

Statements on financial crisis

Partial report of OWINFS Brunch Briefing (*), November 30th 2009

“WTO: Cause not Solution to the Crisis!! WTO turnaround now!”

During the brunch briefing of the the global network Our World Is Not for Sale (OWINFS), Myriam Vander Stichele (**) conveyed the following three messages regarding the financial crisis:

- 1. Deregulation and the laissez-faire model for financial markets, which caused the crisis, is incorporated in the GATS (the General Agreement on Trade in Services, which is part of the WTO).**

GATS liberalization of financial services is based on the assumption that it was not necessary to regulate before you liberalise, and that ‘more regulation comes along with liberalisation’. But the GATS aimed at increasing international competition which resulted in more risky behaviour and made the financial industry press for less regulation, claiming it would make them more efficient and innovative. Governments allowed laissez faire to enable the financial industry to gain big profits (which was seen as contributing to GDP and economic growth).

The irony is that financial conglomerates who lobbied very hard for the GATS and the WTO financial services agreement are now in big trouble such as Citigroup, AIG and ING.

This “light touch regulation” and deregulation was incorporated in GATS rules through:

1. Liberalization, without sufficient regulation and supervision of financial services, of a.o. speculative and untransparent financial services, e.g. (over-the-counter) derivative trading, and risky financial operators such hedge funds and overstretched financial conglomerates.
2. GATS rules that prohibit governments to restrict for instance the size of financial operators and thus allowing banks to become too big to fail
3. GATS rules that oblige technical standards and licensing to be ‘least trade restrictive’.
4. Prohibiting to reverse liberalization commitments, even if it concerns banning speculative derivative trading in food commodities, unless very costly compensation is paid.
5. Prohibition to block inflows of capital in those financial (sub-)sectors in which liberalisation was made, which is contrary to what Brazil and Switzerland are trying to do to prevent the over-valuation of their currency.
6. A separate agreement (“the Understanding on Commitments in Financial Services”) adhered to by mostly OECD countries, prohibits further regulation (“standstill”) and enforces that any new financial service should be allowed by foreign operators which operates in the host country. This means that complex products (securitization) of sub-prime mortgages were to be allowed and new regulation now is prohibited.

Only countries who make no commitments in financial services, or make exemptions in their commitments –which not so many have done- can they escape these rules.

2. The current bail outs of banks and some financial reform measures violate GATS rules

For instance:

1. The bail outs of the banks in the rich countries are against GATS article XVII.3 which does not allow any measure that “modifies the conditions of competition in favour of services or service suppliers of the [host WTO] Member” : this is now the case of banks from developing countries whose competitiveness are now unfairly affected since they do not get financial support from their

governments and because the market share of bailed out banks does not decrease which should be the case without the bail outs.

2. Financial reforms in the EU and the US, such as imposing new requirements to credit rating agencies, hedge funds and private equity, which could not have been expected by a WTO member country at the time commitments were made – which is in conflict with GATS Art. VI.5.

While the GATS has an Annex that allows measures to be taken in order to stabilize the financial system and protect savers or investors (“prudential carve out”), this GATS rule is severely restricted since such measures should not reverse the liberalization commitments and application of GATS rules.

The US, the EU, Canada and the GATS secretariat are doing every effort to avoid discussion about these issues while Argentina, Ecuador, India and South Africa have made written proposals to do so.

3. The negotiations of the Doha Agenda just continues the wrong approach

So far, the Western countries have not indicated that they wanted to change their approach in the GATS negotiations. This means that the EU continues to request to many countries to limit capital reserve requirements while current solutions to the crisis include more capital requirements.

On the contrary, bilateral negotiations for instance by the EU, to liberalise more financial services has continued this year. The big banks are secretly demanding that emerging market countries like Brazil open their markets to trading in derivatives, which include complex or other toxic financial products. In the mean time, (international) regulation and supervision of these products are far from designed and enforced.

In order to deal with the wrong approach incorporated in GATS, the GATS restrictions imposed on governments to deal with the financial crisis, and the unbalanced bail-outs and crisis interventions among WTO member states, OWINFS recommends the following solutions:

1. Countries, especially developing countries, should be allowed to withdraw financial services without having to pay for compensation e.g. as long as national and international financial reform has not been implemented.
2. If financial services negotiations continue in GATS, they should be completely changed and “requests” and “offers” withdrawn.
3. Financial services liberalization should be taken out of the GATS and be submitted to prudential regulators while regulatory capture by the financial industry should be avoided at all costs.
4. The financial crisis should be recognized as a very clear example of how the free trade and free market theory has failed, why the WTO should turn around away from this neo-liberal model and allow for all services and trade to be at the service of people and the planet, not of corporate profits.

If the WTO does not deal with the problems of financial services, it might be become a **toxic asset** that undermines the WTO system.

(*) The press briefing was presented by members of Global Our World Is Not for Sale Network (OWINFS), namely: (1) Ambassador Nathan Iumba, Southern and Eastern African Trade Information (2) Shalmali Guttal, Focus on Global South (3) Myriam Vander Stichele, Center for Research on International Corporations- SOMO, Europe (4) Etienne Vlok, SACTWU, South African. See: www.ourworldisnotforsale.org

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