

July 14, 2008

TO: Permanent Representatives to the WTO in Geneva
Copy to: Pascal Lamy, WTO Director General
Amb. De Mateo, Chair of the Special Sessions of the Council for Trade in Services

DANGEROUS CHANGES IN GATS' NEGOTIATING RULES

As civil society organizations concerned about trade justice issues around the world, we are appalled by provisions in the draft negotiating text issued May 27th by the Chair of the WTO Council for Trade in Services.

In particular, we find the following bracketed text in paragraph 4 of the Annex to be particularly problematic:

Negotiations must be driven by the same level of ambition and political will as reflected in the agriculture and NAMA modalities. While respecting the existing structure and principles of the GATS, Members shall respond to bilateral and plurilateral requests by offering commitments that substantially reflect current levels of market access and national treatment and provide new market access and national treatment in cases where significant trade impediments exist.

If adopted, this text would establish new mandatory procedures for service negotiations that flatly contradict many of the modalities already agreed upon for the GATS negotiations, namely:

- the Guidelines and Procedures for the Negotiations on Trade in Services [March 28, 2001] that stipulate --- "The starting point for the negotiation of specific commitments shall be the current schedules, without prejudice to the content of requests." (point 10) and --- "Special attention shall be given to sectors and modes of supply of export interest to developing countries";
- the Modalities for the Special treatment of the Least Developed Country Members in the Negotiations on Trade in Services [September 3, 2003];
- the explicitly non-mandatory guidelines adopted in Annex C of the Hong Kong Ministerial Declaration in 2005;
- the flexibilities for services negotiations as outlined in Article XIX of the GATS, allowing countries to engage in progressive liberalization, and GATS Article XIX.2 which permits developing countries to open fewer sectors or liberalize fewer transactions, and to ensure that opening market access to certain sectors is compatible with their development priorities.

In effect, this bracketed text reflects a unilateral demand by the industrialized powers to make mandatory ("*Negotiations must be driven*", "*Members shall respond*") and binding commitments for opening the service sectors of their economies to foreign-based transnational corporations.

It is well known that the US and the EU, supported by Japan, Canada, Australia and other industrialized countries, have been insisting that developing countries make major concessions in terms of market access in services in exchange for movement in agriculture and NAMA before the Doha Round can be concluded. Key sectors of developing country economies have been targeted for market access and national treatment including --- financial services, energy services, telecom services, education services, environment services and tourism services.

Another problem is that the aforementioned bracketed text appears to be set up for bargaining against another bracketed text in the same paragraph 4:

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“Members reiterate that the next offers shall provide market access in sectors and modes of supply of export interest to developing countries, such as Modes 1 and 4, as indicated in bilateral and plurilateral requests, in accordance with Article IV of the GATS.”

The problem here is that this bracket text reiterates a long agreed principle in GATS art. IV.1. (c). It, therefore, should not be put in brackets (even if it more explicitly refers to modes 1 and 4) and should not be used for bargaining against a part of text that flatly contradicts already agreed upon negotiation principles.

We fear that in a push to rapidly finalize the Doha round negotiations in 2008, GATS negotiators will be forced to offer commitments that substantially reflect current levels of market access and much more. In some cases, developing countries will be suddenly compelled to make offers in inequitable exchanges for concessions made in areas of agriculture and NAMA. This would also mean that GATS negotiations would be extremely rushed in comparison with the negotiations on agriculture and NAMA, while the demands from the rich countries might have very complex, costly and negative consequences in many developing countries.

Moreover, many other parts of the GATS negotiations are still matters of concern, such as the negotiations on domestic regulation which will substantially erode policy space even if the language seems to have been softened.

We, therefore, urge not only developing countries but all member states of the WTO Council on Trade in Services, to reject this draft text, especially paragraph 4, and, instead, insist that the GATS modalities of non-mandatory guidelines and flexibility for developing countries, be fully respected in these negotiations. This means that the GATS negotiations should not be rushed, and not be used as a bargaining chip or as compensation for the concessions made by developed countries in either the agriculture or NAMA negotiations.

Co-signed by:

Africa-Europe Faith & Justice Network, Belgium
Alianza Social Continental
Alliance for Democracy, USA
Alliance for Progressive Labor [APL], Philippines
Amigos de la Tierra América Latina y el Caribe
ARENA, New Zealand
Articulação de Mulheres Brasileiras, Brazil
Associação Nacional dos Serviços Municipais de Saneamento, Brazil
Asia Pacific Mission for Migrants, Hong Kong
Association internationale de techniciens, experts et chercheurs [AITEC], France
ATTAC Argentina
ATTAC Austria
ATTAC France
ATTAC Germany
ATTAC Poland
ATTAC Spain
Australian Fair Trade and Investment Network, Australia
Australian Manufacturing Workers Union, Australia
Beati I Costruttori di pace, Italy
Bia'lii, Asesoría e Investigación, Mexico

Bharatiya Krishak Samaj, India
Brazilian Network for the Integration of Peoples [REBRIP], Brazil
Canadian Centre for Policy Alternatives, Canada
Center of Concern, USA
Citizens Against Privatization, New Zealand
Coalition of the Flemish North-South Movement-11.11.11, Belgium
Consumers Association of Penang, Malaysia
Corporate Europe Observatory, Belgium
Ecologistas en Acción, Spain
Economic Justice and Development Organization, Pakistan
Edmund Rice Centre for Justice and Community Education, Australia
Education International --- based in Belgium
Enginyeria sense Fronteres-Catalunya, Spain
Entrepobles, Spain
Federación de Comités de Solidaridad con Africa Negra, Spain
Food and Water Watch, USA
Foundation for Gaia, UK
Foundation for Grassroots Initiatives in Africa, Ghana
Friends of the Earth Europe
Friends of the Earth International --- based in the Netherlands
Friends of the Earth Malaysia, Malaysia
Global Peace and Justice Auckland, New Zealand
Humanitarian Group for Social Development, Lebanon
Institute for Agriculture and Trade Policy, USA
Institute for Global Justice, Indonesia
International Gender Trade Network
International Grail Justice in Trade Network, Australia
KAIROS: Canadian Ecumenical Justice Initiatives, Canada
La Alianza Social Continental Capitulo, Peru
Marcha Mundial de las Mujeres, Mexico
Medicus Mundi-Catalunya, Spain
Millennium Solidarity, Switzerland
Missionaries of the Sacred Heart Justice & Peace Center, Australia
Mujeres por el Diálogo, Mexico
Oakland Institute, USA
Oxfam International
Pakistan Fisherfolk Forum, Pakistan
Pax Christi, Australia
Peace for All International, Canada/Uganda
Platforma por Defensa de los Servicios Publicos de Madrid, Spain
Polaris Institute, Canada
Proyecto cultura y solidaridad, Spain
Public Service International --- based in France
Quality Public Education coalition, New Zealand
Red Colombiana de Acción Frente al Libre Comercio, Colombia
Red Nacional Género y Economía, Spain
Red de Semillas "Resembrando e Intercambiando", Spain
Red Sinti Techan, El Salvador
REDES – Amigos de la tierra, Uruguay
SETEM, Catalunya, Spain
Siembra, AC, Mexico

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SOMO [Centre for Research on Multinational Corporations], Netherlands
South Africa Municipal Workers' Union, South Africa
Supolitik, Turkey
Transnational Institute, Netherlands
UNI Global Union --- based in Switzerland
Veterinaris sense Fronteres-Catalunya, Spain
War on Want, UK
WIDE, Belgium
World Development Movement, UK
Xarxa de Observatori del Deute en Globalització, Spain