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**Joan Claybrook, President**

## SAVE OUR SERVICES - BACKGROUND

**How are our essential services under attack?** Once upon a time, trade agreements were focused on setting rules to facilitate trade in goods such as tariff and quotas. But today's "trade" agreements also include broad-ranging provisions to encourage international competition by multi-national businesses in a vast array of service sectors. Now negotiations under the auspices of the World Trade Organization (WTO) and a proposed 31-nation NAFTA expansion called the Free Trade Area of the Americas (FTAA) a/k/a "NAFTA for the Americas" are targeting essential services, such as water and public power utilities, hospitals and social services with the goal of turning these public needs into new tradable units for private, for-profit corporations to control. These proposals would also make it more difficult for communities to regulate privately-owned services in order to achieve vital policy goals such as: universal access to utilities and reasonable rates; expansion of health care coverage; limitations on development in environmentally sensitive areas; and preferential treatment for non-profit, women, or minority owned and operated businesses. When prior trade agreements resulted in the loss of millions of U.S. manufacturing jobs, we were told that everyone would find new jobs in the high-tech and service sectors. Now these new agreements put government and private-sector service jobs at risk.

**WTO's General Agreement on Trade in Services (GATS)** was first established in as one of the agreements to be enforced by the WTO in 1994. Rules about actual trade in services across borders is only a small element of GATS. The WTO called the GATS the world's first multilateral investment agreement because its rules cover every conceivable way a service might be delivered, including granting foreign corporations the right to buy or establish new companies within other countries and sending people across borders to perform services. GATS is known as a "bottom-up" agreement because most of its requirements only cover service sectors countries agree to open up for competition by foreign corporations. GATS negotiators like to portray GATS as a very flexible agreement from which countries may completely exclude certain sectors. In reality, the GATS text is very ambiguous about what aspects of our lives its rules cover. Some GATS constraints apply even if a country has not committed a sector. GATS also contains rules constraining how governments can regulate in the service sector.

**Public services at risk under GATS:** The GATS contains a weasely clause excluding from its coverage government services that are "supplied neither on a commercial basis nor in competition with one or more service suppliers." However, most government services (like health care, education and utilities) involve some public/private mix or fee structure, fall outside of this exception and thus are covered by GATS. Public interest policies governing such services could be challenged for violating WTO rules in closed-door trade tribunals. A country would have to change the WTO-illegal rules or face trade sanctions.

**GATS-2000 negotiations:** Now the WTO countries — pushed in particular by the U.S. and the European Union (EU) and their massive service corporations — are seeking a major expansion of the existing GATS. In the "GATS-2000" negotiations now underway, the goal is to bring all service sectors under GATS' control. Leaked documents show that Europe has

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demanding access for its corporations to U.S. postal service, municipal water and public power systems and has demanded changes to state laws regarding insurance, professional services, alcohol distribution and more, see [www.citizen.org/trade/wto/gats/articles.cfm?ID=9078](http://www.citizen.org/trade/wto/gats/articles.cfm?ID=9078).

**Race to the bottom:** In addition, the EU has proposed expansive new constraints on our local, state and federal governments' abilities to regulate services. The EU proposes that every regulation in the service sector must be proved to be the least trade restrictive way to accomplish a policy goal. Our local governments would be forced to focus first on corporate rights, not our needs, when setting water, education or health policy. If this happens, legitimate domestic policies that treat domestic and foreign services alike, could be challenged before closed-door trade tribunals in Geneva, where the burden of proof would fall on government officials to prove that there wasn't a less trade restrictive way to manage their service sectors.

**No way out:** If a nation seeks to withdraw a sector from GATS coverage, the government has to enter into negotiations to compensate trading partners for their lost business opportunities. In other words, under the GATS privatization is a one-way street—once you get there you can only get out with a massive ransom.

**The Free Trade Area of the Americas (FTAA)** is currently being negotiated between every country in the Western Hemisphere (except Cuba). The FTAA's services agreement is based on the NAFTA model, meaning it will go further than GATS. The FTAA is a "top down" agreement meaning it automatically would apply to "all measures affecting trade in services taken by governmental authorities at all levels of government" and would apply to all service sectors.

**Special investment rules:** FTAA's investment chapter (which also is based on NAFTA), has a special provision that allows corporations to sue governments directly in NAFTA tribunals if they feel that their profit has been limited by a governmental policy - even vital health and environmental policies applied equally to domestic and foreign investors. This provides investors with an incredibly powerful tool to undermine public interest policies. There have already been several cases filed by corporations challenging environmental and health laws, and in most of the cases, the tribunals have ruled that the environmental and health laws were in violation of the NAFTA rules and requiring governments to compensate the corporations with taxpayer dollars.

#### **What YOU can do!**

- \* An important deadline in the GATS negotiations is rapidly approaching. March 31, 2003, the U.S. Trade Representative's Office (USTR) will make initial commitments on behalf of the U.S. in the WTO GATS negotiations.
- \* Call USTR Bob Zoellick and USTR services negotiator Peter Collins (202) 395-3000 and tell them to keep essential public services such as energy and water utilities, health care, social security, and education off the negotiating table!
- \* Ask your local, state and federal elected representatives to demand from USTR all of the secret negotiating documents that are connected to state and local services issues. Get your elected officials to defend their constitutional rights and insist that the USTR not make commitments regarding your state until there is a full consultation with your state's Attorney General and approval by your governor and state legislature!

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