

## Unit 23

# WTO, GATT, GATS: Capital and Human Flows

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### Learning Objectives

After reading this unit you should be able to explain:

- the origin, scope and functions of the World Trade Organisation
- multiple facets of GATT, GATS and TRIPs;
- emerging concern of the developing countries on trade liberalisation;
- implications of trade liberalisation for social development, especially in the developing countries.

## 23.1 Introduction

In the previous units of this block we have discussed the issues of social, cultural and economic dimensions of globalisation and also the various facets of structural adjustment programmes and the impact of international trade regulations on traditional and indigenous knowledge. And we understood how the current pace of globalisation has affected the process of development across the globe. Trade, both national and international has become very important aspect of development. In the context of globalisation trade has taken a different shape and all aspects of human lives – goods, services, arts, music etc. - have emerged to be tradable objects. New mechanisms have emerged to facilitate trade globally. Some of the important international bodies/mechanisms of these arrangements are those of WTO, GATT and GATS.

In this unit we shall be discussing the implication of all these arrangements for the developing world. To begin with we have discussed the interface between social development, globalisation and trade agreements. We have briefly discussed the historical origin, functions, principles and scope of WTO and GATT. The issues covered in GATT, GATS and TRIPs, and their scope and commitments are also discussed in this unit. We have discussed at length the emerging concern for trade liberalisation and the implication on social development.

## 23.2 Social Development, Globalisation and Trade Agreements

The modern world witnessed a series of interrelated socio-political processes and events in the late 1980s and early 1990s. The most important of these have been ever increased global interconnectedness, introduction of structural adjustment programmes, the phenomenal expansion of information and communication technologies (ICTs), increasing commercialisation, perspective change in the orientation of development (from economic growth to human development) and a quantum increase in human and capital flows from one part of the globe to another and so on. All these have impacted the processes of development. There have been concerted efforts, against the backdrop of the collapse of the socialist economy and the triumph of the market forces, to redirect the forces of development locally and globally through the Social Development Summit 1995, formation of the World Trade Organisation, the General Agreement on Trade and Tariffs (GATT) and the General Agreement on Trade in Services (GATS). The *World Development Report 1997* focused on attempts to bring stability for investment and development. One of the central themes of all these efforts has been to remove all the obstacles to the expansion of the market forces that would supposedly pave the way for social and human development across borders. Let us examine briefly how the Social Development Summit 1995 has built up the case for free trade.

The Social Development Summit 1995 took place in Copenhagen in the wake of globalisation and introduction of structural adjustment programmes and especially on the eve of 50<sup>th</sup> anniversary of the United Nations Organisation. All heads of state pledged for social development and empowerment of the marginalised, ushering in the human face of development by ensuring peace and stability in society.

At this summit all the heads of state and government recognised that broad based and sustained economic growth is necessary to sustain social development and justice. It declares that “globalisation, which is a consequence of increased human mobility, enhanced communications, greatly increased trade and capital flows and technological developments; and opened new opportunities for sustained economic growth and development of the world economy, particularly in developing countries. Furthermore, the global transformations of the world economy are profoundly changing the parameters of social development in all countries. The challenge is how to manage these processes and threats so as to enhance their benefits and mitigate their negative effects upon people” (UN: 1995).

While identifying the principles and goals of social development and the framework of its action, this summit emphasised the need to “integrate economic, cultural and social policies so that they become mutually supportive, and acknowledge the interdependence of public and private spheres of activity”. It also recognised that new information technologies and new approaches to the access to and use of technologies by people living in poverty could help in fulfilling social development goals; and therefore recognised the need to facilitate access to such technologies.

The summit made several commitments in order to meet the goal of social development. In its very first commitment it mentioned:

at the national level all the states would commit to promote dynamic, open, free markets, while recognising the need to intervene in markets, to the extent necessary, to prevent or counteract market failure, promote stability and long-term investment, ensure fair competition and ethical conduct and harmonise economic and social development, including the development and implementation of appropriate programmes that would entitle and enable people living in poverty and disadvantage, especially women, to participate fully and productively in the economy and society (UN 1995).

At the time, these heads of the state also committed themselves to promote and implement policies to create a supportive external economic environment, through inter alia cooperation in the formulation and implementation of macroeconomic policies, trade liberalisation, mobilisation and/or provision of new and additional financial resources that are both adequate and predictable and mobilised in a way that maximises the availability of such resources for sustainable development, using all available funding sources and mechanisms, enhanced financial stability, and more equitable access of developing countries to global markets, productive investments and technologies and appropriate knowledge, with due consideration to the needs of countries with economies in transition (Ibid).

In another international commitment (commitment 3) they promised to “foster international cooperation in macroeconomic policies, liberalisation of trade and investment so as to promote sustained economic growth and the creation of employment, and exchange experiences on successful policies and programmes aimed at increasing employment and reducing unemployment (Ibid).”

This summit also committed (commitment 7) to “implement at the national level structural adjustment policies, which should include social development goals, and effective development strategies that establish a more favourable climate for trade and investment, give priority to human resource development and further promote the development of democratic institutions” (Ibid).

It is important that social development and human well-being have got the highest priority in the twenty-first century development discourse. Expansion of free market commodification of all vital aspects of life, and boundaryless expansion of trade have been envisaged to be the potential vehicles of social development and human well-being. The WTO, along with its several trade agreements and rounds of negotiations, has emerged to be the key agency under the auspices of the influential developed nations to monitor the expansion of free trade worldwide. Will the WTO, GATT and GATS be able to strike a balance between the diverse needs of the market on the one hand and that of the social commitment of the developing nations of the world? What are their limitations? Let us examine these issues in this unit.

#### Reflection and Action 23.1

What was the objective of the Social Development Summit, 1995? How have the issues of structural adjustment programme and free trade been associated with it?

### 23.3 World Trade Organisation (WTO): Origin

The World Trade Organisation (WTO) has taken concrete shape in 1995 after successful operation of the General Agreements in Tariffs and Trade (GATT) for around five decades. GATT again, had emerged out of some other experimentation on trade negotiations. Indeed GATT owes its origin to the pre-World War II American endeavour to secure mutual tariff reductions from 29 countries through bilateral means. The concept of a multilateral institution emerged after World War II especially with the initiative of America and Britain and formed the basis of the formation of GATT in 1947 as a transient arrangement. The original intention was to create the third institution to handle the trade side of international economic cooperation, joining the two Bretton Woods institutions, the World Bank and IMF. Over 50 countries participated in negotiations to create an International Trade Organisation (ITO) as a specialised agency of the United Nations. The draft ITO Charter extended beyond world trade disciplines to include rules on employment, commodity agreements, restrictive business practices, international investment and services. Even before the tasks concluded 23 of the 50 participants decided in 1946 to negotiate to reduce and bind customs tariffs. These 23 nations

ratified through negotiations a combined package of trade rules and tariff concessions which later known as General Agreements on Tariffs and Trade. It entered into force in January 1948, while ITO Charter still was being negotiated. The 23 became the founding GATT members. India was also a signatory.

Although the ITO Charter was finally agreed at a UN Conference on Trade and Employment in 1948, due to the opposition by some national legislatures, especially U.S. Congress which refused to ratify it apprehending ITO's interference in its sovereignty, ITO was effectively dead. So, GATT continued until January 1995 when the World Trade Organisation came into being after the Uruguay Round Final Act signed at Marrakesh on 15<sup>th</sup> April 1994. It has emerged as a super sovereign global agency for framing rules for international trade, investment, intellectual property rights, economic and social agenda for nations with adjudicating authority over member States. The Governments of all the sovereign national states have to comply with the provisions and pronouncements of WTO. India is a signatory of WTO also. In this historical backdrop let us examine the functioning and scope of WTO.

### 23.4 World Trade Organisation: Functions, Principles and Scope

To put simply WTO is an organisation that deals with rules of trade between nations at a global or near global level. It has emerged out of negotiations among the member countries on trade issues. Indeed it is a place where the member states go to try enhance the trade prospects and to sort out the trade problems they face with each other. Its functions for negotiating trade agreements among the member governments. Through negotiations, the WTO helps member countries to remove and lower trade barriers and liberalise trade. Let us see the function, principles and scope of WTO.

- a) **Functions:** The WTO sets rules for trade among nations. The WTO agreements, which emerge out of several rounds of negotiations, provide the legal ground-rules for international commerce.

They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments, the goal is to help producers of goods and services, exporters and importers conduct their business, while allowing governments to meet social and environmental objectives (WTO 2001).

WTO also helps settle disputes related to trade. Most of the agreements, in the WTO system, often need interpretation. At times differences take place among the trading partners on the interpretation of the agreements. There are also conflicts in trade interests. "The most harmonious way to settle these differences is through some neutral procedure based on the agreed legal foundation." WTO aims to settle all disputes with laid down procedure.

- b) **Principles of the Trading System:** As WTO sets the rules for trade; it has developed sets of agreed principles for this purpose. Indeed WTO agreements are based on certain fundamental principles. These may be described as follows:

- **Trade Without Discrimination.** This principle has two aspects to it i) **Most Favoured Nation-MFN:** Under WTO agreements no country can normally discriminate among its trading partners. When some special favours are given, e.g., the Most Favoured Nation (MFN) treatment, the same favour is normally to be thrown to all the other WTO members. Even though it sounds like a contradiction, in essence it implies that each member treats all the other members as Most Favoured trading partners. ii) **National Treatment.** This involves "imported and locally-produced goods should be treated equally – at

least after the foreign goods have entered the market. The same should apply to foreign and domestic services and to foreign and local trademarks, copyrights and patents" (source: [www.wto.org](http://www.wto.org)). To WTO, "opening markets can be beneficial, but it also requires adjustment. The WTO agreements allow countries to introduce changes gradually through progressive liberalisation. Developing countries are usually given a longer turn to fulfill their obligation". Significantly the WTO agreement also desires the member governments to ensure that the business environment is stable and predictable.

- Open Trade Policy and Fair Competition: WTO recognises that "all countries, including the poorest, have assets - human, industrial, natural, financial - which can be used for producing goods and services both for the domestic and overseas markets. It also recognises that bilateral trade policies, that allow the unrestricted flow of goods and services, sharpen competition, motivate innovation and breed success. They multiply the rewards that result from producing the best products with the best design at the best price" (WTO 2001). The WTO believes that lowering trade barriers such as import duties or tariff, restricting or removing quotas and removing bans on select imports goes a long way in encouraging free trade.
- Encouraging Economic Reforms: Trade liberalisation is an important agenda of WTO. Over three quarters of WTO members are developing countries and countries in transition to market economies. Here all members have committed themselves to market access within a specified timeframe (we shall discuss this timeframe later).
- General Agreement on Trade in Services (GATS) Earlier agreements tended to concentrate on goods but increasingly the areas expanded to services such as banking, telecommunications, postal services, tourism, transportation, waste disposal, oil and gas production and electricity. They also cover those services universally considered to be essential to human health and development, like healthcare, education and drinking water. GATS was established in 1994 as part of the Uruguay Round. It is known as a "bottom-up" agreement because it is based on countries listing the sectors they will open up for liberalisation. GATS negotiators and the WTO like to project GATS as a very flexible agreement from which countries may completely exclude certain sectors. "Unfortunately, in reality, the GATS text is very ambiguous in terms of what is covered by its rules and what is not (see unit 22 for more details). For instance, the first paragraph in the GATS states that only government services that are supplied neither on a commercial basis nor in competition with one or more service suppliers are excluded from GATS on the basis of being a government service. Most government services (like health care, education and energy) involve some public/private mix and might therefore be subjected to GATS rules. Such government services could be challenged for violating WTO rules" (source: [www.citizen.org](http://www.citizen.org)).

c) **Scope:** The WTO agreements cover goods, services and intellectual property. The Uruguay Round of Multilateral Trade Agreement, that form the foundation of WTO, covers the following three broad areas of trade agreements:

#### The General Agreement on Tariffs and Trade (GATT)

GATT includes sectors or issues related to

- Agriculture
- Health regulations for farm products (SPS)
- Textile and clothing

- Product standards
- Investment measures
- Anti-dumping measures
- Custom violation methods
- Pre-shipment inspection
- Rules of origin
- Import licensing
- Subsidies and counter measures
- Safeguards

#### The General Agreement on Trade in Services (GATS)

GATS includes

- Movement of natural persons
- Air transport
- Financial services
- Shipping
- Telecommunications

#### The Trade Related Aspects of Intellectual Property Rights (TRIPs)

TRIPs covers

- Copyrights and related rights
- Trade marks
- Geographical indication
- Industrial designs
- Patents
- Layout Designs
- Undisclosed information including trade secrets

##### Box. 23.1: What happened to GATT?

WTO replaced GATT as an international organisation, but the General Agreement still exists as the WTO's umbrella treaty for trade in goods, updated as a result of the Uruguay Round negotiations. Trade lawyers distinguish between GATT 1947, the updated parts of GATT, and GATT 1994, the original agreement which is still the heart of GATT 1994 (WTO 2003)

## 23.5 General Agreements on Tariffs and Trade (GATT)

Let us briefly discuss some aspects of GATT

- a) **Agriculture:** Agriculture as an item in GATT has been widely discussed and debated. Under this agreement countries are allowed to use some non-tariff measures such as "import quotas" and subsidies. According to WTO the objective of the agricultural agreement is "to reform trade in the sector and to make policies more market oriented" with a view to improving predictability and security for importing and exporting countries alike. Thus the agreement on agriculture relates to market access, domestic support and export subsidies. According to WTO "the agreement on agriculture does allow governments to support their rural economies but preferably through policies that cause less distortion to trade. It also allows some flexibility in way of commitments, which are to be implemented

over a period of time. Developing countries do not have to cut their subsidies or lower their tariffs as much as developed countries and they are given extra time to complete their obligations. Least developed countries do not have to do this at all" (Ibid).

The arguments which are usually raised against domestic support prices or for subsidised productions are that these encourage over production, quizz out imports, lead to export subsidies and low price dumping on world markets. Hence the developed countries agreed to reduce the agricultural support price by 20% over six years starting in 1995, the developing countries by 13% over ten years. The developed countries again agreed to cut the value of export subsidies by 36% over the six years starting in 1995 and the developing countries by 24% over 10 years. The developed countries also agreed to reduce the qualities of subsidised exports by 21% over the six years and the developing countries by 14% over the 10 years.

- b) **Health Standards and safety:** Another important aspect of GATT is the maintenance of standards and safety "in order to protect human, animal or plant life or health, provided they do not discriminate or use this as disguised protectionism". Here the member governments are to use international standards. However, WTO has allowed individual member countries to apply a scientifically justified higher standard; thus allowing them to use different standards.
- c) **Textiles:** This is a contentious area of GATT. Until the end of the Uruguay Round, trading in textiles was governed by bilateral agreements or unilateral action in terms of established quotas. Under the quota system, countries could impose a limit on imports of textiles into the domestic market. However, under WTO's Agreement on Textiles and Clothing, this sector is to be fully integrated into GATT rules by January 2005 to bring to an end the quota system and to end the discrimination by the importing countries between exporters.

#### Reflection and Action 23.2

What are major aspects of trade covered under GATT? What are the guiding principles involved in this trade?

## 23.6 General Agreement on Trade in Services (GATS)

GATS was formulated in the Uruguay Round against the backdrop of the phenomenal expansion of the service economy all over the world. Let us explain some important aspects of GATS, especially its coverage, obligation and disciplines.

- a) **Coverage:** The agreement covers all internally traded services - for example banking, telecommunications, tourism, professional services, etc. It has been defined in four ways (or "modes" of trading services):
- Service supplied from one country to another (e.g., international telephone calls), officially known as "cross-border supply" (in WTO jargon, "mode 1")
  - Consumers or firms making use of a service in another country (e.g. tourism), officially "consumption abroad" ("mode 2")
  - A foreign company setting up subsidiaries or branches to provide services in another country (e.g., foreign banks setting up operations in a country), officially "commercial presence" ("mode 3").
  - Individuals traveling from their own country to supply services in another (e.g., fashion models or consultants), officially "presence of natural persons" ("mode 4")

b) Principle of GATS

Trades in these services, according to GATS, are to be governed by the following obligations and disciplines:

- i) Most Favoured Nation treatment (MFN) is the cornerstone of GATS, whereby equal opportunity is to be given to service providers from all WTO members. However, there was a temporary exception to honour for a period of 10 years (starting from January 1995) the already preferential agreements the member countries signed with trading partners.
- ii) GATS binds commitment on market access and national treatment to all WTO members. According to WTO, "the commitments are virtually guaranteed conditions for foreign exporters and importers of services and investors in the sectors to do business".

It is important that government services, as those are not applied commercially, are not subject to GATS commitment.

**Box 23.2: Technically the word Privatise is not available in GATS**

There is nothing in GATS that forces governments to privatise services and industries. In fact the word privatise does not even appear in GATS. Nor does it out law government or even private monopolies (WTO 2001).

- iii) It is obligatory on the part of the government to make all relevant laws and regulations governing services public. The governments also have to notify to WTO any changes in the regulations that apply to services.
- iv) GATS stipulates that member governments should regulate services reasonably, objectively and impartially when they set standard, price, safety measures, etc.
- v) Recognition of other countries' qualifications (the licensing or certification of service suppliers) must not be discriminatory.
- vi) Progressive liberalisation of the services sector is a goal of GATS, which is to be achieved through negotiations. (WTO 2001)

**Box 23.3: Mode of Supply of Education under GATS**

Mode of Supply According to GATS	Explanation Education	Examples in Higher Education	Size/Potential of market
1. Cross Border Supply	-the provision of a service where the service crosses the border (does not require the physical movement of the consumer)	-distance education -e-learning -Virtual universities	-currently a relatively small market -seen to have great potential through the use of new ICTs and specially the internet
2. Consumption	-provision of the service involving the movement of the consumer to the country of the supplier	-students who go to another country to study	-currently represents abroad of the global market for education services
3. Commercial Presence	-the service provider establishes or has presence of commercial facilities in another country in order to render service	-local branch or satellite campuses -twinning partnerships -franchising arrangements with local institutions	-growing interest and strong potential for future growth -most controversial as it appears to set international rules on foreign investment
4. Presence of Natural Persons	-persons traveling to another country on a temporary basis to provide service	-professors, teachers, researchers working abroad	-potentially a strong market given the emphasis on mobility of professionals

Source: Night 2002



**Box 23.4: Classification of education services under GATS**

Category of education service in each category	Education activities included	Notes
Primary Education (CPC 921)	-pre-school and other primary education services -does not cover child-care services	
Secondary Education (CPC 922)	-general higher secondary -technical and vocational secondary -also covers technical and vocational services for the disabled	
Higher Education (CPC 923)	-post secondary technical and vocational education services -other higher education services leading to university degree or equivalent	-types of education (i.e., business, liberal arts, science) are not specified -assumes that all post secondary training and education programs are covered
Adult Education (CPC 924)	-covers education for adults outside the regular education system	-further delineation is needed
Other Education (CPC 929)	-covers all other education services not elsewhere classified -excludes education services related to recreation matters	-needs clarification re coverage and differentiation from other categories  -for example- are education and language testing services, student recruitment services, quality assessment covered?

Source: Night 2002

## 23.7 Trade Related Aspects of Intellectual Property Rights (TRIPs)

Ideas and knowledge emerging out of research, innovation, invention, and application of advanced technology are important parts of trade. The WTO agreement on Trade Related Aspects of Intellectual Property Right (TRIPs) aims to grant the creators “the right to prevent others from using their inventions, designs or other creations and to use that right to negotiate payment in return for others using them.” Disputes over intellectual property rights are settled based on certain basic principle. Some of them are mentioned below:

- a) **National Treatment:** (trading one’s own nationals and foreigners equally) and Most Favoured Nation (equal treatment for all nations) are the basic principles of TRIPs. It also stipulates that intellectual property protection should contribute to technical innovation and transfer of technology (Ibid)
- b) **Intellectual Property Rights:** TRIPs has made elaborate arrangements to protect intellectual property. It protects the copyright of producers of intellectual property. Computer programme is protected as literary work. Similarly sound recording, films and the performers are given the rights to prevent the unauthorised use of one’s production. While service marks will be protected as trade marks, well-known trade marks will enjoy additional protection.
- c) **Patent Protection:** According to the agreement, patent protection must be available for inventions for at least 20 years. “Patent protection is available both for products and processes in almost all fields of technology. Government however can refuse to issue a patent for an invention if its commercial exploitation affects public order or morality. Regarding plant, it is said that plant varieties must be protected and protectable by patents.

While the patent owners are given specific rights to enjoy and to prevent the possible abuse of those rights, the member governments are authorised to issue “compulsory licensees” allowing a competitor to produce the product or use the process under license by safeguarding the legitimate interests of the patent-holder”.

Patent protection for pharmaceutical products at times prevents poor people of developing countries from having access to medicine. The Doha Ministerial Conference in November 2001 has agreed to grant exemptions on pharmaceutical patent protection for least developed countries until 2016.

Developing countries see technology transfer as a part of a bargain in which they have agreed to protect intellectual property right. The TRIPs agreement requires the developed countries to provide incentives for their companies to transfer technology to least developed countries (Ibid).

**Box 23.5: Transition arrangements: 1, 5 or 11 years or more**

When the WTO agreements took effect on 1 January 1995, developed countries were given one year to ensure that their laws and practices conform to the TRIPs agreement. Developing countries and (under certain conditions) transition economies were given five years, until 2000. Least-developed countries have 11 years, until 2006, which presently extended to 2016 for pharmaceutical patents.

If a developing country did not provide product patent protection in a particular area of technology when the TRIPs Agreement came into force (1 January 1995), it has up to 10 years to introduce the protection. But for pharmaceutical and agricultural chemical products, the country must accept the filing of patent applications from the beginning of the transitional period, though the patent need not be granted until the end of this period. If the government allows the relevant pharmaceutical or agricultural chemical to be marketed during the transition period, it must - subject to certain conditions - provide an exclusive marketing right for the product for five years, or until a product patent is granted, whichever is shorter (WTO 2001).

**Box 23.6: Anti dumping, subsidies and safeguards**

When a country exports a product at a price lower than it normally charges in its home market, it is said to be the “dumping of the product.” Binding tariffs, and applying them equally to all trading partners, are key to the smooth flow of trade in goods. GATT allows countries to take action against dumping. The Anti-Dumping Agreement allows countries to act in a way not discriminating between trading partners. Typically, anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the “normal value” or to remove the injury to domestic industry in the importing country.

## 23.8 Trade Liberalisation: The Emerging Concerns for Developing Countries

In the following sections of this unit we shall be discussing the implications of WTO agreements on the developmental concerns of the developing countries. It has been assumed by a section of scholars that “trade liberalisation in service can result in increased competition, lower prices, more innovation, technology transfer, employment generation, and greater transparency and predictability in trade and investment flows” (Chanda 2002: 2). Significantly, trade liberalisation is also being seen as conducive to the realisation of social, developmental and equity issues. As indicated in the first section, the Social Development Summit, 1995 at Copenhagen categorically mentioned that social development could not be separated from the economic environment.

An important section of scholars are of the view that GATT and the GATS would make a balance between market forces and public policies pertaining to social and equity issues. However, questions are usually raised as to whether in the emerging environment of competitiveness the concern for equity, public distribution, human development of the marginalised, and the sovereignty of the states in fulfilling their national social objectives will get proper attention and treatment. It is usually pointed out that in the areas of health and education there are recognised market failures and the states are involved as providers of such services in many areas. The lack of commitments in social services by the market forces only widen the scope of such concerns (Ibid). Let us see some of them in little more detail.

- a) WTO has emphasised uniformity of standards, rules and procedures, which are to be adhered to by all the member governments within a specified time frame. The developing and least developed countries are given more time than the developed ones to formulate the norms, rules and economic policies to match the requirement of global uniformity. The fact is that this harmonising tendency has emerged by undermining the diverse patterns of economy, localised needs and issues. At times the process of harmonisation has prevailed over economic autonomy and political sovereignty of developing and least developed countries. The GATS agreement is comprehensive and applicable to all levels of the governments - central, state, provincial, local and municipal. It is apprehended that the GATS principle would carve the sovereignty of the state, minimise the national interests and ignore universal service obligations. It is also said that the agreement for the development of discipline in the accountancy sector by the WTO's working party on professional services and its possible extension to other services like health and legal areas would undermine the government's authority to regulate consumer protection, ethical conduct and professional integrity (Ibid). It is alleged WTO has been formed under the protracted influence of the West to safeguard the interests of the multinational companies (MNC) of the developed nations especially those of North America. It is again said that the MNCs have a bigger say in the trade negotiations than sovereign states of the developing and least developed countries. Due to pressure from the lobbies in developed countries, GATS would force the developing and the least developed countries to open their services sector to trade leading to a "corporate take over" of the domestic service sector by the multinationals. Such a take over would undermine government's commitment to equity, universal service obligations and consumer protection (Ibid).
- b) WTO has introduced market driven competition among unequal partners. The developing and least developed countries, who are yet to fully develop their markets, infrastructure, domestic capacity for investment, etc., will face added disadvantages while encountering the process of harmonisation. This process will reduce the possibility of the potential entry of these countries in competitive markets. Again, the increasing emphasis on labour and environmental standards has put serious trade restrictions on these countries. The problems of unemployment, poverty and illiteracy, which are endemic in these countries, are being undermined in the process of harmonisation. The GATS negotiation would serve the export interests of the developed countries. Under the given situation the developed, developing and least developed countries are unevenly placed so far as the supply capacity in service is concerned. "Critics note that the present asymmetry and the bias in the market access commitment towards capital mobility as opposed to labour mobility (mode 3 as opposed to mode 4) works in the interests of developed rather than developing countries. It reflects a basic imbalance in negotiating positions and lobbying power between the two sides."

It is pointed out that GATS would not take into consideration the export interests of the developing countries, especially the cross-border mobility of labour (mode 4). The commitments to mode 4 "are highly biased towards the higher levels of service providers such as executives, managers and corporate transferees," whose movements are usually linked to commercial presence.... There is considerable asymmetry in the current commitments on labour mobility compared to those on capital mobility, with a more liberal commitments being made ....on foreign equity participation. Such asymmetry in mode-wide commitments is one of the reasons why many countries do not see GATS as helping them to top their export potential in labour based services and why GATS has been perceived as only in the interest of the developed countries." (For details see Chand 2002)

- c) The service sector of economy including both the traditional ventures like transport, physical and telecommunication, tourism and emerging areas like information and communication technologies (ICTs) and environmental and educational services has been undergoing a process of phenomenal expansion all over the globe in recent years. In the developed countries like the UK and the USA, it constitutes more than 72% and in the developing countries like India it is 52% of the GDP (World Bank 2005). This sector also provides a similar proportion of employment to the workforce of these countries. Again there has been considerable expansion in service sector trade and investment flows. According to WTO Annual Report 1999-2001, the service sector accounts for 40% of the global annual stock of foreign direct investment (FDI) and for 50% of the World annual FDI flows (WTO 2001). It is a fact that developed countries has an exceptionally higher share in FDI in the service sector than the developing and least developed countries. Trade liberalisation in services as initiated through the Uruguay Round was largely due to pressure from the service sector lobby in the developed countries. It is also felt that since one of the modes of supply is commercial presence, "GATS would be a means for commercial interest in the developed countries to access developing country service markets in areas such as in service, banking and telecommunication through foreign direct investment."

In the emerging global scenario, experts are of the view that in the service sector like construction and engineering, health and education services, the developing countries have considerable export potential due mainly to then availability of skilled and abundant labour. For example India has already emerged as the leading exporter of software services, and trained human resources too in ICTs.

- d) There are some ambiguities in the scope and coverage of the range of services covered by GATS. At times it is said that services provided in the exercise of government authority are excluded from the agreement. Again it is said that services, which are not supplied on a commercial or competitive basis, are excluded from GATS. As there is co-existence of private and government suppliers in many of the crucial services, these are amenable to diverse interpretations.
- e) GATS has imposed restrictions on the issues of subsidy, government procurement etc. policy. Such restrictions, it is alleged, would have adverse affects "on the cost, availability and equitable distribution of services (Ibid).

**Reflection and Action 23.4**

Write a critique of GATS in view of the socio-economic need of the marginalised groups of your society.

## 23.9 Implication for Health and Education

GATS has several implications on various aspects of social development, especially in the health and education sectors.

- a) **Health:** The health sector has a high degree of government involvement in the developing countries, as it is an area of immediate social concern. Progressive liberalisation of this sector has both benefits and problems. For example when one looks at the prospect of cross-border exports of health services, it is pointed out that through telemedicine the health care provider can serve the need of the remote and unserved segments of population. However, it may address the need of selected segments only in view of the prevalent digital divide within the country itself. Following the “consumption abroad mode”, the developing countries can generate foreign exchange by providing healthcare services to other countries. However, there may a contradiction. High quality service may be exported, while low quality is produced for local markets. Through “commercial presence”, the developing countries can generate additional resources for health care service, generate employment opportunities, reverse the brain drain, reduce the burden on the government, etc. However, such a possibility would need large foreign direct investment in the health sector. As the dual system emerges, better-qualified doctors will flow from the public to the corporate sector. Under the “movement of natural persons” the source country can get more remittances, upgrade skills and standards, and promote exchange of knowledge among health professions as providers of service. The host country, on the other hand, can meet the shortage; improve quality by getting service from the providers.

However, permanent outflows adversely affect the equity and quality of health services in the source countries. “Indeed the bulk of cross-border flows of health care professionals take the form of permanent migration. An estimated 10,000 health professionals emigrated from South Africa between 1989 and 1997. Again a dark side of this human flow from the source countries’ point of view is that it imposes high cost, leads to shortage of trained manpower and loss of public resources. One study estimated that South Africa lost 67.8 billion Rand in human capital investment in health care sector in 1997 (calculated from the training cost of Rand 600,000 per physician), a loss only partly offset by the remittances arising from such outflows” (Chanda 2002: 21)

- b) **Education:** In recent years the processes of commercialisation of higher education and foreign collaboration therein have increased. The GATS commitment to education services has both the positive and the negative sides. These sides are more or less similar to those of health services.

GATS, according to Edsalt (2000), is a charter of rights for corporations who (a) restricts to the right of governments to regulate them, (b) guarantees the transnational education providers the right to both operate and receive government funding (Edsalt 2000).

Critics also points out that the corporate world has found in WTO a forum to push their corporate agendas onto the unaware and unwilling countries and people without any democratic accountability. In this attack, they have discovered the possibility of manufacturing the thinking, the attitudes, and the purchasing choice of their corporations’ consumers and workers (Frase and O’Sullivan 2003).

Corporations have seen the prospects in the deregulated education sector. In 1996 the US provided export of education and training services that reached \$8.2 billion with a trade surplus of some \$7 billion.

**Box 23.7: Goal for Corporate World: An Example**

The Coalition of Service Industries (CSI) has outlined their principal goals for the Seattle Round of WTO:

- Ensure the right of US companies to establish operations in foreign markets, including the right to wholly own these investments;
- Ensure that US companies get “national treatment”, so that foreign investors have the same rights as domestic companies in a given market;
- Promote pro-competitive regulatory reform focused on an adequacy of appropriate and consistent rules as well as transparency and impartiality of regulatory administration;
- Removal of barriers to greater cross-border trade;
- Remove obstacles to the free movement of people and business information.

Source: Frase and O’Sullivan 2003

With the phenomenal expansion of ICTs new models of commercialisation are added to education. There have emerged ruthless processes contributing to harmonisation of educational standards, decline in the uniqueness of educational institutions, elimination of cultural focus, thoughts and educational themes. With corporate controlled education, the security of an educational institution will disappear as it loses out to big merger deals and high-stakes investing. In fact the very ideal of education will change. No longer will truth be sought, but rather whatever suits the interests of the multinationals (Frase and O’Sullivan 2003).

Especially in developing countries education has a social concern. Governments subsidises education to meet the national goal. As subsidised education is a barrier to free trade, government controls are to be minimised on education through GATS. “Government may be forced to allow private companies to issue accredited diplomas, even if there is little control over what is being taught by these private institutions .... But perhaps more disturbing is the potential for education to increasingly serve only as a corporate training ground, rather than encouraging critical enquiry and other democratically agreed upon ends” (Ibid).

There is a strong feeling that GATS negotiation would serve the interests of the industrial lobby by imposing unequal bargaining power among the developed and the developing nations. Educational institutions and their services have been treated as national and social services. In fact, dissemination of knowledge, creation of knowledge and service to community are three tasks performed by educational institutions for nation building. The presence of foreign institutions would undermine this task by converting education into a commodity and by altering the content of education in terms of the market need (Gill 2003)

## 23.10 Conclusion

In this unit you must have seen the linkage between social development, globalisation and trade agreements. It is clear from the discussion in this unit that there are several issues, which are of great concern for the developing countries especially from the viewpoint of their sovereignty and cultural specificity. The concern has also been doubly compounded with the apprehension that WTO has been virtually taken over by the MNCs. The states in the developing countries are having several social and political commitments. One is not so sure that all these commitments and obligations would be fulfilled under the WTO regime. Perhaps we have to observe the functioning of WTO more vigilantly than ever to safeguard sovereignty.

## 23.11 Further Readings

Chanda, R. 2002. *GATS and Its Implications for Developing Countries: Key Issues Concerns*. Department of Economic and Social affairs. United Nations: New York

Gill, S.S. 2003 "Globalisation: Higher Education will suffer", in *The Tribune* July 20, 2003.

Night, J. 2002. *Trade in Higher Education Services: The Implications of GATS*. The Observatory on Borderless Higher Education: London