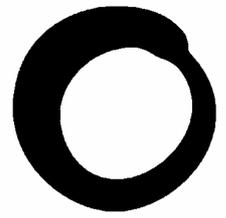


April 2004



**Friends of
the Earth
Cymru**

**Cyfeillion
y Ddaear
Cymru**

Briefing

GATS in Wales

Understanding the General Agreement on Trade in Services

Friends of the Earth Cymru inspires solutions to environmental problems, which make life better for people.

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What is the General Agreement on Trade in Services (GATS)?

The General Agreement on Trade in Services (GATS) is a part of the World Trade Organisation (WTO) legislation governing international trade. It is a commitment by WTO member states (currently 146 countries) to liberalise the service sector, effectively opening up basic service provision to the global “free” market. The scope of GATS is very broad - the existing agreement applies to 160 services including energy, transport, finance, healthcare and education. Under GATS, WTO members are committed to increasing liberalisation of services over time, further extending the impact of corporations across all areas of our lives.

Negotiations involve a process of bargaining, in which the UK is a major player. During the “requests phase” the UK was prominent amongst members submitting initial requests for areas that they wished other member states to “open up” to competition. At the next “offers phase” members are expected to submit offers of areas that they are willing to “open up”. Final negotiations are scheduled to end by January 2005, but widespread discontent amongst developing countries, NGOs and local authorities is causing the negotiations to falter.

Negotiations currently taking place will affect us all. As a member of the European Union, the UK will be party to any final Agreement.

What does GATS mean for services?

The Agreement, following on the heels of the liberalisation of trade in commodities (all materials, manufactured products and foodstuffs) seeks to remove barriers that hinder free trade in services between WTO members. In effect, GATS will create a competitive open market in service provision, as government regulation designed to ensure social and environmental welfare is overridden in the interests of big business. This lack of democratic accountability is a prime reason to oppose GATS as well as a considerable problem in the WTO as a whole. The European Commission has acknowledged that “GATS is first and foremost an instrument for the benefit of business”¹. Concerns have been voiced that an open market could lead to reduced access to basic services for the poor and an impaired quality of service for all.

¹ EC (2000) *Opening World Markets for Services, Towards GATS 2000*, P.17

How will GATS affect the powers of the Welsh Assembly?

Part of the problem with GATS is that it is being negotiated secretly in the WTO. There has been no public, Parliamentary (at both EU and member state level) or Assembly scrutiny of the proposals, and requests for greater transparency have been repeatedly ignored. As the liberalisation of services will affect everyone, it is unacceptable for these negotiations to be conducted behind closed doors.

The expansion of GATS jeopardises the ability of government at all levels to regulate service provision in the interests of the economy, environment and people.

The powers of the Assembly and Assembly Sponsored Public Bodies for the licensing of activities, environmental health and public protection, designed to intervene on the behalf of local communities, may be vulnerable to challenges from disgruntled WTO members if they consider such regulations to pose an impediment to free trade in services.

The Department of Trade and Industry has stated that domestic regulatory powers would not be adversely affected by GATS, yet wording in documents released so far has been narrow and ambiguous, and clarification has not been provided when requested. Essentially, the right to impose regulations would be subject to the criteria of the WTO:

1. Governments wishing to maintain some regulatory power in liberalised sectors must submit such restrictions before the final Agreement is reached. As no comprehensive assessment of the impact of GATS has taken place at any level it would be very difficult to account for all consequences of GATS before it has been put into practice.
2. A government trying to reintroduce or modernise existing regulation in a service market would have to negotiate a minefield of WTO legislation:
 - regulations would be subject to a “necessity test”, ensuring that rules imposed by governments were “not more burdensome than necessary”. Since the WTOs only consideration is profit, GATS will prioritise the unimpeded workings of the free market above governments’ right to use the precautionary principle as policy.
 - compensation will have to be paid to all parties adversely affected by the reintroduction of regulations, i.e. foreign service providers put at a disadvantage by regulations.

GATS may undermine the powers of the Welsh Assembly to implement policies held to be in the national interest, and will put it at risk of being taken to the notorious Dispute Settlement Mechanism for any regulation it does put in place².

Progressive regulation regarding local and ethical procurement, cultural preservation and environmental protection could all be challenged by the WTO as being unlawfully “trade distorting”. Critically, the Assembly’s commitment to Sustainable Development could prove to be incompatible with the liberalisation agenda of GATS.

² www.foe.co.uk/resource/briefings, (May 2003), *GM Trade War Looms*

What about essential services like education and healthcare?

GATS defines services subject to liberalisation as “any service in any sector except services supplied in the exercise of governmental authority”³. It might seem that public services such as education and healthcare are considered to be exempt from GATS, but in determining public services to be “services not supplied on a commercial basis, in competition with one or more service suppliers” it is apparent that the assurance is far from comprehensive. Some critics of the Agreement have raised the concern that the private healthcare industry could be seen as being in competition with the NHS, thus raising the argument that the NHS (and our education system for that matter) could already be seen to fall under GATS.

What action can the Assembly take to protect its ability to regulate in the public interest?

Friends of the Earth Cymru is concerned that the ability of government to regulate for public or environmental protection will be lost if GATS is allowed to proceed.

The Assembly must act now to safeguard the public interest from any potentially harmful consequences of GATS by:

- calling for the suspension of GATS negotiations and the implementation of an independent review of the existing agreement.
- commissioning a comprehensive and publicly available assessment of the likely impact of GATS on the provision of services in Wales and the powers of the Assembly and local government.
- demanding that Multilateral Environmental Agreements (MEAs – eg. The Kyoto protocol on greenhouse gases) are taken into consideration in the formulation and enforcement of WTO rules.

For More Information:

Friends of the Earth www.foe.co.uk

GATSWatch www.gatswatch.org

World Development Movement www.wdm.org

World Trade Organisation www.wto.org

Department of Trade and Industry www.dti.gov.uk

³ (GATS Art. 1:3 [b])