SUBMISSION BY SOMO (CENTRE FOR RESEARCH ON MULTINATIONAL CORPORATION) TO THE TRADE COMMITTEE

Civil Society Organisations’ Letter to the WTO Rejecting Benchmarking and So-called Complementary Approaches to Services Negotiations

Seventh Informal Consultation between the OECD Trade Committee and Civil Society Organisations (CSOs)

This paper has been submitted by SOMO (Centre for Research on Multinational Corporations). The views expressed herein are those of the author and are not necessarily shared by members of the OECD.

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Civil Society Organisations’ Letter to the WTO

Rejecting Benchmarking and So-Called
Complementary Approaches to Services Negotiations.

We the undersigned organizations are astonished and appalled by the coordinated push by some WTO members, in particular some developed countries, in the current round of negotiations on the General Agreement on Trade in Services (GATS) to fundamentally re-write the way negotiations in services are to be conducted, through so-called “complementary methods.”

This will have the effect of seriously eroding the already limited flexibilities available in the GATS and in the negotiations and will thereby place developing country members on an unsustainable and iniquitous path of services liberalization.

The current GATS negotiations are premised on the principles of progressive liberalization and by the right of member states to regulate. These negotiating precepts and parameters derived from the GATS agreement are carefully codified in the document known as the “the Guidelines and the Procedures for the Negotiations on Trade in Services (S/L/93)”. By virtue of paragraph 15 of the Doha Ministerial Declaration, the guidelines provide the mandate for the ongoing services negotiations.

These principles are important, for they allow member states to determine for themselves the breadth and depth of services liberalization they are ready to undertake in the current negotiations. However, as civil society organizations have repeatedly pointed out, these principles are more honoured in the breach than in the observance, since in practice immense pressure is placed on the developing countries to undertake commitments in many sectors.

Recently, several mainly developed countries (including the EU, Japan, Australia, Switzerland, Taiwan and Korea) have submitted proposals on “complementary methods” of negotiations for GATS, with the US and New Zealand also indicating their support for this joint campaign.

Far from being complementary, these proposals strongly contradict the GATS framework, the Guidelines and Procedures, and the mandate set out in the Doha Ministerial Declaration.

At present, the GATS has a positive list approach where countries list only the commitments they are willing to undertake. Moreover, the negotiations are on a bilateral request-and-offer basis, and countries have the right to make offers according to what they consider appropriate in their national interests.
These proposals however seek to convert the bilateral negotiating process to a “multilateral approach”, in which countries will have to commit to liberalise in a minimum number of sectors and to a minimum extent.

Under these proposals, developing countries, including LDCs, are forced to commit a significant number of commercially important sectors to liberalization and to deepen that liberalization by removing restrictions on market access and national treatment, regardless of whether they are in a position to do so.

Particularly targeted is liberalization of the “commercial presence” or Mode 3 of the GATS. The developing countries will be obliged to open up a minimum percentage of sub-sectors for participation of foreign-service enterprises and providers.

For instance, in the Japanese proposal, all members including developing countries and least developed countries, are to make commitments in all financial services sub-sectors. In addition, the proposal seeks to eliminate key national regulations --- such as foreign equity limitations, limitations on the type of legal entity and on the total numbers of service suppliers --- in relation to investments (mode 3) in the financial service sector. Furthermore, Japan wants national treatment to be accorded to foreign financial service suppliers. This kind of de-regulation will have profound implications on the viability and stability of the financial sectors of many developing country members.

Some of these proposals also call for developing countries to bind their existing levels of actual liberalization and then to go further and commit to liberalise even more deeply.

These proposals, if accepted, will drastically change the GATS structure and architecture and its negotiating modality and remove a large part of the flexibility developing countries presently have.

More significantly, it would have from our point of view, a profoundly adverse impact on the developmental needs and interests of developing countries.

We call upon the relevant WTO members to stop their push to pressurize or force developing countries to liberalise their service sectors beyond what they are able or willing to undertake. We request that:

- No benchmarking nor multilateral or other so called complementary approaches in the negotiating process should be introduced to coerce developing countries into making commitments.

- Members that have put forward proposals on these complementary methods should not continue to pursue them, and other members should not accept them.
• All developing and least developed country members must be able to define and determine freely for themselves their commitments and not be subjected to pressure or harassment.

• A comprehensive, independent assessment be made of the developmental, environmental, employment, social and gender impacts of the liberalization of services, in all countries before proceeding any further with the current round of GATS negotiations.

• Any continuation of service negotiations should be preceded by comprehensive national policy making processes involving all affected constituencies domestically and the public at large, and all requests and offers must be made fully public without delay.

We welcome the opportunity to clarify these views further.

Signed by:
1. Sisters of Mercy of the Americas Justice Office, USA
2. Public Services International
3. Africa Trade Network, Ghana
4. Institute for Agriculture and Trade Policy, USA
5. Focus on the Global South
6. Stop the New Round! Coalition, Philippines
7. Third World Network-Africa, Ghana
8. International Union of Food Workers
9. Oxfam International
10. Gender and Economic Reform Africa, Ghana
11. International Gender and Trade Network
12. War on Want, UK
13. World Development Movement, UK
14. The Oakland Institute, USA
15. International Forum on Globalisation, USA
16. Polaris Institute, Canada
17. Consumer Association of Penang, Malaysia
18. WTO-Watch Group, Pakistan
19. Australian Fair Trade and Investment Network
20. Friends of the Earth, Malaysia
21. World Economy, Ecology and Development, Germany
22. Buendnis fuer Eine Welt /OeIE (Alliance for One World), Austria
23. Dachverband entwicklungspolitischer Organisationen in Kärnten (Umbrella Organization of Development Policy Organizations in Carinthia), Austria
24. Red Mexicana de Accion frente al Libre Comercio (RMALC), Mexico
25. Center for Encounter and active Non-Violence, Austria
26. Irish Congress of Trade Unions, Ireland
27. International Metal Workers Federation
28. National Confederation of Officers Association, India
29. WWF
30. Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI), Zimbabwe
31. Environmental Monitoring Group
32. EcoNews, Kenya
33. The Danish National Federation of Early Childhood Teachers and Youth Educators
34. UNISON, United Kingdom
35. GEW / Gewerkschaft Erziehung und Wissenschaft / German Trade Union of Education
36. Third World Network, Malaysia
37. Alliance for Democracy, USA
38. United Church of Christ - Justice and Witness Ministries
39. Documentation for Action Groups - Asia, Hong Kong
40. Africa Faith and Justice Network, USA
41. Centre for Research on Multinational Corporations (SOMO), The Netherlands