

## **The current WTO negotiations on trade in services**

The General Agreement on Trade in Services (GATS) adopted by governments in 1994, establishes an international system of rules and principles for the progressive liberalisation of trade in services under the supervision of the World Trade Organisation (WTO).

The GATS covers all sectors of services including cultural goods and services. However, at the end of the Uruguay Round, the European Union made no liberalisation commitments in the audiovisual and cultural services sector in order to safeguard its capacity and that of its Member States to establish freely their own cultural policy. In addition to this, a number of exemptions to the most favored nation clause were deposited.

New negotiations on services began in early 2000. Under the timetable agreed by the Trade Ministers at the Fourth Ministerial Conference in Doha (Qatar), each country had to submit its initial requests for market access to other Member States by 30 June 2002 and the initial liberalisation offers had to be submitted to the WTO by 31 March 2003.

The European Union and the United States have both important stakes in the current services negotiations. The services sector is indeed by far the most dynamic sector and the largest component of their economies accounting for the major part of Gross Domestic Product and employment.

The objectives of the European Community for the ongoing negotiations are to remove or reduce a number of barriers to entry in sectors in which European Union businesses are world leaders, and notably telecommunications, business services, professional services, financial services, construction, distribution, transport, energy and tourism. To achieve these offensive objectives, the European Union must present its partners with a substantial offer.

Several WTO members like the US, Brazil and Japan have formally set out their expectations and made clear their intention to have culture and audiovisual services included in the ongoing trade negotiations. Sticking to its negotiating mandate received from its Member States, the European Commission did not target the audiovisual sector in its requests to the other WTO members.

The United States, conscious of the European sensibility on the subject of audio-visual services has made a more balanced request than its previous request in this domain. Its request seems reasonable at first sight which makes it even more dangerous. The United States is asking for a consolidation of the current levels of access to the market and national treatment (standstill) so that the Member States undertake not to increase these levels. Standstill could indeed seem attractive to States because there is no immediate cost. This is even more true for the developing countries where there is no existing cultural policy. But consolidation implies that existing cultural policies cannot be developed further and new policies cannot be made anymore.

Since 31 March 2003, various WTO Members have submitted their initial offer, that is, what they are prepared to open up to international competition.

In terms of sectoral coverage, the offer of the European Union is responding to requests received from other WTO Members in financial services, professional services, computer services, telecommunications, transport, distribution, construction, postal and courier services, environmental services, and tourism.

Concerning culture and audiovisual services, the European Union does not offer any commitment on audiovisual services in its initial offer. All exemptions to the most favored nation clause listed by the European Union during the Uruguay round to cover cultural policies such as co-production agreements and privileged treatment accorded to audio-visual works originating from the European Union and other European countries are also maintained.

The experience of the last two decades has shown how difficult it is to negotiate a cultural exemption clause in international trade agreements. The GATS negotiations in 1994 did not result in a true cultural exemption clause but rather in a tolerance towards those countries who desire to exempt the cultural and audiovisual service sector from trade liberalization commitments. This exemption is however very uncertain because with every new negotiations cycle each country will face renewed pressure to renounce to the use of such exemption mechanism.

Therefore, during the recent years, the idea made its way in both civil society and international fora<sup>1</sup>, in favor of a new international treaty on cultural diversity that would guarantee States and governments the right to define their cultural policies freely.

The current negotiations on trade challenge the preservation of cultural diversity and must therefore be closely monitored. Our vigilance must be focused on the decisive action of States which must refuse to undertake commitments in the cultural domain likely to compromise their ability to realise their cultural policy aims.

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<sup>1</sup> See i.e. the Universal Declaration on Cultural Diversity adopted by UNESCO on 28 November 2001