

**REACTION TO THE  
LEAKS OF THE EC DRAFT REQUESTS**

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THE LEAK

- We strongly regret this leak. It is irresponsible because the EU's internal processes are not yet complete and the papers are still being discussed between the Commission and Member States. Consequently, these documents do not yet reflect an official EU positions. In each negotiations there is a time for confidential reflection and discussion.
- We also regret the leak because it has also put third countries under unwarranted pressure to respond to some of the wild accusations that have been made about the requests.
- That being said we also completely understand if, now that the documents have been made publicly available, MEPs, other delegations, NGOs or the press wish to study them. In one sense, we hope they will because a careful examination will show:
  - That the documents are fully in line with publicly stated objectives, including documents available on the EU<sup>1</sup> and WTO web sites<sup>2</sup>, and
  - That we have no intention to promote or request privatisation or the dismantling of public services in any sector in the GATS or in any country.

GENERAL POINTS ABOUT THE DRAFT REQUESTS

- While we do **not intend to comment in detail** on the drafts we can make a couple of general points in response to some of more exaggerated claims that have been made in the press.
- The expressed concerns that future GATS negotiations may **undermine the provision of public services**, in particular health care, educational and social services, water etc. by for example by forcing privatisation of such sectors or by prohibiting public funding and subsidies for them **are completely wrong**.

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<sup>1</sup> [http://europa.eu.int/comm/trade/index\\_en.htm](http://europa.eu.int/comm/trade/index_en.htm)

<sup>2</sup> [http://www.wto.org/english/tratop\\_e/serv\\_e/s\\_propnewnegs\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/s_propnewnegs_e.htm)

- The GATS is the **most flexible agreement** in the WTO system. **Each country determines the list of activities for which it is prepared to offer market access and national treatment** to foreign service providers. Each country can exclude from its commitments those activities that it considers politically sensitive. For this reason, the GATS is respectful of the diversity of economic and social situations among its member countries.
- WTO Members **maintain the sovereign right to regulate** economic and non-economic activities within their territory in **pursuance of public policy objectives**. In particular, the GATS **does not oblige Members to deregulate or to privatise public services** nor does it not prohibit subsidisation of public services.
- As regards the new round of services negotiations, the European Commission is fully aware of the particular concerns relating to public services. The EU has and will of course **preserve its and others members legislative prerogatives to pursue non-trade policy objectives**, such as social, safety and consumer policies, and policies aimed at protecting cultural diversity.
- All WTO members recognise that many developing countries need trade related technical assistance and capacity building (TRTA/CB) to participate in negotiations, to implement their outcome and to utilise the opportunities created.
- The EC and its Member States are **strongly committed to increase funding for TRTA/CB**. The EC and the 15 Member States are already the **largest provider of bilateral development assistance**, including trade related assistance. As part of their implementation of the Doha commitments, the EU has nonetheless agreed to further increase funding for trade related technical assistance and capacity building.
- The EC fully recognise that pursuit of reform in services is no easy task as there is often a **need to balance the scope for promoting greater competition with** the legitimate role that exists for governments to **intervene to offset market failures and to achieve non-economic objectives**, such as the universal provision of education, health care services or water supply.
- **Liberalisation** of the service sector is **therefore not a panacea and must be accompanied by a appropriate institutional and regulatory framework to ensure competition**. Furthermore, mechanisms may need to be created to ensure that the poor have adequate access to services in a liberalised market. **Nothing in the GATS agreement prevent such policies from been adopted and implemented.**
- The scare stories that are often invoked draw on failed privatisation attempts in certain countries not related to GATS and thus not to market access as such.

- What these cases reveal is that some developing countries have given priority to a change of ownership through privatisation while retaining limitations on new entry. The failure to implement the appropriate institutional and regulatory framework to ensure competition or protection for the poor resulted from flawed reform programs unrelated to the GATS that often substituted public for private monopolies.
- We are however **fully conscious of the fact that implementing appropriate institutional and regulatory safeguards is a challenge for many developing countries**, which is why we are putting such emphasis on TRTA/CB.