the USCSI intensively lobbied Congress. One of the methods used by the USCSI was to encourage Members of Congress to send letters to the USTR, expressing 'strong support' for liberali-

sation of trade in services. Congressional hearings, where industry experts and administration officials 'testified' side by side on the importance of the services industry for the US economy, were another important lobby tool.

As a result of such 'manufactured pressure and support', the USCSI and USTR negotiators developed 'a symbiotic relationship'.³ The USCSI would raise the necessary support on Capitol Hill, in return for privileged access to the trade policy-making process through the formal Industry Sectoral Advisory Committee on Services (ISAC 13)⁴ and through a profusion of informal consultations, strategy sessions, seminars and conferences.

During the long-winded Uruguay Round, the USCSI became one of the pillars of support for the USTR negotiators. As Harry Freeman recounted afterwards:

"At the close of the Uruguay Round, we lobbied and lobbied. We had about 400 people from the US private sector. There were perhaps four Canadians and nobody from any other private sector. The private sector advocacy operations in the US government are radically different from those in every other government in the world."⁵

The conclusion of the 1994 GATS agreement was a major victory for the services industry lobbyists. At the same time, it didn't bring that much in actual market openings for US corporations. To quote Harry Freeman:

"In 1997 we made some progress in financial services and in telecom services. But we really haven't gotten that far in liberalization as distinguished from what the trade people call stand-still, which is stay where you are but you can't lower, you can't increase your barriers. I think we'll have a leap forward over a three- to four-year period in services, really a major liberalization"⁶

Since preparations for the GATS 2000 talks began in the late 1990s, co-operation has intensified again. The cosy relations between the US government and the USCSI was exemplified recently in the one day conference "Services 2000; A Business-Government Dialogue on US Trade Expansion



Objectives". The conference took place at the US Department of Commerce and was "sponsored by the Commerce Department's Office of Service Industries and the US Coalition of Service Industries."⁷

At this conference, USCSI chairman Bob Vastine called the close partnership between succeeding US Administrations and the US services industry an "extraordinary example of government/industry co-operation that should serve as a benchmark for the rest of the world".⁸ Deputy Secretary of the Department of Commerce, Samuel Bodman, assured the audience that "the Secretary and I see our role and the mission of the Commerce Department as being the advocate for the American business community."⁹

The conference also highlighted the shared objective of the US Department of Commerce and the USCSI to use the GATS 2000 talks to increase market access for US companies, not only through specific market access negotiations, but also by adding new disciplines on domestic regulatory reform to the GATS "in order to ensure that market access and national treatment commitments achieve their promised objectives".¹⁰ This confirms GATS critics' warnings that the GATS negotiations comprise a corporate deregulatory agenda that threatens to undermine democratic governments' ability to regulate.

Financial Leaders Group: CEOs Taking the Lead

The 1997 Financial Services Agreement, which is an Annex to the GATS agreement, is another prime example of how corporate interests have driven global rule-making on trade in services.

At the end of the Uruguay Round, it proved impossible to conclude several sectoral agreements on financial services, along with those on basic telecommunications and maritime transport, because US negotiators were dissatisfied with market access commitments.

Negotiations on a Financial Services Annex to the GATS were resumed in January 1995, but broke down six months later when the US withdrew again. Nonetheless, a group of 43 countries (including the 15 EU member states) signed an interim agreement, in which they committed to increasing access to their financial services markets and/or to remove, suspend or reduce the scope of their 'most favoured nation' exemptions in financial services.

To break the deadlock in the WTO Financial Services negotiations, the US Government, the EU Commission and the WTO Secretariat sought the help of US and EU financial services industry leaders. They invited Ken Whipple, then President of Ford Financial Services and Andrew Buxton, then Chairman of Barclays Bank, to form a high-level transatlantic pressure group. In the spring of 1996, the Financial Leaders Group started operating, consisting exclusively of chief executive officers and chairmen, and a lower-level Financial Leaders Working Group.

"It was an informal group; [...] it had no subscription, and most of the meetings were by telephone conference calls. [...] The formation of the Financial Leaders Group gave negotiators from Europe and the United States a forum for constructive dialogue with their constituent industry."¹¹

On the other side of the Atlantic, USCSI's Bob Vastine drew similar conclusions:

"The Financial Leaders Group created a unique process that led to unprecedented transatlantic cooperation. The FLG not only agreed on the principles it would seek to achieve in the negotiations and on the key countries from which concessions would be sought, it also agreed on the precise barriers it wanted removed. The unanimity in the Financial Leaders Group became a message to governments that the US and European financial community wanted meaningful liberalization and a substantial success, and that the negotiators should co-operate to achieve it. The strategy clearly worked."¹²

US companies clearly dominate the Financial Leaders Group. The USCSI runs the co-ordination and secretarial work. Although US chief executives do



not personally participate in the WTO financial services negotiations, they have been involved very intensively, and reportedly played a decisive role during the final hours of the negotiations in Geneva in December 1997.

“US companies were a conspicuous presence in and around the negotiations here in Geneva. Citibank, Goldman Sachs, Merrill Lynch and numerous insurance companies — particularly the American International Group and Aetna — established command posts at the President Wilson Hotel, about a half-mile from the headquarters of the World Trade Organization.”¹³

Or, as Third World Network’s Chakravarti Raghavan observed:

“As messages went back and forth from Geneva to Washington, and according to reports, between the US Treasury and the American International Group (AIG) and its backers in the US Congress - the processes of the multilateral trade organization bordered on a farce.”¹⁴

Not surprisingly, the services industry from the US and Europe was jubilant about the conclusion of the agreement. The WTO Financial Services Agreement improved their access to financial services markets in Central and Eastern Europe, Asia, Africa and Latin America. These countries, which are highly dependent on foreign direct investment, had little choice but to sign the agreement, though the prospect of their own financial services companies competing in EU and US markets seems illusory.

European Services Forum: First and Foremost for the Benefit of Business

The decisive role of the Financial Leaders Group during the WTO Financial Services negotiations in 1997 deeply impressed EU Trade Commissioner Sir Leon Brittan. He also realised that during the Uruguay Round, EU negotiators had lacked the sup-

port of a strong corporate pressure group such as the US Coalition of Service Industries. So, when preparations for the GATS 2000 negotiations began in the first half of 1998, Brittan decided to organise his own European services pressure group.

He asked Andrew Buxton, who had also been involved in founding the Financial Leaders Group, to organise the EU services industry in a structure similar to the Financial Leaders Group, with an important role for chief executive officers. As Buxton recounted later:

“Significantly, the European Commission also saw the benefits of strong business participation in the process, and in 1998 Sir Leon Brittan, Vice-President of the Commission, asked me to create and chair a select group of European business leaders in the service industries, to act as a link between the Commission and a wide range of service industries as the World Trade Organisation Talks widen their horizons into other service industries.”¹⁵

The European Services Network was launched on 26 January 1999. It was renamed European Services Forum in October 1999, but its structure remained the same:

- **European Service Leaders Group**, a group of over 40 chief executive officers from across the European services sector, chaired by Andrew Buxton, “to give the services sector a high public profile in the GATS 2000 negotiations”¹⁶;
- **Policy Committee**, which gathers the European Service Leaders Group sherpas (personal representatives of the CEOs) and the Secretaries General of more than 35 European service sector federations. The Policy Committee meets several times per year. Its main function is to draft ESF position papers;
- **small permanent secretariat**, hosted by EU employers’ organisation UNICE, servicing both the European Service Leaders Group and the Policy Committee.

At the launch meeting of the European Services Network, Commissioner Brittan outlined the role he envisaged for the newly formed organisation in EU trade policy making:

T

N

I

"I am in your hands to listen to what are your objectives, your priorities for liberalisation [...] I count on your support and input, at the company, CEO and Chairman as well as at the European or National Federations levels, so that we can refine our strategy and set out clear, priority negotiating objectives which will make a difference in the international expansion of service business."¹⁷

Since February 1999, the ESF has produced a series of position papers on issues like emergency safeguard measures, temporary movement of key business personnel, e-commerce, domestic regulation, public procurement and scheduling commitments.¹⁸ Although the ESF position papers are less blunt than similar US Coalition of Services Industries documents¹⁹, they boil down to the same controversial corporate agenda to liberalise trade in services:

- no special emergency safeguards;
- labour mobility under GATS mode 4 should be restricted to 'key business personnel';
- phase out the current GATS exemption for public procurement (covering all levels of government) and, more generally, submit all public procurement to WTO disciplines;
- no *"unreasonable or disproportionate burdens on foreign and domestic companies, limiting market liberalisation"*.

It is difficult to obtain information on the exact working relations between the European Commission and the European Services Forum, but the evidence that Corporate Europe Observatory has collected²⁰, shows that the European Services Forum has indeed developed into a privileged liaison structure between the European Commission's GATS 2000 team and the EU services industry.

The ESF position papers have been extensively discussed with European Commission officials, either at ESF Policy Committee meetings (which are normally attended by European Commission officials) or at informal meetings of ESF/ESLG delegations with Commission officials²¹. The ESF's important role in the detailed formulation of EU GATS request lists for services liberalisation are discussed elsewhere in this booklet.

In September 1999, Mr. Robert Madelin, a high

level DG Trade official, put it more directly when addressing a UK business audience:

"[T]he European Commission is convinced of the need to work not only with the member states' experts but directly with European industry [...] That is why, following an invitation from Sir Leon Brittan, Andrew Buxton took on the task of setting up the European Services Network. [...] We are going to rely heavily on that Network. [...] We are going to rely on it just as heavily as on member state direct advice in trying to formulate our objectives."²²

Mr. Madelin's remarks highlight the problematic nature of this strategic partnership between business and the European Commission. It is, of course, unjustifiable for the European Commission to treat corporate advice on an equal footing with the input from EU member states in formulating EU GATS negotiating objectives and strategies, but it has been able to do so due to the lack of effective democratic control of EU external trade policy.²³

Another testimony to the good relations between DG Trade and the European Services Forum was DG Trade's generous reaction to a 'spontaneous application' by ESF managing director Pascal Kerneis,²⁴ with a grant of 49,200 euro, or half the expected costs of the international conference on GATS 2000 (Brussels, 27 November 2000).

Disclosing and putting an end to the undemocratic corporate-state alliance between the Brussels institutions and the European Services Forum is a precondition for regaining democratic control over the EU's controversial agenda for further liberalisation of trade in services. This should be one of the priorities for European groups campaigning to Stop the GATS Attack.



GATS REQUESTS AND OFFERS: OPEN DEBATE REQUIRED

At the time of writing this booklet (Spring 2002), WTO member states are preparing detailed request lists for market access in services. After the 30 June 2002 deadline for request lists, they will start formulating responses ('offers') to the received requests. The preparation of these requests and offers is taking place in a very un-transparent and imbalanced manner. There is mounting evidence that, especially in OECD countries, government and business are closely collaborating in the preparation of the request lists, whereas NGOs, trade unions and parliaments are being excluded from this process.

The debate over the corporate agenda behind the GATS negotiations gained new momentum in the spring of 2002 when a series of draft EU request lists was leaked to NGOs²⁵. The draft request lists contain detailed demands to 29 WTO member countries to apply GATS free-trade rules to a broad range of their service sectors, including water, energy, transport, tourism, construction and distribution services. The draft GATS EU requests lists addressed to countries like Indonesia, the Philippines and Colombia were clearly not written from a development perspective, but reflect the offensive interests of the EU-based services industry.

The European Commission had planned to keep these documents secret, even after approval by the EU member states in the so-called Committee 133 on services. As the head of the Cabinet of Pascal Lamy, Pierre Defraigne stated a few weeks before the leak, the request lists *'can and WILL NOT be made public'*²⁶. But this secrecy rule didn't extend to business, as evidenced by several documents that were obtained by Corporate Europe Observatory through an official request for access to information at the European Commission.²⁷

On 22 October 2001, the Commission noted in a letter to Pascal Kerneis, Managing Director of the European Services Forum: *"[W]e would very much welcome industry's input to this exercise, both in terms of finding out where the problems currently lie and in making specific requests. Without ESF input the exercise risks becoming a purely intellectual one ..."*²⁸ The Commission followed this up with a memo on the 14 January 2002, in which they *"stress the importance to provide within the following days any input you may have, as we are currently finalising the draft requests that will be transmitted to Member States very soon."*²⁹

These documents highlight how the European Commission actively sought ESF guidance in formulating its GATS negotiating positions. They point to a sequence of events where business input is prioritised over individual Member State reflections. Moreover, there has been no comparable input by civil society groups, including trade unions. Nor did the Commission respond to the broad range of concerns raised since GATS negotiations re-started in February 2000, except by dismissing these concerns as false and exaggerated.³⁰

After the release of the leaked draft request lists, EU-based civil society organisations campaigning on GATS requested that the European Commission and the EU Member States provide full transparency on GATS negotiations and discontinue its close collaboration with the European Services Forum. As the draft EU request lists are the result of a flawed preparatory process, it was proposed that they be withdrawn.

In January 1998, the release of a draft text of the Multilateral Agreement on Investment (MAI), then being negotiated within the OECD, contributed to the rapid growth of an international opposition to such an agreement. This triggered the final breakdown of the MAI negotiations, less than a year later. The leak of the EU's confidential draft GATS request lists in the spring of 2002 may have a similar effect on the GATS talks. It shows that the internet and international co-operation among non-governmental organisations are rendering secret trade diplomacy obsolete and ineffective.

The corporate influence over government GATS negotiators is not limited to the European Union and its Member States, but reflects a wide-spread phenomenon, especially in countries with a well-developed services industry. While it can be useful and justified for governments to take business concerns into account when formulating trade policy, privileged co-operative arrangements between business and government has no place in a democratic policy-making process.

This crisis of old methods calls for a new model for international policy-making and regulation of a globalising economy. High priority should be given to the development of balanced and democratic mechanisms for civil society input in trade policy preparation. International trade policy should be reassessed and reoriented such that it serves the common interest and fosters sustainable development.

T

N

I

Box 3

Major Services Lobby Groups

US Coalition of Service Industries (USCSI) —
<http://www.uscsi.org>
The central and most influential services industry lobby group. Founded in 1982.

European Services Forum (ESF) —
<http://www.esf.be>
Working closely with the European Commission, the ESF has a disproportionate influence on EU GATS negotiation proposals. Hosted by the European employers' confederation UNICE. Founded in 1999.

Japan Services Network (JSN) —
<http://www.keidanren.or.jp>
Hosted by the Japanese employers' organisation Keidanren. Founded in 1999.

Services Business Network of the Americas (REDSERV) —
<http://www.redserv.org.br>
Network of the services industry from North and Latin America, focusing on the services chapter of the FTAA. Founded in 1998.

Hong Kong Coalition of Service Industries (HKCSI) —
<http://www.hkcsi.org.hk>
The major private sector voice for Hong Kong's service industries. Hosted by the Hong Kong General Chamber of Commerce. Founded in 1990.

LOTIS Committee (Liberalisation of Trade in Services) —
<http://www.ifsl.org.uk/tradepolicy>
Influential British corporate/state alliance pushing for financial services liberalisation. Founded in the early 1980s.
Refer to: GATSwatch background paper on LOTIS
<http://www.gatswatch.org/LOTIS/LOTIS.html>

Global Services Network (GSN) —
<http://www.globalservicesnetwork.com/>
In 1998, an additional loose network was founded: the Global Services Network (GSN). This network is co-ordinated by the USCSI. It links key figures from services lobby groups and privately funded think tanks with academics and governmental GATS experts. Many ideas and concepts that have been taken up in the GATS negotiations were developed within this self-styled 'global services movement'.

Sectoral lobbies

Energy Services Coalition (ESC) —
<http://www.pecc.org/energy/esc.html>
Coalition of US-based energy firms, advocating the inclusion of energy services within the GATS 2000 talks. Founded in 1999.

Global Business Dialogue on Electronic Commerce (GBDe) —
<http://www.gbde.org>
High-level global corporate-state alliance advocating e-commerce policy issues. Founded in 1999.

Global Alliance for Transnational Education (GATE) —
<http://www.jones.com/gate.html>
Network of multinational corporations, national associations, the professions, accrediting and licensing authorities, and institutions of higher education world-wide, incorporated as a subsidiary of telecommunications firm, Jones International, Ltd. Founded in 1995.

World Travel & Tourism Council (WTTC) —
<http://www.wttc.org>
A global coalition of over 80 Chief Executives from all sectors of the global travel & tourism industry 'active in ensuring maximum liberalisation of services related to travel and tourism.'
Founded in 1990.

Pro-GATS think tanks, academic institutions and research networks

- **Brookings Institution —**
<http://www.brook.edu>
- **Coalition of Service Industries Research and Education Foundation —**
<http://www.uscsi.org/csifoundation>
- **Fuji Research Institute Corporation —**
http://www.fuji-ric.co.jp/e_index.html
- **Harvard University, John F. Kennedy School of Government —**
<http://www.ksg.harvard.edu>
- **Mark Twain Institute —**
<http://www.sitrends.org>
- **The Geneva Association —**
<http://www.genevaassociation.org>
- **RESER - European Network 'Services & Space' —**
<http://www.reser.net/gb/index.html>



STOP THE GATS ATTACK NOW!

As civil society groups fighting for democracy through fair trade and investment rules, we reject the outright dismissal by the World Trade Organization [WTO], some of its member governments and allied corporations of the vital concerns raised by civil society before, during and after Seattle. The smoke and pepper spray had barely lifted from the streets of Seattle when the WTO launched new negotiations to expand global rules on cross border trade in services in a manner that would create vast new rights and access for multinational service providers and newly constrain government action taken in the public interest world wide. These talks would radically restructure the role of government regarding public access to essential social services world wide to the detriment of the public interest and democracy itself.

Initiated in February 2000, these far-reaching negotiations are aimed at expanding the WTO's General Agreement on Trade in Services [GATS] regime so as to subordinate democratic governance in countries throughout the world to global trade rules established and enforced by the WTO as the supreme body of global economic governance. What's more, these GATS 2000 negotiations are taking place behind closed doors based on collusion with global corporations and their extensive lobbying machinery.

The existing GATS regime of the WTO, initially established in 1994, is already comprehensive and far reaching. The current rules seek to phase out gradually all governmental 'barriers' to international trade and commercial competition in the services sector. The GATS covers every service imaginable - including public services - in sectors that affect the environment, culture, natural resources, drinking water, health care, education, social security, transportation services, postal delivery and a variety of municipal services. Its constraints apply to virtually all government measures affecting trade-in-services, from labour laws to consumer protection, including regulations, guidelines, subsidies and grants, licensing standards and qualifications, and limitations on access to markets, economic needs tests and local content provisions.

Currently, the GATS rules apply to all modes of supplying or delivering a service including foreign investment, cross-border provisions of a service, electronic commerce and international travel. Moreover, the GATS features a hybrid of both a 'top-down' agreement [where

all sectors and measures are covered unless they are explicitly excluded] and a 'bottom-up' agreement [where only sectors and measures which governments explicitly commit to are covered]. What this means is that presently certain provisions apply to all sectors while others apply only to those specific sectors agreed to.

The new GATS negotiations taking place now in the World Trade Organisation are designed to further facilitate the corporate takeover of public services by:

- **Imposing new and severe constraints on the ability of governments to maintain or create environmental, health, consumer protection and other public interest standards through an expansion of GATS Article VI on Domestic Regulation.** Proposals include a 'necessity test' whereby governments would bear the burden of proof in demonstrating that any of their countries laws and regulations are 'not more burdensome than necessary,' (in other words, the least trade restrictive) regardless of financial, social, technological or other considerations.
- **Restricting the use of government funds for public works, municipal services and social programs.** By imposing the WTO's National Treatment rules on both government procurement and subsidies, the new negotiations seek to require governments to make public funds allocated for public services directly available to foreign-based, private service corporations.
- **Forcing governments to grant unlimited Market Access to foreign service providers, without regard to the environmental and social impacts of the quantity or size of service activities.**
- **Accelerating the process of providing corporate service providers with guaranteed access to domestic markets in all sectors - including education, health and water - by permitting them to establish their Commercial Presence in another country through new WTO rules being designed to promote tax-free electronic commerce worldwide.** This would guarantee transnational corporations speedy irreversible market access, especially in Third World countries.

The chief beneficiary of this new GATS regime is a breed of corporate service providers determined to expand their global commercial reach and to turn public services into private markets all over the world. Not only



STOP THE GATS ATTACK NOW!

are the services industries the fastest growing sector of the new global economy, but also health, education and water are shaping up to be the most lucrative of all 'services'. Health care is considered to be a 3.5 trillion dollar market worldwide, while education is targeted as a 2 trillion and water a 1 trillion dollar annual market. The chief executive officer of US based Columbia/HCA, the world's largest for-profit hospital corporation, insists that health care is a business no different than the airline or ball bearing industry and vows to destroy every public hospital in North America. Investment houses like Merrill Lynch predict that public education will be globally privatised over the next decade, declaring that untold profits can be made through the process. Meanwhile, water giants like Vivendi and Suez Lyonnaise des Eaux of France are working hand-in-glove with the World Bank to compel many Third World governments to privatise their water services.

Through powerful lobby machines like the US Coalition of Service Industries and the European Services Forum, these and other transnational corporations have effectively set the agenda for the GATS 2000 negotiations.

If achieved, this corporate GATS 2000 agenda will amount to a frontal attack on the fundamental social rights enshrined in the United Nations Universal Declaration of Human Rights and its accompanying Covenants and Charters. Not only will foreign-based for-profit corporations be able to access public dollars to takeover public hospitals and schools, but regulations on health and education standards will be undermined by global trade rules under the WTO. Chains of foreign-based, for-profit corporations would be able to invade the childcare, social security and prison systems in all WTO member countries. Our parks, wildlife and old growth forests could all become contested areas as global corporate 'service' providers compete with one another to exploit their resources. Meanwhile, unlimited access to foreign-based corporations would have to be given regarding municipal contracts for construction, sewage, garbage disposal, sanitation, tourism, and water services.

For many Third World countries, this invasion of peoples' basic rights is not new. During the past two decades or more, the structural adjustment programs of the International Monetary Fund and the World Bank have been used to force many governments in the South to dismantle their public services and allow foreign-

based health care, education and water corporations to provide services on a for-profit basis. Under the proposed GATS rules, developing countries will experience a further dismantling of local service providers, restrictions on the build up of domestic service providers, and the creation of new monopolies dominated by corporate service providers based in the North. By dramatically increasing market control by foreign service corporations and by threatening the future of public services, the GATS 2000 agenda would trigger a global assault on the commons and democracy both in the North and the South. Moreover, the binding enforcement mechanisms of the WTO will ensure that this agenda is not only implemented, but rendered irreversible. The time has come to 'Stop the GATS Attack!'

We, therefore, call upon our governments to immediately invoke a moratorium on the GATS 2000 negotiations and devote the remaining two years of the scheduled talks to carrying out the following tasks:

- (a)** conduct a full and complete assessment of the impacts of the current GATS regime and the implications of the proposed GATS 2000 rules on domestic social, environmental and economic laws, policies and programs with citizens' groups in all member countries;
- (b)** reaffirm the role and responsibility of governments to provide public services ensuring the basic rights and needs of their citizens in the new global economy based on the Universal Declaration of Human Rights and related UN Covenants and Charters;
- (c)** de-claw the existing GATS regime by removing components like Article VI and the Working Party on Domestic Regulation that give foreign governments and transnational corporations the power to ratchet down public interest laws, policies and programs such as quality standards for health care and safety standards for transportation;
- (d)** guarantee the right of governments to require ironclad safeguards for public services [e.g. health care, education, social security, culture, environment, transportation, housing, energy, and water] that may be threatened by global trade and investment rules;
- (e)** provide concrete incentives and resources, especially for governments in the South, to fulfil their universal obligations (see 'b' above) by further



STOP THE GATS ATTACK NOW!

developing and strengthening the provision of public services based on peoples' needs rather than on ability to pay;

- (f) develop mechanisms for effective participation by citizen organizations in both the formulation of their government positions and in the negotiation of any global trade and investment rules in the future regarding cross border services;
- (g) secure the rights and responsibilities of governments to enact and carry out laws and regulations protecting the environment and natural

resources, health and safety, poverty reduction, and social well-being;

- (h) make rules on domestic social, environmental and economic laws, policies and programmes with citizens' groups in all member countries.

Finally, we call on our governments to end all IMF, World Bank and Multilateral Development Bank pressure on developing countries to privatise public services, especially in the area of education, health and water.

RESOURCES

T

N

I

Some good and critical introductory texts to the GATS

A GATS Primer, Maude Barlow, Council of Canadians, February 2001

http://www.canadians.org/campaigns/campaigns-trade/pub-gats_primer.html

GATS Handbook, Ruth Caplan, Alliance for Democracy, November 2000

<http://www.afd-online.org/campaigns/2000/Globalization/handbook.htm>

An Introduction to the General Agreement on Trade in Services (GATS) for Gender Advocates,

Farah Fosse, International Gender and Trade Network - Secretariat, June 2001

<http://www.genderandtrade.net/GATS/GATS%20intro%20paper%201.pdf>

Services at the WTO, Trade and Economics Briefing Paper No. 3, Consumers International, November

2000 <http://www.consumersinternational.org/campaigns/trade-3-e.pdf>

STOP THE GATSastrophe, WDM Campaign Briefing, November 2000 (updated July 2001)

<http://www.wdm.org.uk/cambriefs/Wto/stopgats.pdf>

GATS and Democracy, Seattle to Brussels Network, June 2001

<http://www.gatswatch.org/GATSandDemocracy/>

Facing the Facts: A Guide to the GATS Debate. Scott Sinclair and Jim Grieshaber-Otto, Canadian Centre for Policy Alternatives, April 2002

<http://www.policyalternatives.ca/publications/facing-the-facts.pdf>

Also very recommendable:

Our Communities Are Not For Sale; Local -Global Links in the Fight against Privatization

Sarah Anderson, et al. – United for a Fair Economy / Institute for Policy Studies, October 2001

<http://ufenet.org/Privatization/>

Corporate Lobbying on GATS – Find Out More

Liberalisation of Trade in Services: Corporate Power at Work,

Erik Wesselius, GATSwatch, October 2001, <http://www.gatswatch.org/LOTIS/>

The Players in the GATS Negotiations, Tony Clarke, CorpWatch, 25 October 2001

<http://www.corpwatch.org/issues/PID.jsp?articleid=344>

And check out these web sites...

Corporate Europe Observatory <http://www.corporateeurope.org>

Corporate Watch UK <http://www.corporatewatch.org.uk>

Corpwatch US <http://www.corpwatch.org>

Polaris Institute <http://www.polarisinstitute.org>

Public Services International Research Unit <http://www.psiru.org>

Transnationale.org <http://www.transnationale.org>

Transnational Institute <http://www.tni.org>

Anti-GATS Campaigning

An up-to-date list of the major groups and networks campaigning on GATS is posted at <http://www.gatswatch.org/GATScritics.html>

¹ European Commission (1998), *Opening World Markets for Services*, <http://gats-info.eu.int/gats-info/g2000.pl?NEWS=bbb>.

² The WTO's David Hartridge described the GATS as the world's "first multilateral agreement on investment" in a speech at the conference *Opening Markets for Banking Worldwide: The WTO General Agreement on Trade in Services*, London, 8 January 1997.

³ Under Secretary of State for Economic, Agricultural and Business Affairs Joan Spero, in a speech before the World Trade in Services Conference, Department of State, Washington D.C., May 1995, as quoted in an essay by James P. Zumwalt: *Pressure Politics And Free Trade: Influence Of The Services Industry On The Uruguay Round*, National Defense University, December 1996.

⁴ The Industry Sectoral Advisory Committee on Services was formed in 1980.

⁵ Freeman, Harry L., *Comments on "Financial Services and the GATS 2000 Round"* by Pierre Sauvé and James Gillespie, Brookings-Wharton Papers on Financial Services 2000 (2000), pp. 454-461.

⁶ Harry Freeman, remarks during the Brookings Institution press briefing *The WTO in Seattle: Controversy Over New Rules of Global Commerce*, 23 November 1999, <http://www.brook.edu/dybdocroot/comm/transcripts/19991123.htm>.

⁷ *Services 2002, A Business-Government Dialogue on US Trade Expansion Objectives*, conference flyer, <http://www.uscsi.org/meetings/services2002/flyer.pdf>.

⁸ Robert Vastine, *Introductory Remarks, Services 2002 Conference*, 5 February 2002, <http://www.uscsi.org/meetings/services2002/vastines.doc>.

⁹ Samuel Bodman, *Remarks, Services 2002 Conference*, 5 February 2002, <http://www.uscsi.org/meetings/services2002/bodman.pdf>.

¹⁰ Dean O'Hare, *Introductory Remarks, Services 2002 Conference*, 5 February 2002, <http://www.uscsi.org/meetings/services2002/o'hare.pdf>.

¹¹ Andrew Buxton, *Towards GATS 2000: A European Strategy*, speech at conference "Opening World Markets for Services", 2 June 1998, <http://gats-info.eu.int/gats-info/g2000.pl?NEWS=eee>.

¹² Bob Vastine, *President's Report to the Membership and Board of Directors*, September 1998, http://www.uscsi.org/presidents_report.htm (no longer available, on file with CEO).

¹³ Edmund L. Andrews, "Agreement to Open Up World Financial Markets Is Reached", *New York Times*, December 13, 1997, <http://www-personal.umd.umich.edu/~mtwomey/newspapers/1216wto.html>

¹⁴ Chakravarti Raghavan, "Close Encounters at the WTO", *South-North Development Monitor*, December 1997, <http://www.twinside.org.sg/title/coun-cn.htm>

¹⁵ Andrew Buxton, keynote speech to the Preparatory Conference for the World Services Congress, Washington DC, 2 June 1999, <http://www.esf.be/pdf/spab0699.pdf>

¹⁶ European Services Network, "European Services Industry Unites in Favour of Ambitious World-Wide Trade Liberalisation", ESN media release, January 1999, http://www.globalservicesnetwork.com/esn_announcement.htm

¹⁷ Leon Brittan, speech at the launch meeting of the European Services Network, 26 January 1999, <http://www.esf.be/pdf/splb0199.pdf>

¹⁸ All ESF position papers can be found on the ESF web site at http://www.esf.be/f_e_docs.htm#position

¹⁹ See the position papers on the USCSI web site at <http://www.uscsi.org/policy/>

²⁰ Through requests for access to documents at the European Commission and by finding the LOTIS papers.

²¹ A full list of known ESF-EC meetings is available on GATSwatch at <http://www.gatswatch.org/ESF-EC.html>

The European Services Forum also has close contacts with EU member state GATS specialists in the so-called Committee 133, which plays a crucial role in the formulation of EU policy on trade in services. The ESF has regularly invited all members of the Committee 133 services group to a private meeting with a group of ESF representatives in some Brussels hotel on the eve of a regular Committee meeting.

²² Robert Madelin, "Preparing for GATS 2000: The European Commission Approach", speech at the conference *How To Open Services Markets Worldwide*, London, 21 September 1999, http://www.bi.org.uk/uploads/How_to_Open_Services_Markets_worldwide.pdf.

²³ The European Parliament has a minimal role and no controlling power in EU external trade policy.

²⁴ European Commission, DG Trade, *List of grants awarded by the Directorate General for Trade during the year 2000*, 3 January 2001, http://europa.eu.int/comm/trade/pdf/grants_2000.pdf.

²⁵ These leaked documents are available on the GATSwatch web site at <http://www.gatswatch.org/requests-offers.html>

²⁶ Pierre Defraigne, e-mail to Susan George, 3 April 2002.

²⁷ A series of letters and internal memos from the European Commission, available on GATSwatch at <http://www.gatswatch.org/EC-ESF.html>

²⁸ Joao Aguiar Machado, Head of DG Trade Unit D.2 (Trade in services, including e-commerce, and GATS), letter to Pascal Kerneis, 22 October 2001.

²⁹ João Aguiar Machado, letter to Pascal Kerneis, 14 January 2002.

³⁰ European Commission, *Reaction to the Leaks of the EC Draft Requests*, ACJ/acj, Brussels, 22 April 2002. Available on GATSwatch at <http://www.gatswatch.org/docs/GATS%20leaks.pdf>

The controversial General Agreement on Trade in Services (GATS) of the World Trade Organisation has generated major social concern about the implications for the equitable provision of basic public services like education, health and water; and for governments' right to regulate in the interests of financial stability, economic and social development, and environmental protection. Such concerns are only heightened when the European Commission declares quite baldly, "The GATS is first and foremost an instrument for the benefit of business", while parliaments, trade unions and NGOs are excluded from any say as to whether public services should be commodified at all, much less subject to the vagaries of global competition.

In March 2001, hundreds of groups from around the world signalled the launch of a global anti-GATS campaign by issuing the "Stop the GATS Attack" declaration. The campaign intensified with the acceleration of the GATS talks after the World Trade Organisation Ministerial in Doha in November 2001, when June 30 2002 was set as the deadline for governments to finalise the lists of the domestic services opened up to the global market and those requested of other countries.

Given the fundamental threat posed to public services and the radical challenge to elected governments' right to serve the public interest, this TNI Briefing is intended to educate the public as to the agendas of major services industry lobby groups, particularly in the European Union and the USA, and the inordinate influence they wield as regards the GATS negotiations internationally. At the same time, it draws attention to the reprehensible exclusion of parliaments, trade unions and NGOs given the sectors that GATS aims to commodify.

Since its birth in 1995, the WTO has been sold to the public as the lynchpin of a multilateral system of economic governance providing the necessary rules to facilitate the growth of global trade. At the expense of national economies, workers, small farmers and other small producers, consumers and the environment it is clear that WTO has facilitated the opening of markets for the benefit of transnational corporations (TNCs).

The WTO system, rules and procedures are undemocratic, non-transparent and unaccountable, and are undermining national democracies and established rights of citizens. It has contributed to the concentration of wealth in the hands of the rich few, impoverishment of millions and the promotion of unsustainable patterns of production, transportation and consumption. Dominant governments in the WTO, and the TNCs they represent, continue to push for further liberalisation of trade and investment without addressing the concerns of the majority of WTO members.

Ultimately, the WTO poses a political threat in that it is transferring the power to determine how the public interest is best served from citizens and their democratically elected governments to corporations. To make matters worse, the binding nature of WTO agreements will make this legal.

TNI has been analysing WTO and educating the public on the WTO issue for years, and the material it has produced may be found at <http://www.tni.org/issues/wto>