

What is at stake?

The General Agreement on Trade in Services (GATS) is one of more than 20 trade agreements administered and enforced by the World Trade Organization. The GATS was established in 1994, and negotiations to expand the agreement were launched in 2000. The service sector is the fastest growing component of international trade, increasing from US\$0.4 trillion in 1985 to US\$ 1.4 trillion in 1999. From this standpoint, it makes the GATS one of the most important agreements at the WTO.

Essentially, the GATS is mandated to restrict government actions in regard to services through a set of legally binding constraints backed-up by WTO enforced trade sanctions. The mandate is clear and ambitious. It aims to remove restrictions and provide market access to critical areas like health care, dental care, child care, elder care, education, libraries, culture, social services, water services, postal services, food safety and environmental services, to name but a few.

The GATS ultimately interferes in the exercise of governmental authority by eliminating policy options that conflict with WTO rules. This means that the responsibility of balancing public interest with trade considerations is taken away from elected officials and transferred to WTO panels concerned exclusively with trade.

What is contentious?

1) GATS locks in privatization and deregulation.

Commitments made under the GATS are virtually irreversible. Article XXI states that countries can withdraw a commitment three years after it has entered into force but, in order to do so, they must negotiate substitute commitments subject to the approval of all WTO members.

2) GATS threatens national sovereignty and local control.

Negotiators are drafting new requirements under the GATS that would mean governmental regulations on services would have to be "no more burdensome than necessary". In other words, governments would have to prove to the satisfaction of the WTO that their regulations interfere at best minimally with commercial interests. The GATS negotiations to deregulate services pose particular problems for Canada, where most services fall under provincial or municipal control. These governments would be restricted in the policies they can enact within their jurisdiction because of GATS obligations undertaken by the federal government.

3) GATS is designed for ongoing expansion.

The agreement commits governments to "progressive liberalization." Therefore, even if a country initially limits its commitments under the GATS, the overall implication is that it will have to liberalize all sectors eventually. The U.S. and Europe have already indicated that they expect countries to remove restrictions "across all service sectors". For developing countries and for small economic powers like Canada, the pressure from the U.S. and Europe will be hard to resist.

4) GATS threatens public services.

Article I:3 of the GATS excludes "services supplied in the exercise of governmental authority." However, Article I:3(c) goes on to define such services as "any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers." In effect, what would seem to be a very large exemption in reality very narrow given the trend toward commercialization, public/private partnerships, and the substantial amount of privatization that has already taken place.