

Brussels, 16 July 2003

OPINION

of the Committee of the Regions

of 3 July 2003

on

The impact on local and regional authorities of the negotiations on the General Agreement on Trade in Services (GATS) at the WTO

THE COMMITTEE OF THE REGIONS,

Having regard to the decision of its Bureau of 8 April 2003, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to instruct the Commission for External Relations to draw up the Opinion on the impact on local and regional authorities of the negotiations on the General Agreement on Trade in Services (GATS) at the WTO;

Having regard to the Agreement establishing the WTO and the General Agreement on Trade in Services (GATS) in 1994 (OJ 1994 L 336/3);

Having regard to the Communication from the Commission to the Council and the European Parliament on the EU approach to the WTO Millennium Round (COM(1999) 331 final);

Having regard to the report of the European Parliament containing the European Parliament's recommendations to the Commission on the negotiations conducted within the WTO framework on the Built-In Agenda (2028/2001 (INI), A5-0076/2001 of 28 February 2001);

Having regard to its opinion on the negotiating position on agriculture for the next WTO round (CdR 327/99 fin¹);

Having regard to the Assembly of European Regions' resolution of 18 October 2002 on GATS and cultural diversity;

Having regard to the Doha development agenda adopted on 14 November 2001 for a new global round of trade agreements;

Having regard to the European Parliament resolution on negotiations on the General Agreement on Trade in Services (GATS) at the WTO, including cultural diversity (PE T5-0087/2003 of 12 March 2003);

Having regard to the opinion of the Committee of the Regions of 9 April 2003 on the negotiation position on agriculture for the next WTO round (CdR 181/2002 fin);

Having regard to the draft opinion (CdR 103/2003 rev 1.) adopted by the Commission for External Relations on 23 May 2003 (Rapporteur: **Mr Axel Endlein**, Chairman of the German Association of District Councils, (DE/PES));

unanimously adopted the following opinion at its 50th plenary session, held on 2 and 3 July 2003 (meeting of 3 July 2003):

1. The Committee of the Regions' views

General comments

The Committee of the Regions

1. **notes** that the GATS negotiations are extremely significant from a regional and local viewpoint due to both regional economic concerns (interests of companies located in the area in easier access to markets outside the EU) and the concerns of regional and local authorities, which are responsible for providing services on a wide scale;

2. **remarks** that the following recommendations are primarily addressed to the Commission, which is conducting the WTO negotiations. Furthermore, it urges the EU's regions and municipalities, as well as the national and European associations representing them, to participate fully in the discussion on the international liberalisation of services;
3. **considers** it imperative to monitor the developments of the WTO negotiations constantly and to evaluate the results of the negotiations critically; asks that the current WTO negotiations be made public and calls for further European debate on the GATS with the full involvement of local and regional authorities and the communities they represent;
4. **notes** in this connection that public services, to which European citizens are entitled, particularly as regards education and culture, have developed from regional and local authorities' own concepts of their tasks and duties vis-à-vis their citizens and that the continued existence of democratic control, continuity accessibility and quality must therefore be guaranteed;
5. **points** out that mutual accessibility to markets is unfeasible for companies administered by regional or local authorities due to their ties with their own areas, and that this fact should be taken into consideration during the WTO negotiations;

Substantive comments

6. **notes** that the right for authorities at all levels to provide public services either themselves or through their own companies cannot be infringed. In this context it would refer to the WTO rules, which state that liberalisation measures are not grounds for compulsory privatisation or deregulation. The same is true for the definition of the conditions governing the provision of services, which should remain the preserve of regional and local authorities in their entirety, taking into account these authorities' objectives and the local circumstances of each state;
7. **endorses** the offer made by the Commission in the negotiations; but does not entirely agree with the competent DG's opinion that the public sector is not affected. Instead, it points out that local and regional authorities are likely to experience direct and indirect consequences on administration and financing – particularly as regards services of general interest and asks that no binding commitment be entered into under GATS until an independent evaluation has been carried out into the economic, social and environmental consequences;
8. **endorses** the inclusion of environmental services in principle, but considers that these need to be defined individually, and emphatically supports the Commission's position exempting water management and distribution. Steps must also be taken to ensure that prior investments by regional and local authorities in environmental protection and hygiene measures do not lose their economic value;

9. **emphatically supports** the Commission's opinion that no offers of liberalisation are to be submitted regarding health, education and audiovisual media. This position is to be maintained throughout the entire GATS negotiations;
10. **calls** for the non-inclusion of culture. In particular, the Commission's offer in the negotiations with regard to entertainment services should not be interpreted as including the whole cultural field;
11. **calls** emphatically for the protection of intellectual property and points out that this is a particularly difficult area to regulate;
12. **expresses** concern about the negotiations on Domestic Regulatory Disciplines under Article VI.4 of GATS under which regulations may be deemed "unnecessary barriers to trade" through the WTO's dispute resolution procedure on the grounds that they are "more burdensome than necessary to ensure the quality of the service" and fail to meet the criterion of "least trade restrictive". In effect, the WTO, through its dispute resolution panels may classify regulations decreed by democratically elected government at all levels, in pursuit of the protection of the general public and the environment, as illegitimate "non-tariff trade barriers." However it is also important that regulations should not be used as a cover for restricting competition or denying access to markets by specifying unreasonable conditions.

2. **The Committee of the Regions' recommendations**

The Committee of the Regions

1. **urges** the Commission, as a partner in the WTO negotiations, to consider the following issues:
 - to bear in mind that liberalisation is not a goal in itself but a means to increased prosperity, and that liberalisation is accordingly not one-dimensional, but is to be developed with due regard to the whole social, economic and institutional environment;
 - to consider the principles of regional and local self-government in the WTO negotiations, in accordance with the provisions of Article 6 of the EU Treaty and the Convention's proposals to clarify them in the future Constitution;
 - not to make offers in fields which are not liberalised in the EU;

- not to take a position in the WTO negotiations which is prejudiced by the ongoing EU negotiations regarding EU legislation on services of general interest;
- to ensure that WTO principles, particularly the voluntary nature of action and the lack of any obligation to privatise or deregulate, are put up for discussion during negotiations and implementation as a result of being disregarded in dispute settlement procedures;
- to ensure that laws and statutes decreed by regional and local authorities cannot be classified as "non-tariff trade barriers";
- to ensure that the ultimate reason for foreign investors' activities is not to obtain aid;
 2. **stresses** the need to maintain the principle of universal service provision in public services and services of general interest;
 3. **supports** the Commission's intention to facilitate exchanges of skilled labour;

Involving regions, municipalities and the CoR in information and coordination activities within the EU

4. **notes** that the regions and municipalities are the principal providers of public services and that therefore they and the CoR should be involved in an appropriate manner in coordination activities within the EU;
5. **welcomes** the Commission's efforts to improve transparency and include interest groups from all relevant service sectors, civil society and the various socio-economic groups. However, it considers that regional and local authorities cannot be included in this category, as they cover the full range of public services and in fact created the public service sector as part of their remit within the democratic process;
6. **would urge** as a result of the inclusion of services in international liberalisation that provision be made for obligatory CoR participation in the future constitution's commercial policy title.

Brussels, 3 July 2003.

The President
of the

The Secretary-General
of the

Committee of the Regions

Committee of the Regions

Albert Bore

Vincenzo Falcone

¹ [OJ C 317.06/11/2000](#)

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CdR 103/2003 fin EN/o

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