

WTO: TRADING AWAY AFRICA



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GATS — TRADING AWAY BASIC RIGHTS

The GATS represents a powerful and totally unacceptable instrument that limits policy space and restricts popular access to services which are essential to people's livelihoods and economic development.

From the Nairobi Civil Society Declaration on GATS, May 2003

The predecessor to the World Trade Organisation (WTO), the General Agreement on Tariffs and Trade (GATT) only dealt with trade in goods and hence services were excluded from multilateral trade rules. Through GATS – The General Agreement on Trade in Services – WTO rules are extended to services. The definition of a service is extremely vast, and it includes anything from insurance, telecommunication, banking, transport, tourism to basic social services such as health care, education, water and sanitation.

GATS is part of the in-built agenda in WTO. Negotiations to expand the agreement began in February 2000. GATS aims at achieving “progressively higher levels of liberalisation of trade in services”. This objective will be achieved by removing “unnecessary” restrictions and government regulations that are considered “barriers” to trade.

Corporate influence

Services are a lucrative market for transnational companies. The service industry covers over half of the global economy, and trade in services constitutes around 25% of world trade. This is also why big service corporations based in the north along with powerful business lobby groups have been pushing for the GATS agreement.

“Without the enormous pressure generated by the American financial services sector... there would be no services agreement”.

David Hartridge, former Director of the WTO Services Division

Human rights turned into commodities

There are growing concerns that GATS constitutes a threat to access to basic social services, such as education, health care and water distribution, which have traditionally been provided by the state. Many would argue that these kind of basic services must continue to be part of the government's responsibility and cannot be left to market forces. In practice, liberalisation often leads to privatisation. From the experiences of structural adjustment programmes enforced by the International Monetary Fund (IMF) and the World Bank we have seen how liberalisation has led to privatisation in African countries and how this in turn has meant a reduced access to basic services for poor people.

Threat to public services

Proponents of GATS maintain that public services are exempt from the agreement, because of the clause that excludes services “supplied in the exercise of governmental authority, [i.e. those] supplied neither on a commercial basis, nor in competition with one or more service suppliers”. But it is not clear if, for example, user fees or insurance premiums charged for public health care means that the service is provided on a “commercial basis”. WTO staff have also admitted that the text is ambiguous.

GATS grants rights to investors while limiting governments' ability to regulate

GATS also covers foreign companies setting up a branch to provide services in another country, stipulating that once established in a host country these foreign service providers must be treated no less favourably than domestic firms. This makes GATS an investment agreement. Once a service sector is fully committed under GATS, the government will not be able to protect local infant industries from competition from foreign companies or require that investors employ local staff or use local raw materials.

As such GATS cuts deeper into government domestic policy making than many other multilateral trade agreements. African and other developing countries are concerned that GATS erodes their abilities to regulate service sectors, both in terms of for example protecting local industries as well as in order to achieve political, social or environmental objectives.

GATS is effectively irreversible

GATS 'locks in' commitments to liberalise service sectors. It is practically impossible (although feasible in theory) for a WTO member to reverse commitments it has once made: the process can start only three years after a commitment is made and affected trading partners must be compensated. This is a severe restraint in the democratic rights of citizens to decide how services should be regulated in the future. It effectively denies future governments the option to change policies if they are proven wrong.

Current negotiations

The Doha declaration set deadlines for the requests and offers in the current negotiations. WTO members were required to submit initial bilateral market access requests to their trading partners by 30 June 2002. These requests are asking for commitments to binding liberalization in targeted service sectors. By 31 March 2003 members were supposed to have submitted initial offers, i.e. responded to the requests with offers of service sectors that the country is willing to commit under GATS. The whole request process was very secretive and it was not until all EU's requests were leaked in April 2003 that we saw the full extent of these very ambitious requests.

Flexible agreement is a myth

Proponents of GATS have maintained that GATS is a development-friendly and flexible agreement, but this has been seriously challenged by the nature of the requests. The requests from EU and US are for example targeting services that are currently provided by the state in developing countries and are asking countries to do away with limitations that countries have made in their commitments in order to ensure that investment in service sectors will benefit people and the local economy.

Assessments

African and other developing countries have consistently called for an overall assessment of the impacts of trade in services before the negotiations continue (and this is also stipulated in the GATS agreement itself). But so far no assessment has been made.

Both EU and the US have made very comprehensive requests to Kenya, which touched virtually on every service sector. EU has for example requested Kenya to open up water distribution, waste management, insurance, retailing services and a wide range of other sectors. EU is also requesting Kenya to do away with limitations in their commitments, for example caps on foreign shareholding, that Kenya has made in order to ensure that the investment in service sectors would benefit the local economy.

We note that the Services Council has not satisfactorily met the requirement of carrying out the assessment of trade in services as stipulated in the GATS. ... We further reiterate that due respect must be given for the Members' right to regulate trade in services and liberalise according to their national policy objectives.

From the Declaration of the African Union Trade Ministers meeting in Mauritius, June 2003

Modes of supply

A service can be supplied in one of the following four modes:

Cross border supply (Mode 1) – the service is supplied from one country into another country, for example a phone call or a fax.

Consumption abroad (Mode 2) – a national of one country consumes a service in another country, for example a tourist purchasing a service.

Commercial presence (Mode 3) – where a service supplier of one country establishes a branch in order to provide a service in another country.

Movement of natural persons (Mode 4) – when persons stay temporarily in another country in order to supply a service, either self-employed or as employees of service suppliers.

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