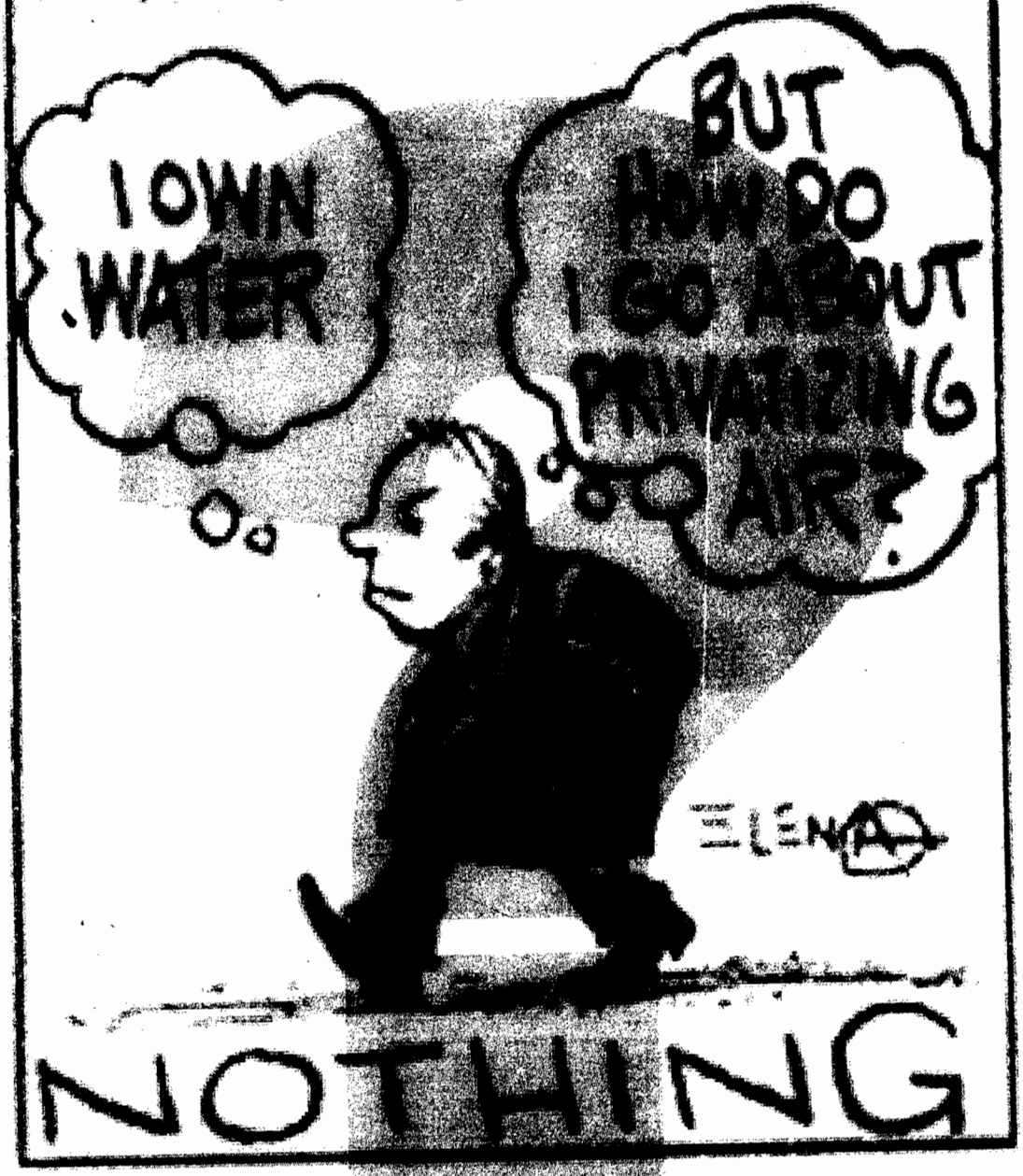
GATS

WHAT IS IT GOOD FOR ABSOLUTELY



NOTHING

a primer for activists

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INSIDE...

GATS IN BRIEF
WTO: What, When, Why, How?

> "Decision-making in open societies presupposes informed public discussion."
>
> -- GATS: FACT AND FICTION, The WTO Services Secretariat

The World Trade Organisation (WTO), a powerful new global commerce agency, was set up in 1995 at the culmination of the 'Uruguay Round' of negotiations over the General Agreement on Tariffs and Trade (GATT). It is now one of the main mechanisms of corporate globalisation, enforcing a set of 'trade rules', including GATT, Trade-Related Intellectual Property Rights (TRIPS), Trade-Related Investment Measures (TRIMs), and General Agreement on Trade in Services (GATS). These rules set out a comprehensive system of corporate-managed 'free trade'.

All 144 countries that belong to the WTO are in the GATS agreement. **The objective of the GATS is to liberalize trade in 'services'. And it is designed primarily to expand the 'international services market' as quickly as possible. Its terms cover all 'services' in which private, commercial providers have some kind of a stake. Under this arrangement, these 'services' will have to run on a 'least-trade-restrictive' basis that opens them up to the full assault of global capital.**

The 'Uruguay Round' extended the coverage of the international trade negotiations beyond 'manufactured goods', bringing agriculture and allied areas within its ambit. It also expanded the scope of the 'trade rules', which earlier focused primarily on tariffs and quotas, to cover 'non-tariff barriers to trade'. These include food safety laws, product standards, investment policy, and other domestic laws that impact trade (e.g. rules on the use of tax money). The WTO rules limit the 'non-tariff' policies governments can adopt and implement.

GATS was concluded in April 1994 and is the first broadly based international agreement on trade in services. It is one of the 15 'Uruguay Round' agreements enforced under the WTO that came into force in January 1995. Like all other agreements of the WTO, the GATS is legally enforceable through the Dispute Settlement Mechanism.

BOX 1: WHAT DO THEY MEAN BY 'SERVICES'?

Services, as in 'goods and services', includes nearly all economic activity not involving the manufacture of goods, raw materials or farm products.

"Services range from birth (midwifery) to death (burial); the trivial (shoe-shining) to the critical (heart surgery); the personal (haircutting) to the social (primary education); low-tech (household help) to high-tech (satellite communications); and from our wants (retail sales of toys) to our needs (water distribution)." - **'Facing the Facts', Canadian Centre for Policy Alternatives**

The notion of treating services as commodities is relatively new. It used to be commonly believed that many services, by their very nature, would have little to do with 'global trade'. After all, activities like patient care or teaching require person-to-person interaction, and, so we assumed, they would essentially have to remain local activities.

The GATS regime, however, allows no room for such innocence. **GATS rules apply to all measures affecting 'trade in services'.** It covers measures taken by all levels of government, including central, regional and local governments, and applies to all services sectors.

To the Masters in this regime, the only 'fact' that really counts is this:

> "The service industry covers nearly two-thirds of economic activity in industrialised countries and over half of the world's economy. It is today the fastest growing sector in international trade."

In other words, there is money to be made here!

UNEQUAL CONSUMPTION: "Thirty years ago the poorest 20% of the world's population accounted for only 2.3% of private consumption expenditure; 30 years later, the poorest 20% now account for only 1.3% of such expenditure. Meanwhile, the top 20% today account for 86% of the total private consumption expenditure." This fact, and the logical inferences that would follow in any open-minded analysis, obviously get ignored in these 'global trade' negotiations. The trumpet of the Masters is too loud to be reasonable. And today it is being blown everywhere, drowning every other voice that dares stand up to its deafening blast.

GATS has two parts: the framework agreement containing the general obligations; and the national schedules which list individual countries' specific commitments on access to their domestic markets by foreign suppliers.

GATS extends WTO rules to cover a range of activities so diverse that it includes banking, rubbish collection, tourism, transport, and retailing. There are 160 'services' listed under 12 sectors to which GATS rules apply. **(See Annexure B for a listing)** Major telecommunications and financial services deregulation agreements have already been accomplished. The GATS agenda includes explicit coverage under GATT terms of water and water systems, including municipal drinking water. Health-care and education systems are also on the cards.

WHAT IS THE SCOPE OF 'TRADE' IN GATS ?

BEYOND TRADE

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

1. **Cross-border supply:** Services supplied from one country to another. It includes international telephone calls, e-commerce, call-centres servicing clients abroad, international postal services;
2. **Consumption abroad:** Consumers from one country making use of a service in another country. It includes studying at a foreign university, getting medical treatment abroad, visiting another country as a tourist;
3. **Commercial presence:** A company of one country setting up subsidiaries or branches to provide services locally in another country. In other words, foreign direct investment (FDI). It includes all foreign investment related to provision of services (for example, bank branches, power plants, tourist resorts);
4. **Movement of natural persons:** Physical movement of professionals, skilled and unskilled labour from their country to supply services in another on a temporary basis. It includes consulting and accountancy firms sending employees on short missions abroad, construction workers hired abroad, etc. It does not cover permanent migration.

It should be clear, therefore, that GATS IS NOT MERELY A 'TRADE' AGREEMENT. It reaches out to cover activities we did not traditionally see as 'trade'. And it deeply impacts far wider areas of economic policy.

HOW THE RULES REALLY WORK

> "Each WTO member lists in its national schedule those services for which it wishes to guarantee access to foreign suppliers. All commitments apply on a non-discriminatory basis to all other members. There is complete freedom to choose which services to commit."
>
> -- GATS: FACT AND FICTION, The WTO Services Secretariat

The agreement works in two ways: 'top down' rules, which apply to all 160 services listed in the agreement, irrespective of the 'national schedules'; and 'bottom up' rules that allow governments to choose which services they apply to.

GENERAL OBLIGATIONS - TOP DOWN (HORIZONTAL) RULES:
Basic GATS obligations apply to all services sectors. This means that all services in a WTO member country are subject to these rules.

'Most Favoured Nation (MFN)' (GATS Article II) is one such basic obligation that applies to all services sectors in all WTO member countries. It means that a country has to treat all foreign services and services suppliers alike. This rule prevents countries from distinguishing between trading partners for social or political reasons. However, countries can list exemptions to the application of this rule. But these only apply for ten years.

The MFN rule prohibits governments from, for instance, taking retaliatory measures against companies doing business with regimes that violate human rights (even the ones enshrined in international covenants). When South Africa began opening up its telecommunications industry to competition in 1997, the Government wanted to ensure that black households became, or remained connected, to a telephone network. It awarded contracts to Malaysian companies because of their experience in dealing with similar issues in Malaysia. However, any WTO member could challenge another country, which might be 'favouring' one investor over another in this manner, as a violator of the MFN rule.

SPECIFIC COMMITMENTS - BOTTOM UP (VERTICAL) RULES:
These are specific commitments that apply only to those services that a government has chosen to include in the 'national schedules'.

Each WTO member specifies in its country schedule how the rules of the agreement would apply to each of its different service sectors. These are the more far reaching of the two types of rules.

The 'National Treatment' rule (GATS Article XVII) means that foreign companies must be treated the same as domestic firms. They can, of course, be treated better; but treating them 'worse' is absolutely forbidden. As 'trade' in GATS terms includes foreign direct investment (FDI), this rule drastically reduces government policy options, which might impact areas beyond the particular scheduled services. For instance, to make sure that the the investments primarily benefit the local people, the concerned government cannot legislate or implement regulations to ensure that foreign firms use local suppliers, managers and staff. GATS does not allow the government to make policy interventions for promoting the growth of local businesses.

The 'Market Access' rules (GATS Article XVI) curtail all quantitative limits on services, whether they apply to foreign and domestic firms, or only to foreign ones. If a country tries to limit the number of services suppliers or outlets in a sector listed in its 'national schedule', it could be challenged through the WTO 'dispute settlement' system. Measures that can be challenged include, for example, attempts to limit the number of hotels in an ecologically fragile area.

In other words, these rules are a powerful weapon to guarantee both local and foreign firms the unlimited right to operate wherever and in any manner they themselves choose.

Both developed and developing countries have found it nearly impossible to predict what limits they should put on their GATS commitments. And the commitments once made are, in effect, irreversible. Governments can at best swap liberalisation in one area for concessions in another, and that too only if it 'satisfies all WTO members.' As the UK government once put it: "Commitments are intended to be binding and ensure predictability for companies." **This, obviously, acutely undermines the citizens' democratic right to decide how services are regulated in the future.** Moreover, the governments of developing countries can easily be persuaded to grant concessions in the 'services' negotiations in order to get the rich industrialised countries to implement long overdue commitments that can benefit the former, such as the

removal of agricultural subsidies in the latter countries.

RULES apply to both domestic and foreign firms

GATS rules go further than the traditional 'national treatment' principle, which ensures that foreign firms are treated at least as well as domestic ones. 'Market access' rules, for instance, apply to both domestic and foreign firms. **GATS rules, essentially, protect the right of all corporations, domestic and foreign, to enter the market.**

Governments will also find, after being subjected to a WTO-designed test, that any policy measure they might take to protect the quality of domestic service provisions flouts the 'domestic regulation' rules under GATS. Such measures would include, for example, 'qualification requirements and procedures' affecting 'service professionals' such as teachers, or 'licensing requirements' that could cover zoning restrictions designed to monitor planning permission in the retail sector.

Box 2: WHY ARE HEALTH AND EDUCATION SO DEAR TO BIG BUSINESS?

Health and education are considered the most attractive and potentially lucrative world-wide markets to be exploited. Estimates of global expenditures on those two services range between 5-1/2 to 6 trillion dollars. Education represents over a third of that total. It is therefore not surprising that countries with a highly developed education infrastructure, like Canada, are interested in accessing that export market. Approximately 30 countries made specific commitments on education services in the 1994 GATS. These apply to a range of services from primary to adult education. Such commitments oblige these countries to give foreign competitors equal access to providing the services specified.

HOW DOES GATS DEFINE 'PUBLIC SERVICES'?

THE EXCEPTIONAL LIE: A Threat to Democratic Decision-making

Although GATS encompasses all services, many civil servants and government ministers believe that it makes an exception for public services – in other words, those "supplied in the exercise of governmental authority" (Article I.3b) – such as health-care, education or

utilities. But GATS defines government services very narrowly – "any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers" (Article I.3c). This exception would be almost meaningless if one country were to challenge another country's policies regarding public services at the WTO dispute panel for violating GATS.

Governments the world over have been deregulating and privatising both the funding and the provision of public services, sometimes on their own initiative, sometimes as a condition of IMF structural adjustment programmes (SAPs), and sometimes on the advice of the World Bank. In some cases, governments have simply sold public entities off. For instance, in Britain, the railways, telephones, and electricity, gas and water utilities have been transferred to the 'for-profit' sector. India has, in the last few years, also initiated similar processes. To cite just a few instances: VSNL has been sold to the Tatas, electricity distribution in Delhi has been privatised, and monopoly rights to a section of the Sheonath river in Chattisgarh has been handed over to Radius Water Limited, a private company owned by Kailash Soni, for supplying water to industries around the area. The contract for supplying water to Delhi from the Tehri Dam via the Upper Ganga canal has been given to Degremont, a French company. The work on the pipeline has already begun, evoking strong protests from the local people who are opposing the diversion of huge quantities of water away from their fields, exposing them to the devastation of their livelihood in the face of acute water shortages.

An increasing number of privatization initiatives have come up within school board jurisdictions in the North Americas. In the United States, services under some school boards have been contracted out to corporations. In Canada, a school board initiative in Vancouver, British Columbia, now offers 'users-pay' kindergarten classes to parents who can afford the fees. These initiatives, fear campaigners in the Americas, could open the door to international corporate interests hungry for market access to public education. In India, the governmenmt of Delhi sought, unsuccessfully, to privatise government-run schools showing "poor results" located in the outer areas of Delhi, allowing them to increase fees upto Rs 100 per month. Most of the students of these schools come from low income families. Any such move would clearly result in pushing them out of school.

Governments are transforming other public services, particularly those that might be politically unacceptable to privatise outright, by requiring the public body to contract services out to 'for-profit' companies, or to institute a process of compulsory competitive tendering (for bidding by private providers). They have separated infrastructure such as buildings from service provisions, and privatised the infrastructure by means of an array of public-private 'partnerships'. These retain a 'public' mask and thus appear more politically acceptable. Examples include the UK's Private Finance Initiative (PFI), build-own-transfer (BOT) schemes, and build-own-operate-and-transfer (BOOT) projects. Governments have also introduced internal markets. These divide purchasers from providers within a public service sector. Management from the private sector has been introduced to infuse the public service sector with 'market-oriented' methods and principles. As David Hall of the Public Services International Research Unit points out: "**The corporatisation of public service organizations... usually involves the introduction of business accounting... and may be a change as significant as privatisation itself.**" In India, MTNL and BSNL were formed in the telecom sector as corporate entities, ostensibly to infuse the sector with greater efficiency.

In the longer term, challenges under GATS to public services may take another form. The US could take Britain to the WTO disputes panel, for instance, if the British government refused a US multinational permission to buy a British National Health Service public hospital which had been financed through the PFI scheme (a form of public-private partnership). Similarly, if the Canadian province of Alberta allows private, 'for-profit' hospitals to provide services previously provided only by public hospitals, it would be obliged to extend the same rights to every other private provider, domestic or foreign, under the MFN rule.

The Case of the New Zealand Education System

For instance, the government of New Zealand allowed its education services to come under the GATS rules. In other words, its education policy will now forever be bound, not to the democratically expressed opinion of its citizens, but to an international trade agreement.

Moreover, given that private providers in the tertiary sector enjoy subsidies similar to public ones, and that the education system runs on the basis of open competition, even if the government

chooses not to commit some area within 'education', it would really make no difference. GATS would simply recognise the entire sector as 'not-a-government-service', and open, therefore, to free competition according to international trade rules.

GATS means that the government cannot intervene in the education system in ways that might disadvantage foreign private providers. For example, it cannot limit the total number of universities in the country. If a private provider from abroad wishes to set up a university there, the government has no right to say no. **Foreign providers are, moreover, entitled to the same subsidies as local private providers.** And if the government musters the courage to ignore the GATS rules, it will be dragged to the WTO that would 'settle the dispute' and force the renegade government either to back down, or else to face sanctions.

New Zealand's universities already waste millions on advertising and marketing, while lecturers are underpaid and the quality of education has dipped. GATS will ensure further deterioration of this situation.

WHAT IS 'NOT' A GOVERNMENT SERVICE?

Under the GATS arrangement,

If

 # a government contracts out any part of its public services [say, cleaning or catering];

Or

 # private (either 'for-profit' or voluntary) companies supply services also provided by the government [for instance, if private schools exist alongside state ones, or if there is a mixture of public and private funding];

Then...

... a WTO dispute panel can declare those services as 'NOT A GOVERNMENT SERVICE' and, therefore, not exempt from the GATS rules. In other words, any such 'public' service would be fully subject to competition from foreign private operators. They would cease to remain 'public' services in any sense of the term.

GATS is on a mission to remove all possible barriers to 'free' global trade in services. **In the context of education systems, the following would be 'trade barriers' under the GATS regime:**

- Limits on the total number of service providers (Universities, Training colleges, etc);
- Limit on the total value of services, transactions or assets;
- Limits on the total number of service operators and the total quantity of service output;
- Limits on the number of persons that may be employed in a particular sector or by a particular supplier;
- Measures that restrict or require supply of the service through specific types of legal entities or joint ventures (schools, colleges, etc);
- Percentage limits on the participation of foreign capital, or limits on the total value of foreign investment.

The moral of the story: If a government makes public education its priority, and tries to improve its quality as a 'public service', it will fall foul of the GATS rules.

WILL GATS ALLOW GOVERNMENT REGULATION?

"Because the large share of trade in services takes place inside national economies... its requirement will, from the beginning, necessarily influence national domestic laws and regulation."

— The WTO Services Secretariat

"No government action, whatever its purpose – protecting the environment, enforcing labour standards, safeguarding consumers, promoting fair competition, ensuring universal service or any other end – is, in principle, beyond GATS scrutiny and potential challenge."

— FACING THE FACTS, Canadian Centre for Policy Alternatives

The defenders of GATS often quote a sentence from the GATS 'preamble' that recognises "the right of Members to regulate, and to introduce new regulations on the supply of a service within their territories in order to meet national policy objectives." They forget mentioning that nothing in the 'preamble' is legally binding.

In a leaked (confidential) document, the WTO Secretariat explicitly recognises that there are "two potentially conflicting priorities: promoting trade expansion versus protecting the regulatory rights of governments." The priority of GATS is clearly the former. As a result, for example:

- Where a service sector is fully committed to GATS rules, any attempt of the government to promote sustainable development will be extremely difficult;
- Any policy of the government of a developing country to protect its own infant industries from competition from fully developed foreign firms, as all the SE Asian 'tiger' economies were able to do during their development, could be challenged at the WTO;
- Attempts to stipulate that inward investment must benefit the national economy and society, for example, by employing locals or using local materials, could also fall foul of the GATS rules.

For instance, policies to reserve restaurant and taxi concessions for locals in Goa are in violation of GATS rules. The Indian Government had not listed these policies as exceptions to its commitments in the tourism sector.

GATS IN ACTION — DEMOCRACY STIFLED !!

> "All the concerns expressed about 'deregulation' of services resulting from GATS or about threats to health and safety standards boil down to the possibility that a measure thought to be discriminatory or unnecessarily restrictive can be challenged in dispute settlement."
>
> – GATS: FACT AND FICTION, The WTO Services Secretariat

Critics warn that the double salvo of the WTO's pro-industry rules and powerful enforcement mechanisms will threaten laws designed to protect consumers, workers and the environment. This will put in jeopardy several hard-won democratic rights of ordinary citizens all

over the world.

In fact, there is a clear record now of the WTO's bias against the public interest; it comes across in all the cases settled under its rules. Every single environmental or public health law challenged at WTO till date has been ruled illegal. The US official position is that laws MUST be changed to be consistent with WTO policy. The three choices before a losing government are:

- within a set time, change its laws to conform to WTO requirements;
- or, pay permanent compensation to the winning country;
- or, face non-negotiated trade sanctions.

Here are two instances where disputes were settled by invoking the GATS rules:

- **The Story of the Canadian 'Auto Pact':** This was designed to encourage companies selling vehicles locally to invest in (by purchasing parts from) and create employment in Canada. This has been an important part of the country's industrial strategy. But it is also exactly the kind of 'promotion of domestic industry' that GATS is designed to remove from every nook and corner of the 'global' economy. In 1999, European and Japanese vehicle manufacturers challenged the 'Auto Pact'. **The WTO dispute panel ruled that it violated a number of WTO agreements, including the Most Favoured Nation clause and National Treatment obligations of the GATS.**

- **The Case of Caribbean Bananas:** In 1997, a WTO panel decided that European preference for Caribbean bananas was blatantly illegal. **The US had used GATS to argue that the policy of European countries to give impoverished banana farmers (from their former colonies in the Caribbean) preferential access to their own markets unfairly discriminates against bananas grown by US companies in Central America.** The EU had not thought to obtain an exception for the arrangement under GATS. It was forced to propose a new policy that the US claims is still inconsistent with WTO rules. The WTO granted the US authority to impose $200 million in trade sanctions against European imports until the EU changes policy to suit WTO demands. If the EU complies, some 200,000 small farmers in the poor Caribbean countries would lose their livelihoods. Bananas are here the

major source of work and revenue; the mountainous terrain rules out other crops. According to women's groups in the Caribbean, "The assured market for bananas has given thousands of families in the sub-region of the Windward Islands a measure of security, and has afforded us dignity and self-reliance. Its loss would leave us without resources to build a future for our families and our countries."

Why did the US launch a trade war over a product it does not even grow?

Chiquita is a multinational company owning plantations in Central America, with a major stake in the international fruits market. Chiquita CEO Carl Lindner gave more than half a million dollars in 1998 as campaign contributions to both the electoral parties in the US. The giant Chiquita plantations in Central America are notorious violators of workers' right to good health and their right to organise themselves; but this has not prevented the US government from zealously pushing their case.

HOW DIFFERENT WILL THE PROVISION OF SERVICES TO CITIZENS BE UNDER GATS?

TURNING PUBLIC INTO PRIVATE: The Race to 'The Final Frontier'

As a result of existing deregulation and privatisation, national – and, increasingly, transnational – companies have sprung up and made inroads into a wide range of public services, particularly utilities (water, energy, telecommunications, transport), garbage collection, prisons, housing, social services, and support services (cleaning, catering, information technology), in many countries. Via GATS, they could gain access to many more.

The European Union, for example, wants all WTO member countries to open up their water delivery systems to competition because this "would offer new business opportunities to European companies, as the expansion and acquisitions abroad by a number of European water companies show." French-based companies such as Vivendi, Suez-Lyonnaise and Bouygues (SAUR) have taken the lead in water supply.

A leading investment group, Lehman Brothers, has described education as "the final frontier of a number of sectors once dominated by public control." Other targets

include museums, libraries, energy and transport.

Via GATS, private companies could gain access to and control over public funding for services. This is the unmistakable lesson to be drawn from the experience of privatisation of sectors like water-supply systems.

The EU and US spend a substantial amount of public money on public services. In the countries of the OECD (Organisation for Economic Cooperation and Development), some of the richest in the world, public expenditure on health services and education accounts for more than 13 per cent of gross domestic product. Much of this spending now goes to public or voluntary bodies. But a lot of that might ultimately be getting channeled to 'for-profit' groups. **Nearly 50 per cent of UK tax revenue now goes to profit-making companies.**

It is often argued that the privatisation of public services brings more competition and more private finance that lessen public expenditure. It is praised as the road to the Utopia of less bureaucracy, more flexibility, more opportunities for the workforce, and more modern management practices.

In practice, however, cartels develop and corruption deepens. Public money provides guarantees for private companies, which simply avoid competition from the public sector. There is little or no accountability or regulation within the private sector, and job cuts or worsened conditions of work are common.

For instance, the bulwarks of public health – air quality, safe drinking water, food safety, road safety, drainage and sanitation – have been under threat because of privatisation for some time now. Under GATS, they could be permanently dismantled, throwing the masses into a frightening abyss of total insecurity.

The consequences are apparent in many poorer countries today: high mortality rates, especially high maternal death rates, a proliferation of contagious diseases, and high levels of poverty and homelessness. That is, less and less people have a decent chance to live well and with dignity.

Where GATS facilitates privatisation and competition, the usual mechanisms and essential principles underpinning the design, funding and delivery of public services are, in effect, banned.

Access and entitlement to public health-care services are based on an individual's need for them, not on

their ability to pay. Some people are healthy most of the time and need little health-care, while others are chronically ill and, therefore, need more. One who needs more health-care may not have the ability to pay for it. In fact, that is most often the case. **This principle is, in effect, held to be 'anti-competitive' and, therefore, illegitimate in the GATS regime.**

Also threatened is another widely used principle: **'cross-subsidisation'. Under this principle, areas or services that cost less subsidise those areas and services that cost more.** In India, the substantially higher fares charged for travelling in Upper Class railway coaches (AC or First Class) have subsidised cheap train travel in the ordinary coaches ('Sleeper' Class). The richer travellers are thus made to pay more, so that train travel becomes affordable for the vast majority of the citizens, and the Indian Railways does not have to run at a loss. Such an arrangement is called 'cross-subsidisation', an essential principle that also applies to various other public services. **Cross-subsidies between rich and poor, healthy and sick, ensure that all get tolerably equal access to similar levels of care. 'Redistribution' is, after all, central to the very notion of 'public services'.**

Getting rid of 'cross-subsidisation' is, on the other hand, an essential step in service privatisation. It allows corporations to divide up integrated health-care services, take over the more profitable services and the more profitable patients (usually those who least need health-care), and leave behind a reduced and over-burdened public sector. This undermines universal access to health-care services.

The trend is toward something like the United States' health-care system, which has become dominated by 'for-profit' organisations over the past decade. There, researcher Robert Kuttner observes, 'cross-subsidies' are being eliminated and hospitals treated more and more as businesses: "Temporary losses are defensible only as investments in future profits, so 'cross-subsidy' must be avoided . . . There is no place for uncompensated care, unprofitable admissions, research, education, or public health activities – all chronic money losers from a strictly business viewpoint."

GATS would not only reduce equitable access to health-care services, it could also undermine mechanisms for containing the costs of public sector health-care. It would override national regulations governing health-care. And it

A CORPORATE AGENDA: CEOs and their Lobbies

The role of corporate lobbying in pushing GATS down the throats of governments is fairly evident. WTO staff and negotiators openly acknowledge that the agreement exists only because of pressure from 'services' multinationals. The corporate influence has continued and intensifed since GATS came into effect.

Relations between the **US Coalition of Service Industries (USCSI)** and US negotiators are close and constant. The access to and control over EU policy-makers of European companies is also similar. A member of the **European Services Forum (ESF)** defended the 'transparency' of GATS negotiations by explaining that " all you have to do is pick up the phone – I do it everyday!" The rest of society, however, has no such hotline to the ears of Ministers, or access to meetings and documents. In the UK, corporate financial services representatives and civil servants meet regularly as the **Liberalisation of Trade in Services (LOTIS) group**. The civil servants are known to release documents concerning GATS (that are not publicly available) to the lobbyists. They have also briefed LOTIS members on how to counter the campaigns of civil society groups critical of the agreement.

The USCSI is certainly the most influential services lobby group in the world, its history going back to the mid-seventies,though it was officially launched in 1982. American International Group (AIG), American Express and Citicorp, three US-based financial services companies, wanted to force their way into the then highly regulated markets outside the US. They lobbied hard for the inclusion of 'trade in services' in the GATT. Between 1982 and 1985, USCSI worked closely with the US Trade Representative (USTR) and the Department of Commerce. In late 1983, the USTR submitted a report to the GATT on the growing importance of services in the world economy and suggested possible approaches to a new regime governing international trade in services. When the 'Uruguay Round' was launched in September 1986, a **Group on Negotiations on Services (GNS)** was formed even as formal negotiations on a multilateral regime for trade in services started within the GATT. Meanwhile, USCSI was 'encouraging' Members of the US Congress to send letters expressing 'strong support' for liberalisation of trade in services to the USTR. Industry experts and administrative officials also 'testified' at Congressional hearings on the importance of the services industry to the US economy. During the 'Uruguay Round', the USCSI became

one of the pillars of support for the USTR negotiators. As Harry Freeman, Vice-President of American Express and the first chairman of the USCSI, later recounted: "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." The conclusion of the 1994 GATS agreement was consequently a major victory for the services industry lobbyists.

Since then the corporate-government relations have become cosier. A one-day conference on 'Services 2000: A Business-Government Dialogue on US Trade Expansion Objectives' was held at the US Department of Commerce, sponsored by the Commerce Department's Office of Service Industries and the USCSI. In his presentation, the 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." Deputy Secretary of the Commerce Department, Samuel Bodman, assured the audience that the "the Secretary and I see our role and the mission of our Department as being the advocate for the American business community." The conference underscored **the shared objective of the Commerce Department and the USCSI to use the GATS negotiations to help increase market access for US companies by adding new rules on domestic regulatory reform.**

The 1997 Financial Services Agreement, an Annex to the GATS, is another example of how corporate interests have driven global rule-making on trade in services. After the financial services negotiations broke down in mid-1995, the US Government, the EU Commission and the WTO invited the heads of Ford Financial Services and Barclays Bank to form the **Financial Leaders Group (FLG)**, a high-powered transatlantic pressure group consisting exclusively of CEOs and Chairmen. As Bob Vastine says, " The unanimity in the FLG became a message to governments that the US and European financial community wanted meaningful liberalisation and a substantial success, and that the negotiators should co-operate to achieve it. The strategy clearly worked."

The FLG played a decisive role during the final hours of the negotiations on the Annex in December 1997. The Agreement im-

proved the access of the multinational financial services companies to markets in Central and Eastern Europe, Asia, Africa and Latin America. The prospect of the financial services companies of these countries competing in the US and EU markets is, of course, entirely illusory. Given their abject dependence on foreign direct investment, these countries had little choice but to sign the agreement. Inspired by the FLG example, EU Trade Commissioner Sir Leon Brittan asked the Chairman of Barclays Bank to organise the EU services industry in a similar structure. The European Services Network was thus launched on 26 January 1999. It was soon renamed **European Services Forum (ESF).** Since then, the ESF has produced a series of position papers on trade liberalisation that boil down to the same controversial corporate agenda pushed by the USCSI:

- No special emergency provisions;
- Labour mobility under GATS 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 rules;
- No "unnecessary or disproportionate burdens on foreign and domestic companies, limiting market liberalisation."

The moral of the story: Global service companies stand ready to capture the most lucrative privatised 'public' services. Exposing and putting an end to the corporate-state nexus is absolutely necessary before most citizens can make any substantial impact on the global regime governing the provision of services. Until then, the 'public interest' necessarily remains irrelevant to the rules of trade.

THE GATS TIMETABLE

The developing countries, including India, remained silent on GATS at the Doha ministerial meeting in November 2001, allowing the US, EU, Canada and Japan to push for further services liberalisation.The Doha Ministerial Declaration charted out this roadmap for the GATS negotiations:

• **30 June 2002** -- Initial requests to open service sectors can be made till end 2004.

• **31 March 2003 --** Deadline for WTO members to indicate the additional specific commitments they are prepared to make.

• **September 2003 --** GATS negotiations, including stocktaking, at the Cancun Ministerial meeting.

• **1 January 2005 --** Current round of WTO/GATS negotiations concludes.

Box 5: WHAT CAN YOU DO: Stop the GATS attack, HERE and NOW!

'Free' trade, as a principle of corporate globalisation, puts profit before people. The champions of 'free trade' undermine any attempt by governments and communities to develop more equitable national and local economies, to encourage 'fair' trade, or to create work and wealth for most citizens. The GATS is a massive threat to the hard-won historical achievements of the people's struggles. It forces elected governments to abdicate the practice of social justice, democracy and environmental protection. It snatches the power of people to intervene democratically in the circumstances defining the real content of their lives, gifting away that capacity to the unelected elites in the global institutions linked to imperialist capital.

We must resist the GATS attack. And, to do so, it is necessary for the exploited classes and various social formations, despite occasionally divergent interests, to struggle against the forces driving corporatism everywhere on earth, at both the local and international levels. The nature of the struggle is such that it cannot be won without building bridges of shared collective reflection and action across the different arenas and modes of confrontation, while striving voluntarily for alliance and unity.

The process could begin by calling on the governments of the 'rich' countries to put an end to IMF and World Bank pressure on the poorer countries to privatise public services, especially in the areas of education, health and water. And, at the same time, such trends must be opposed tooth and nail in all the 'poor' countries of the world.

REFERENCES AND FURTHER READING:

- **GATS: FACT AND FICTION**, The WTO Services Secretariat
- **FACING THE FACTS: A GUIDE TO THE GATS DEBATE,** Canadian Centre for Policy Alternatives
- **WHAT IS GATS?,** World Development Movement
- **BEHIND GATS 2000: CORPORATE POWER AT WORK,** Transnational Institute
- **NICK KELLY'S BANNED GATS BOOKLET**, www.scoop.co.nz
- **STEALING OUR WATER,** Friends of the Earth
- **THE CITIZEN'S GUIDE TO THE WTO,** Working Group on the WTO/MAI
- **THE WTO and THE GATS: WHY TEACHERS SHOULD BE CONCERNED,** by Harvey Weiner, Canadian Teachers' Federation

ANNEXURE A –

A QUESTION OF 'QUALITY'?
(or, PROFITING ON PUBLIC FUNDS, UNDERMINING THE PUBLIC)

PUBLIC VERSUS PRIVATE IN HEALTH-CARE: the global experience

The main argument put forward for private health care is that it improves the quality of care. If patients were made to pay for services, and can choose where they spend their money (or the public money they are doled out), it is argued, competition for profit and survival would compel health and social services to become more economically responsible and efficient.

This certainly does not imply that patients would ever be able to meaningfully assess the quality of the health and social services provided by private companies: most people are simply unequipped to decide where they should be treated, by whom and with what, without the advice of their doctor.

In the UK, 'cost' has become the only factor considered relevant to the health-care market. But "the relentless drive towards ever greater cost savings through contracting-out has, in many cases, had a disastrous effect on service quality." Hospital trusts which have contracted out "hundreds of millions of pounds of support services over the past 17 years admitted that cost-cutting had directly led to the filthy NHS (National Health Service) wards, dirty bed linen and inedible hospital food of public infamy." In the past three years, private companies contracted to provide support services to the NHS have incurred more than £2 million in penalties for falling disastrously short of performance standards. Low pay and poor working conditions are two of the main causes of poor quality care. But the singular benchmark of tendering and awarding contracts remains 'cost' rather than 'quality'. Many NHS managers now recognise that "privatisation is not an infallible cure for service inefficiencies".

Pressure from the families of hundreds of those who have died, or been left disabled, brain-damaged or in severe pain, as a result of inadequate care in private facilities, led to a **Care Standards Act** in 2000 to enforce standards in private hospitals, and residential and nursing homes. "Almost without exception, all the tragedies have been due to private hospitals being inadequately staffed."

The quality of care provided by 'for-profit' entities in the United

States further erodes the assertion that the private sector is synonymous with better quality. **"Virtually every credible study ever done has shown that private, 'for-profit' health-care is more expensive, less efficient and of lower quality than public health care," says Peter Julian of the Council of Canadians.**

But if quality of private (and public) care could be assured, evaluated by public health concerns, rather than by economic benchmarks such as the number of patients being treated, some argue, using state money to pay a commercial company for providing health care services is 'just another way' of using it to fund public services. Moreover, private services, it is said, can fill the gaps in the public system.

In practice, **the entry of 'for-profit' providers, although dependent on public money, undermines the public sector in several ways.** When public and voluntary hospitals and health services have to compete with commercial providers for funding, less money ends up flowing into the public system. Competition also leads to competition for patients – the private sector tends to take the healthier and wealthier. Typically, the public sector is left to care for more vulnerable people, while, at the same time, it is forced to contend with cutbacks in funding.

The inevitable result is a loss of preventive services: the public sector has less money for these services, while the private sector is not interested in them.

Private health providers do not aim to provide health-care to society, but health products or surgical procedures to individuals. They will not supply inherently unprofitable care to anyone, least of all to those who are in no position to pay for it. And as public service activist Dexter Whitfield points out, "the penultimate privatisation system is one in which taxpayers fund service provision, but the private sector own and manage the infrastructure and operate services."

Health-care, moreover, cannot be planned on the basis of individuals: it is about populations and matching resources to known priorities.

Changes in health-care provision in the United States and Latin America over the past two decades illustrate these trends clearly. In the early 1990s in the US, a growing number of hospitals, health maintenance organisations (HMOs, or insurer-type intermediaries between employers and hospitals), nursing homes, home care services and hospices became 'for-profit' companies listed on stock exchanges. HMOs, transformed from a social form of medicine into multibillion-dollar businesses depending on a mixture of public funding, private health insurance and user-charges, acquired 'non-profit' hospitals cheaply and gained effective control over state and federal hospitals. The pursuit of market share, the

search for profitable admissions, and relentless cost-cutting, came to dominate all aspects of health-care, even that provided by socially-oriented entities. By the late 1990s, pressure to protect profit margins had led to insurers and hospitals avoiding sick patients, a worsening of staff-to-patient ratios, and the outright denial of care to many. Instead of exercising greater efficiency in the use of available resources and greater integration of preventive and treatment services, the industry merely tries to avoid costs. "More than any other country", concludes The Economist, "America has turned health-care into a business." Health-care is the largest sector of the US economy; over $1 trillion is spent on it every year, 46 per cent coming from the government insurance programmes. Nonetheless, some 44 million US Americans – one in six people – do not have health insurance, while millions of others are under-insured.

Latin America, meanwhile, (particularly Chile, Colombia, Peru, Argentina, Brazil, Mexico and Venezuela) has become a testing ground for the privatisation of health-care in the name of "reform", pushed by the World Bank, Inter-American Development Bank and US-trained national economists, and by the export targets of US health-care providers and insurers. Private insurers tend to select the "best risks", mainly young and healthy people. They reject those with chronic illnesses and leave behind those who cannot afford the insurance. Private companies tend not to operate in the countryside where health services have always been sparse. As The Economist points out, "The poor in rural communities are unattractive clients for managed-care organisations, and may languish outside the new systems." Many 'informal' or casual workers are also outside the public health system.

Yet, typically, private operators rely on the very state health and social services that they are undermining. They take trained and experienced staff from the state system, select patients whose needs the public services have already identified, offer only the (profitable) services they want to, and set up private facilities, ranging from laboratories to residential care, which can be rented or contracted-out to the public service. The WTO itself acknowledges that: "private health insurers competing for members may engage in some form of 'cream skimming', leaving the basic public system, often funded through the general budget, with low-income and high-risk members. New private clinics may well be able to attract qualified staff from public hospitals without offering the same range of services to the same population groups."

In Brazil, the private sector can now offer 120,000 doctors for one-quarter of the population, while the public sector

has fewer than 70,000 doctors for everyone else. As Public Services International concludes, such private health care "is never cheaper or more comprehensive than state care." The US is the most extreme example of this provision: it has the most administratively expensive health system in the world, covering the lowest percentage of the population.

In India, under the influence of World Bank reforms, medical care has been handed over to the private sector without mechanisms to ensure the quality and standards of treatment. Infectious disease control programmes run by the state have been disrupted by being deprived of funds. Similar results have occurred in Sub-Saharan Africa.

Private provision, in other words, is not an effective means to promote public health. Without good public health, the health of every individual is endangered. As food policy analyst Tim Lang points out, many public health gains such as clean air, clean water and food safety were won only after the affluent and the middle classes recognised they could not escape the consequences of unhealthy conditions, and that it was, therefore, in their own best interests to socially tackle the causes of ill-health. As Geof Rayner of the UK Public Health Association points out, **"a market-based approach to health not only drives up the costs of health care, but it can also lead to disinterest in the factors that make people ill. A consumer society promises – falsely – that medical technology can fix diseased individuals, and that good health can be bought and sold in the marketplace rather than being something to promote or work for."**

Courtesy: **TRADING HEALTH CARE AWAY -- GATS, PUBLIC SERVICES AND PRIVATISATION,** by Sarah Sexton, The Cornerhouse (2001)

ANNEXURE B --
GATS SERVICES SECTORAL LIST

1. BUSINESS SERVICES

A. Professional Services

a. Legal Services
b. Accounting, auditing and book-keeping services
c. Taxation Services
d. Architectural services
e. Engineering services
f. Integrated engineering services
g. Urban planning and landscape architectural services
h. Medical and dental services
i. Veterinary services
j. Services provided by midwives, nurses, physiotherapists and para-medical personnel
k. Other

B. Computer and Related Services

a. Consultancy services related to the installation of computer hardware
b. Software implementation services
c. Data processing services
d. Data base services
e. Other

C. Research and Development Services

a. R&D services on natural sciences
b. R&D services on social sciences and humanities
c. Interdisciplinary R&D services

D. Real Estate Services

a. Involving own or leased property
b. On a fee or contract basis

E. Rental/Leasing Services without Operators

a. Relating to ships
b. Relating to aircraft
c. Relating to other transport equipment
d. Relating to other machinery and equipment
e. Other

F. Other Business Services

a. Advertising services
b. Market research and public opinion polling services

c. Management consulting service
d. Services related to management consulting
e. Technical testing and analysis services
f. Services incidental to agriculture, hunting and forestry
g. Services incidental to fishing
h. Services incidental to mining
i. Services incidental to manufacturing
j. Services incidental to energy distribution
k. Placement and supply services of Personnel
l. Investigation and security
m. Related scientific and technical consulting services
n. Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment)
o. Building-cleaning services
p. Photographic services
q. Packaging services
r. Printing, publishing
s. Convention services
t. Other

2. COMMUNICATION SERVICES

A. Postal services

B. Courier services

C. Telecommunication services

a. Voice telephone services
b. Packet-switched data transmission services
c. Circuit-switched data transmission services
d. Telex services
e. Telegraph services
f. Facsimile services
g. Private leased circuit services
h. Electronic mail
i. Voice mail
j. On-line information and data base retrieval
k. electronic data interchange (EDI)
l. enhanced/value-added facsimile services, incl. store and forward, store and retrieve
m. code and protocol conversion
n. on-line information and/or data processing (incl. transaction processing)
o. other

D. **Audiovisual services**

a. Motion picture and video tape production and distri bution services

b. Motion picture projection service

c. Radio and television services

d. Radio and television transmission services

e. Sound recording

f. Other

E. **Other**

3. CONSTRUCTION AND RELATED ENGINEERING SERVICES

A. **General construction work for buildings**

B. **General construction work for civil engineering**

C. **Installation and assembly work**

D. **Building completion and finishing work**

E. **Other**

4. DISTRIBUTION SERVICES

A. **Commission agents' services**

B. **Wholesale trade services**

C. **Retailing services**

D. **Franchising**

E. **Other**

5. EDUCATIONAL SERVICES

A. **Primary education services**

B. **Secondary education services**

C. **Higher education services**

D. **Adult education**

E. **Other education services**

6. **ENVIRONMENTAL SERVICES**

A. **Sewage services**

B. **Refuse disposal services**

C. **Sanitation and similar services**

D. **Other**

7. **FINANCIAL SERVICES**

A. **All insurance and insurance-related services**

a. Life, accident and health insurance services

b. Non-life insurance services

c. Reinsurance and retrocession

d. Services auxiliary to insurance (including broking and agency services)

B. **Banking and other financial services** (excl. insurance)

a. Acceptance of deposits and other repayable funds from the public

b. Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction

c. Financial leasing

d. All payment and money transmission services

e. Guarantees and commitments

f. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
- money market instruments (cheques, bills, certificate of deposits, etc.)
- foreign exchange
- derivative products incl., but not limited to, futures and options
- exchange rate and interest rate instruments, inclu. products such as swaps, forward rate agreements, etc.
- transferable securities
- other negotiable instruments and financial assets, incl. bullion

g. Participation in issues of all kinds of securities, incl. underwriting and placement as agent (whether publicly or privately) and provision of service related to such issues

h. Money broking

i. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services

j. Settlement and clearing services for financial assets, incl. securities, derivative products, or and other negotiable instruments

k. Advisory and other auxiliary financial services on all the activities listed in or Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy

l. Provision and transfer of financial information, and financial data processing and related software by providers of other financial services

C. Other

8. HEALTH RELATED AND SOCIAL SERVICES

A. Hospital services

B. Other Human Health Services

C. Social Services

D. Other

9. TOURISM AND TRAVEL RELATED SERVICES

A. Hotels and restaurants (incl. catering)

B. Travel agencies and tour operators services

C. Tourist guides services

D. Other

10. RECREATIONAL, CULTURAL AND SPORTING SERVICES
(other than audiovisual services)

A. **Entertainment services (including theatre, live bands and circus services)**

B. **News agency services**

C. **Libraries, archives, museums and other cultural services**

D. **Sporting and other recreational services**

E. **Other**

11. **TRANSPORT SERVICES**

A. **Maritime Transport Services**

a. Passenger transportation
b. Freight transportation
c. Rental of vessels with crew
d. Maintenance and repair of vessels
e. Pushing and towing services
f. Supporting services for maritime transport

B. **Internal Waterways Transport**

a. Passenger transportation
b. Freight transportation
c. Rental of vessels with crew
d. Maintenance and repair of vessels
e. Pushing and towing services
f. Supporting services for internal waterway transport

C. **Air Transport Services**

a. Passenger transportation
b. Freight transportation
c. Rental of aircraft with crew
d. Maintenance and repair of aircraft
e. Supporting services for air transport

D. **Space Transport**

E. **Rail Transport Services**

a. Passenger transportation
b. Freight transportation
c. Pushing and towing services
d. Maintenance and repair of rail transport equipment
e. Supporting services for rail transport services

F. **Road Transport Services**

a. Passenger transportation
b. Freight transportation
c. Rental of commercial vehicles with operator
d. Maintenance and repair of road transport equipment
e. Supporting services for road transport services

G. **Pipeline Transport**

a. Transportation of fuels
b. Transportation of other goods

H. **Services auxiliary to all modes of transport**

a. Cargo-handling services
b. Storage and warehouse services
c. Freight transport agency services
d. Other

I. **Other Transport Services**

12. OTHER SERVICES NOT INCLUDED ELSEWHERE

[Source: GATT, 1991, Services sectoral classification list, MTN.GNS/W/120]

ANNEXURE C -

Services liberalisation in India : a few instances

Privatisation of public services is a pre-condition for integrating them into the globalisation regime. The stated position of the Indian government is that the investment required to improve the provision of services needs to be drawn from private sources. Foreign equity upto 51 percent is now automatically allowed in: restaurants and hotels, support services for land and water transport, parts of renting and leasing, business services including software, and health and medical services. Foreign equity upto 74 percent is automatically approved in: mining services, non-conventional energy generation and distribution, land and water transport, and storage and warehousing. In the case of electricity generation, transmission and distribution. the limit is 100 percent. Foreign equity is limited to 49 percent in telecommunications, 40 percent in domestic airlines and to 20 percent in banking services. The insurance sector has also been opened to the private sector.

India's schedule under the GATS makes specific commitments covering: business services, communications, construction work for civil engineering, financial services, health and social services, and tourism services. India further liberalised its commitments in basic telecommunication services in early 1998.

India has not made any commitments yet on services relating to: distribution; education; environment; recreation, culture and sporting; transport; and 'other services not included elsewhere'.

Here are a few instances of the Indian experience of liberalisation and privatisation, as pointers to the threat that has already arrived.

ENERGY: The state of Orissa received a US$ 350 million World Bank loan in 1996 to restructure its electricity system, resulting in the taking over of the state electricity board by AES Corporation of the US in 1999 for US$ 10 million. In the aftermath of the 'supercyclone' that hit the state only two months later, the chief executive of AES demanded that the state government pay the corporation US$ 60 million for repair costs. If the government failed to pay up, AES threatened to hike the curent tariff by three times. The AES has since left the state. The government-appointed Kanungo Committee found that the power situation had indeed worsened after privatisation. Moreover, huge consultancy fees had been paid, a substantial part of which was likely to find its way into tariffs charged to consumers.

The IMF and World Bank have been exerting enormous pressure on the Central and State governments to privatise the State Electricity Boards. They claim these boards are subsidising electricity to the tune of

Rs 25,000 crores each year. Privatisation will ensure that the urban consumer will have to pay three to four times the existing rates, and farmers will have to pay upto 10 times. For example, the Maharashtra State Electricity Board purchases electicity for Mumbai from its own power plants at Rs 2 per unit; Enron would have charged them Rs 8 per unit. This absurdly high cost of power led to the closing down of Enron's Dabhol power plant. The course of events exposed the exaggerated claims about the capabilities of the private sector. Companies which took over distribution failed to increase access, recover costs, and control transmission and distribution losses, whereas they did ensure spiralling tariffs.

WATER: The excuses put forward for the privatisation of the water sector are the same that were given for the power sector, and the process is structured similarly. The privatisation package includes minimum assured returns, payment guarantes by the government or other public financial institutions, exclusive rights to supply to an area, etc. Some major headways have already been made --

- New Delhi's water supply is being privatised to Vivendi. The same company has been given the contract to manage the water services in Chennai. Vivendi has also secured a US$ 7.2 million drinking water management contract for Calcutta in 2000, according to the Global Water Report.
- The Bangalore Water Supply and Sewerage Board offered a contract to Vivendi and Northumbrain Water Group in September 2000 to manage pilot projects covering water supply to two million people. The project, if deemed successful, would lead to a 30-year contract. This is part of an effort under the AUSAID programme, with the assistance of the Australian government, to privatise the entire water supply of the city.
- Degremont, a subsidiary of Suez, has got a Euro 50 million contract to design, build and operate a drinking water system for three million people in New Delhi. The water will come from the Tehri Dam.
- Thirty cities in Maharashtra, Karnataka, Andhra Pradesh, Tamil Nadu and Rajasthan are preparing for the privatisation of their municipal water supply systems.
- Monsanto, a chemical and agricultural corporation, is acquiring water resources and related technology through joint ventures and equity in various companies in the country.
- Coca Cola, Pepsi, Nestle and Danone are vying for the packaged mineral water market in India worth Rs 8-10 billion. Coke's Kinley, along with Pepsi's Aquafina, today control 41 percent of the market.

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