

Campaign Victory

Water excluded from Australian Trade in Services (GATS) offer

The Australian Government tabled its second round offer in the World Trade Organisation's trade in services (GATS) negotiations in Geneva on 26 May. The offer was publicly released on 27 May.

The great news is that the offer responded to the community campaign to keep water OUT of the GATS. The offer inserts a statement into the GATS schedule that specifically excludes water for human use from the Australian offer. This is an improvement on the Government's previous statements that there would be no offer on the ownership of water but left the status of management of water services ambiguous.

This is a victory for our campaign. Community groups have sent a strong message that access to water is a basic human right and should not be included in trade agreements.



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What is GATS?

GATS came into force in 1995. It potentially applies to all services from banking and transport to health and education. GATS treats services as traded commercial goods and ignores the social aspect of many services. GATS has been promoted by transnational services corporations which want to expand their markets. These companies see government regulation and provision of essential services as barriers to trade.

Some GATS rules apply to all services, but many rules apply only to those services that each government agrees to list in the agreement. Member countries commit to increasing over time the range of services they include in GATS. The current round of negotiations have been in progress since 2001 and will continue until the end of 2006.

Requests and offers

The GATS negotiations require governments to 'offer' to list services and to 'request' other governments to list services in the GATS. In response to community campaigning, Australia's first round offer in 2003 did not contain any new

offers on health, education, audiovisual, ownership of water or postal services. Community campaigning also pressured the Government to release this offer to the public. Trade negotiations are usually held in secret and information is withheld from the public until after the deal is done. The Government has still not agreed to publish the requests it makes of other countries in the GATS negotiations.

In theory each government can choose which services to list in GATS. However in practice the dominant industrialised countries in the WTO, especially the US and the European Union, exert pressure on developing countries and others to open up more services to trade and investment from transnational corporations. Most developing countries have not listed essential services and have not yet lodged their first or second round offers.

In addition to the request-offer process, there are multilateral GATS negotiations on proposals to reduce the right of governments to regulate licensing requirements, qualifications and technical standards applying to services. This would mean that such regulations could be judged to be 'trade-restrictive' or 'burdensome to business' and challenged under WTO rules.

Increased pressure on developing countries

In May 2005, the US proposed a new negotiating process called 'benchmarking'. This proposal is designed to 'bring other countries up to US standards' in service liberalisation and will pressure developing countries to make increased offers. Benchmarking will identify specific service sectors, including postal, telecommunications and transport, and will require that all developing countries make offers of a certain standard in those sectors.

This proposal is contrary to the supposedly voluntary process of GATS, which gives governments the right to determine whether and in which sectors they will make commitments according to the conditions in their countries. AFTINET opposes this process.

Details of Australia's offer

The Government's second round offer does not make any new offers on postal, public passenger transport, public health or education services. The main commitments in the offer are in the legal, telecommunications and freight logistics sectors, as well as a commitment on the movement of people across most services sectors.

The offer is largely within the bounds of existing Australian legislation. The problem is that enshrining existing policies in GATS will limit the capacity of future governments to change policies.

- **Movement of people** ('Mode IV'): The offer enshrines existing policy on the temporary entry of skilled workers across a range of service sectors. Among other things, the offer increases the maximum length of stay for some occupations in Australia's existing WTO commitments.
- **Environmental:** The offer clarifies the coverage of remediation and cleanup of soil and water and protection of biodiversity and landscape. **The offer specifically excludes the provision of water for human use, including water collection, purification and distribution through mains.**
- **Legal:** The offer commits the Government to allowing foreign lawyers to gain admission to practise law in Australia. The offer also grants a limited right to foreign lawyers in Australia to provide advisory services in foreign and international law.
- **Business:** The offer makes new commitments across all modes of supply in services incidental to manufacturing, maintenance and repair of equipment and technical testing and analysis.
- **Construction and engineering:** The offer contains increased commitments that now cover all forms of building services.
- **Private health:** The offer recognises a legislative change about the residency of chiropractors and podiatrists.

- **Telecommunications:** This offer is in line with Australia's current competition policy. Major suppliers are obliged to supply foreign providers with interconnection, including providing access to rights of way and co-location of equipment. The offer also clarifies existing foreign equity limitations to set the maximum aggregate foreign ownership in Telstra at 35% of the Telstra shares that are not held by the Government.
- **Transport and freight logistics:** The offer includes commitments in air transport services, rail transport services and freight logistics services, including pushing and towing rail services and support services for rail transport services. The Government has clarified that the offer does NOT cover passenger rail services.

The campaign continues What can you do?

Australia's offer can be amended or withdrawn at any time during negotiations over the next year. The danger is that water and other essential services, such as health, education, postal and energy, may be traded off during negotiations in the hope of gains in agriculture or other areas which are also being negotiated in the WTO's Doha Round. There will be pressure to formulate better offers in the lead-up to the Hong Kong Ministerial in December.

The Australian Fair Trade and Investment Network (AFTINET) is a network of 90 organisations supporting fair and democratic regulation of trade consistent with human rights, workers rights and environmental sustainability. Use the message on our website (www.aftinet.org.au) to tell the Trade Minister that you demand:

- Clear exclusion of public services from GATS and no offers on essential services, such as education, health, water, audio-visual, postal, energy and telecommunications.
- Public disclosure of all GATS negotiating requests and offers and public debate before any commitments are made.
- GATS and other trade agreements to be debated and ratified by parliament, not by Cabinet.

See www.aftinet.org.au to join AFTINET and receive regular updates on trade issues.

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