



Our world is not for sale.

STOP corporate globalization.

February 2009

END WTO DEREGULATION OF FINANCE

Since the current financial crisis started, none of the governments, experts or media who have called for new regulations for the financial industry have taken into account rules of the World Trade Organisation (WTO) which actually impose extreme financial service deregulation on many WTO member countries. Worse, the heads of the G-20 country governments who met on 15 November 2008 to discuss how to reform the financial system, called for finalising the WTO's current 'Doha Round' of negotiations to liberalise trade.

Yet, liberalisation and deregulation of financial services is part of the ongoing negotiations to expand the WTO's General Agreement on Trade in Services (GATS). Already, GATS rules impose many restrictions on governmental regulation in the financial service sector, as explained below. "Free trade" agreements include similar and additional problems, as explained in a separate flyer: "Free Trade Agreements Contribute to Financial and Other Crises".

Banning risky financial products is forbidden by GATS

Many WTO member countries already agreed to permit all foreign banks or insurance companies originating from any other WTO member country to establish themselves and offer their financial services and products in accordance with rules of the GATS agreement. Although nothing is being traded over borders, this 'commitment' to allow foreign presence is part of this WTO agreement on 'trade in services'!

Some developing countries such as Argentina, Ghana and South Africa, have also agreed to permit foreign financial operators offering very risky financial service products although such trading in derivatives is widely recognised as a major cause of the financial crisis. Derivative trading in food has resulted in huge speculation on future food prices and has contributed to the food crisis. Some countries even have subjected financial services that have an important social impact, such as health insurance or pension fund management, to GATS restrictions on regulation. Those countries seeking to ban any risky product or risky financial operator may well find themselves in conflict with GATS rules.

If countries want to withdraw sensitive service sectors from GATS' restricting measures, GATS requires that countries compensate the loss of future business opportunities to other WTO countries requesting compensation. Thus, India could tackle speculation in food prices by banning trade in speculative food derivatives while South Africa or Argentina can hardly do so because, under GATS, they have committed to keep their governments out of the business of regulating derivative trading.

GATS undermines new regulations

In addition to the GATS rules itself, most developed countries have committed to a yet-more-extreme set of financial service sector deregulation. This GATS "Understanding on Commitments in Financial Services" forbids further regulation and requires that foreign investors must be permitted to offer any new financial service. As a consequence, proposals raised in the US to re-regulate or ban risky financial products that sparked the financial crisis, such as stopping sub-prime loans or screening risky financial products, would go against those rules. This would also be the case for potential proposals in the EU to regulate Hedge Funds, which have systematically contributed to financial crises. Although another GATS Annex on financial services allows government to implement 'prudential measures', that clause is limited in that it also requires that such measures should not undermine the GATS market openings. These provisions prohibit governments to implement regulations, or even bans, which are necessary to prevent or deal with a financial crisis. Also, countries cannot decide to go back to only state banks e.g. for basic banking services.

GATS rules that deregulate

'Liberalisation' under GATS rules means that WTO country governments are restricted in selecting which financial operators they want in their territory and how they may regulate foreign financial operators and products. Unless explicit exemptions were taken at the time of negotiation, WTO member governments cannot limit the size or the volume of the transactions of the foreign

financial industry nor can they limit the percentage of foreign ownership. So, foreign banks can take over the whole banking sector and become too big to fail. In addition, most capital movements linked to foreign financial services cannot be restricted, e.g. by measures to avoid sudden withdrawals to avoid a crisis.

Controversial activities by foreign banks

GATS rules require foreign banks to be treated as national banks even though foreign banks behave differently in many ways. For instance, in times of a financial crisis, foreign banks often transfer capital abroad or are bailed out at home, and offer even less financial services to poorer communities, as was recently the case in Mexico. In India, as in many other countries, foreign banks have little interest in serving the poor or providing credit to small industrial or agricultural producers. In case the WTO further liberalises (processed) agricultural and non-agricultural products (NAMA) this lack of credit further undermines the ability of domestic producers to compete with imported products, mostly produced or traded by multinationals (One-third of international trade is now between multinationals and another one-third of trade is between affiliates of multinationals).

Foreign banks pick the rich clients, offer them risky financial products, and transfer the profits abroad, which has to be done without restrictions according to a GATS rule. But when a financial crisis makes an affiliate unprofitable, some foreign banks just close down and leave the country. The argument that foreign banks are more efficient ... might thus only benefit a few.

Liberalisation without regulation

GATS negotiations aim at opening financial services markets without considering if sufficient regulation and supervision exists and then restricts regulation. Further, foreign banks are mainly supervised by the home supervisor at the expense of the interests of the host country. Moreover, there is no one supervisor who has all information about worldwide transactions of a financial conglomerate which operates in banking, insurance and/or securities' trading activities.

As part of the GATS negotiations, the EU has requested that many developing countries take away particular prudential regulations which had been put in place after the Asian financial crisis or which are now seen as solutions to the financial crisis. Such secret negotiations must be avoided.

GATS forgotten contribution to the crisis

Liberalisation of financial services under GATS and the GATS extreme deregulatory agenda means that banks can expand worldwide, become too big to fail, and then require bailouts by public funds. Unless countries regain policy space to regulate such institutions, the bail out problem remains!

GATS encouraged fierce competition among the financial industry for ever more profit. In the name of competitiveness, huge lobbying efforts were undertaken to convince home and host governments to deregulate, not in the least for speculative products that have contributed to the crisis. The argument that regulation were costly barriers is now lost on taxpayers having to pay the bill of deregulation !

WHAT WE DEMAND

- **All negotiations in financial services in the GATS and free trade agreements (FTAs) have to be stopped.**
- **Countries should be permitted to reverse GATS liberalisation of financial services without having to pay for compensation.**
- **Countries should be permitted to take all measures needed to prevent financial, social and environmental crises, without threats based on GATS and FTA rules.**
- **Financial services and capital liberalisation and deregulation should be taken out of the WTO and all trade agreements.**
- **Financial services need to be regulated to urgently support the shaping of sustainable societies, – particularly to serve poor people first.**