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A woman fetches water in Tamil Nadu, India.

GATS

ACTION ALERT

Number 1 - May 2008

GATS Negotiations Heat Up Human Rights Input Needed Now

Access to essential services, including water, education and health care are on the table as representatives at the WTO push for closure to trade talks in the coming months.

Advocates must act now to ensure these agreements are not made too hastily and include a full consideration of the potential human rights impacts of new policies.

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SINCLAIR WARNS OF MOVEMENT ON GATS NEGOTIATIONS, URGES HUMAN RIGHTS ADVOCATES TO PREPARE

On the heels of talks with World Trade Organization (WTO) General Agreement on Trade in Services (GATS) negotiators, Scott Sinclair of the Canadian Centre for Policy Alternatives¹ met with a small group of trade policy activists in April, to discuss strategies in preparation for what he called the possibility of "real movement" towards Ministerial-level agreements to liberalize trade in services.

Laden with ambiguous and untested regulatory language, GATS poses clear threats to human rights.² Strong advocacy is urgently needed - now - to ensure that negotiators understand the potential negative impacts on health, education and access to water, before they come to agreement on new GATS commitments in the WTO.

"Services" as defined by the GATS are sweepingly broad including "any service in any sector."³ While in theory essential public services - such as the provision of health care, education and water supply - are exempt, such services could fall within the scope of the GATS if they are either provided by several competing actors, or if they are supplied on a "commercial basis." Exactly what is meant by the terms "competition" and "commercial basis" is far from settled, and contradicting interpretations even within WTO circles further obfuscate the matter.

From visiting the doctor, to pouring a glass of water, to going to school, people's livelihoods are inextricably tied to the management and regulation of services. And if one thing is certain it is that, with increased pressure on countries to privatize traditionally government-run services and open their markets to private foreign companies, realization of rights such as health and education could be privatized, which is dangerous as it subjects essential services to the profit motive and limits a country's ability to regulate in the best interest of its citizens.

Introducing competition into essential services markets does not always lead to worsening conditions, however data illustrates that in many cases the over-quick liberalization results in blocking access for the poorest communities and infringing on their human rights to food, water or education. In 2004, Jean Ziegler, UN Special Rapporteur on the Right to Food, summarized some harmful impacts: "Many poor countries privatize water sectors because it's very tempting, governments get profits by privatization. But then water prices go up and the poorest people are deprived of affordable drinking water."⁴

If countries then subject privatization commitments to GATS - which many do - essential services could then easily fall under the legal scope of the

GATS.⁵ As policy-makers tend to place global trade policy concerns above the duty to ensure that all citizens - and in particular the most marginalized - have access to food, medicine and clean water, GATS paves the way for undermining human rights law.



A young boy protests in Hong Kong.

The countries pressuring for expanding world trade in services through GATS are in large part the rich and powerful states who host behemoth multinational corporations hungry to expand their service provision into the global south. Taking advantage of their wealth and muscle, the northern beneficiaries of GATS can push for agreements in inherently unbalanced negotiations.

In spite of these concerns, WTO negotiators have recently revitalized their determination to push the GATS forward. Political pressure to finalize and adopt agreements at the WTO has reached new heights. Member States are frustrated with the arduous pace of Doha Round⁶ negotiations and WTO-



watchers predict that the organization's future is contingent upon making tangible progress in the coming months. Uncertain about the impact of an impending global financial crisis, diplomats are increasingly eager to smooth over bumps and speed towards agreements in an attempt to regain a modicum of control over international economics.



Students learn at an informal school in Swaziland.

Of particular concern in the GATS negotiating context is the increasing number of special concessions being brokered with individual States to gain their sign-ons. For example, a State might be given a ten-year extension on the deadline for its national policy implementation in conformance with the agreements. This practice divides cooperative blocks of countries that are the "usual defenders" of provisions to protect essential services. The small, tailor-made deals these countries are being offered do not address inherent inequalities but represent just enough of a short-term victory to keep States quiet so the processes of adopting the GATS can continue apace.

WTO Director-General Pascal Lamy has spoken of organizing a GATS "signaling conference" where countries would indicate what kinds of commitments they are likely to make regarding the liberalization of

services. Though precise schedules remain uncertain a June or July meeting remains a possibility, and top trade officials in Geneva have already begun to meet informally. Developed nations are eager to get a sense of the breadth and depth of market openings developing countries are willing to make, while least developed countries are trying to secure special exceptions to the services trade rules that would help balance the global trade playing field. Lamy recently urged governments to finalize agricultural negotiations saying that "the next few weeks will be crucial at the WTO."⁷ Such negotiating momentum in agriculture is contagious and could easily spur decision-making regarding the GATS. Civil society advocates must take note of these shifts, advised Sinclair.

Development and human rights advocates at the meeting with Sinclair agreed that civil society must not allow reenergized bureaucrats and private sector special interests bent on fast progress to push through policies with such potential for serious negative impacts. Sinclair emphasized that now is the time to devise talking points, organize media outlets and ramp up campaigns to ensure that important issues are not ignored or marginalized in the rush to consensus.

Human rights advocates can play an important role in ensuring that these negative effects do not materialize.

ENDNOTES

¹ See www.policyalternatives.ca

² For some of the ways in which this can happen, see Caroline Dommen, "Trade and Human Rights: Towards Coherence," *Revista Sur*, Year 2, No.3, 2005, at pp. 11 - 17, available at www.surjournal.org/eng/index3.php; See also, 3D → THREE, "GATS and Access to Essential Services," in *Practical Guide to the WTO for Human Rights Professionals*, 2004, available at www.3dthree.org/pdf_3D/Guide-075Ch5.pdf

³ For the full text of the GATS, download it in PDF format off the WTO's website at www.wto.org/english/docs_e/legal_e/26-gats.pdf

⁴ Excerpted from 3D's *The Practical Guide to the WTO*, Chapter 5 GATS and Access to Essential Services, available online at http://www.3dthree.org/pdf_3D/Guide-075Ch5.pdf

⁵ Ellen Gould, CCPA, Briefing Paper: There They Go Again GATS Negotiators Work to Limit Domestic Regulation, March 2008, offers further information on the impact of GATS on domestic regulation, available online at www.policyalternatives.ca/documents/National_Office_Pubs/2008/Domestic_Regulation.pdf

⁶ For an explanation of technical trade terms such as these, see 3D's Glossary of trade terms, at www.3dthree.org/en/pages.php?IDcat=12

⁷ Pascal Lamy, WTO website - News, Lamy: Doha Round conclusion will reassure world financial markets, 12 April 2008, full speech available online at http://www.wto.org/english/news_e/sppl_e/sppl88_e.htm

⁸ Contacts of countries' Trade Ministries can be found at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

⁹ Links to Permanent Missions to the United Nations Office at Geneva are available online at <http://www.unog.ch/>

For advocates interested in finding out more about ongoing GATS negotiations and how to engage in policy work to ensure human rights, the following information offers some helpful starting points.



SUPPORT TRADE THAT SUPPORTS HUMAN RIGHTS

For advocates interested in finding out more about ongoing GATS negotiations and how to engage in policy work to ensure human rights, the following information offers some helpful starting points.

INFORM YOURSELF: Understand Local Policy

Find out about your country's position on GATS:

- Contact your trade officials at home in the trade ministry⁸ to ask what their position on new GATS commitments is
- Contact your trade officials in Geneva⁹ to ask what their position on new GATS commitments is
- Contact your parliamentarians to find out where they stand on the issues
- Ask your negotiators and ministry officials what steps they have taken to ensure that the impacts of any planned new GATS commitments on human rights have been assessed before making these commitments

STRATEGIZE WITH ALLIES: Join Global Campaign Efforts

Stay informed about ongoing GATS negotiations and campaigns:

- Join the GATScrit listserve: <http://groups.yahoo.com/group/GATScrit/>
- 3D → Trade - Human Rights - Equitable Economy - www.3dthree.org
- Canadian Center for Policy Alternatives - www.policyalternatives.ca
- International Centre for Trade and Sustainable Development ICTSD Bridges - www.ictsd.org
- Institute for Agriculture and Trade Policy's Geneva Update - www.iatp.org

ACT: Promote an Equitable Economy

Advocate for GATS negotiations consistent with human rights:

- Add your voices and experience to ongoing efforts to reform trade policy so that it respects, protects and promotes economic, social and cultural human rights
- Use international treaties your country has signed (including the ICESCR, ICCPR, ICERD, CRC, ICRMW and CEDAW) to insist upon transparent and participatory negotiations in support of legal commitments to the progressive realization of human rights for all

Trade, Human Rights and the Economy: Action upDates

The THREAD [Trade, Human Rights and the Economy: Action upDates] series is a topical information and action-alert series on trade, designed for people concerned with human rights.

THREAD publications are designed to provide human rights groups with the information tools to enable them to ensure that trade and trade rules promote and protect human rights.



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3D → Trade - Human Rights - Equitable Economy promotes collaboration amongst trade, development and human rights professionals, to ensure that trade rules are developed and applied in ways that promote an equitable economy.

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