

Brussels, 7 June 2002  
SW D(2002) 2256

Dear Mr Gabaglio,

Thank you for your letter of 23 May 2002 regarding the current GATS negotiations enclosing a copy of a detailed joint statement jointly agreed by the ETUC with the Global Unions and the World Confederation of Labour.

The joint statement highlights a number of longstanding ETUC concerns about the present negotiations under the GATS but which you mention have been fuelled by the leaked draft EC initial requests in the services sector to a number of third countries. In that connection you seek various assurances relating to the stance the EC will take in these negotiations.

Let me initially reiterate what I told you during our meeting on 13 May 2002. The Commission strongly regrets that the EC's draft third country requests for the services negotiations were leaked. Not because of their content but because in all negotiations there is a time for confidential reflection and discussion. The leak was regrettable because the EC's internal processes are not yet complete and the papers are still being discussed between the Commission and Member States. It must therefore be noted that leaked documents do not yet reflect an official EU position.

That being said I do however completely understand if, now that the documents have been made publicly available on the internet, MEPs, other WTO Members, labour unions, NGOs, or the press wish to study them. In one sense, I hope they will, because a careful examination will show that the documents are fully in line with publicly stated objectives, including documents that have been available on the EU and WTO web sites for some time. In other words, there is no hidden agenda here.

Turning to your questions about the potential impact of these negotiations on public services in general, and on health and education in particular, I believe I can address the concerns expressed in your letter and underlying the joint statement, and this for a number of reasons.

First, the Commission has no intention to promote or request privatisation of public undertakings during the course of these or future negotiations irrespective of whether they are entrusted with the provision of public services or not. As you are aware the EC Treaty calls for neutrality with regard to public or private ownership of companies and we will therefore not question other countries' choices in this regard. Furthermore, the GATS negotiations are aimed at various barriers to market entry and substituting a private for public monopoly while retaining barriers to entry would not contribute to the kind of liberalisation foreseen by the GATS.

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Second, the Commission fully shares the importance citizens in Europe and elsewhere attach to maintaining and developing public services. Public service remains an essential basis of the European model of society. Any suggestion that the Commission has the intention to promote or request the dismantling of public services in any sector in the GATS or in any country therefore is based on speculation and "procès d'intention", not on fact. While the GATS aims at progressive liberalisation of trade in services 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 public services as we know them and the EC has no intention of changing these rules. The negotiating mandate the Commission received from the Council of Ministers for the Seattle and Doha Ministerials and which was supported by the European Parliament is unambiguous in this respect.

That being said one cannot overlook the fact that there exists no single model within the membership for what constitutes public services but it varies according to the sectors, national traditions and legal conditions prevailing in the countries concerned. The GATS leaves it entirely to Members to decide whether they provide public services themselves, directly or indirectly (through public undertakings), or whether they entrust their provision to a third party. Thus public services can and are carried out either by public or by private undertakings.

As far as health and education, to which your letter and the joint statement devotes particular attention, are concerned, the Commission takes the view that the EC should not make any requests to developing countries in these sensitive sectors and it has no intention of making any offers in these sectors. One should however not over-dramatise the potential effects of carefully crafted and targeted liberalisation even in these sensitive sectors. As you are no doubt aware, in the Uruguay Round the EC made a limited commitment covering "privately funded education services", thus excluding all education services that are financed with public funds. As far as I am aware nobody has claimed that the EC's existing commitment in this sector has in any way undermined or hampered Member States' ability to fund or design their education policy as they deem appropriate.

I have taken note of the fact that ETUC and the organisations behind the joint statement take the view that the requests and the offer should be made public. I think we have no disagreement on the policy line and on the need to ensure the necessary transparency. The individual requests are, however, negotiating documents for bilateral discussions with individual WTO members and therefore not intended nor suitable for being made publicly available. Given the strong public interest in the GATS negotiations, the Commission will obviously continue to keep all interested stakeholders abreast of developments in the negotiations as these proceed and will continue to seek their input for developing our negotiating positions.

Yours sincerely,

(signed)  
Pascal LAMY

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