

COMMENTS ON PREPARATIONS FOR THE FOURTH MINISTERIAL CONFERENCE OF THE WORLD TRADE ORGANIZATION

**Submitted to the Office of the U.S. Trade Representative
by the American Federation of Labor and Congress of Industrial Organizations
May 10, 2001**

The AFL-CIO welcomes this opportunity to submit comments on the Fourth Ministerial Conference of the World Trade Organization (WTO) to take place from November 9 to 13, 2001 in Doha, Qatar. The WTO and the U.S. government must ensure that official accreditation and sufficient space in Qatar are available to all of the civil society representatives who wish to participate in activities around the ministerial. In addition, it is absolutely essential that no limitations be put on peaceful protests in Qatar; civil society groups have a right to present their views on trade at the WTO ministerial. Any attempt to restrict freedom of expression will show that the WTO cannot tolerate public debate about its rules and its mission.

The AFL-CIO opposes the launching of a new round in Qatar and the continuation of any “built-in” negotiations at the WTO until global trade rules are dramatically reoriented to support sustainable, equitable, and democratic development, and to protect and promote the environment, public health and safety, and human and workers’ rights. This ministerial presents the United States government with an important opportunity to learn the lessons of the WTO’s failed third ministerial. In Seattle, developing country representatives, human rights champions, environmental activists, family farmers, consumer groups, students and youth groups, women’s organizations, people of faith, and trade unions rallied against the current WTO structure and the rules of trade it enforces, arguing that the much-touted benefits of free trade are not actually reaching workers, the poor, and local communities as promised.

At Doha, the U.S. must send a clear message that it has heard and understood these concerns, and must call for a profound overhaul of the multilateral trading system. Trade rules must ensure that the benefits of globalization are shared broadly to benefit society as a whole, not just the select few. The public must have more access and input into trade negotiations at the national and international levels, and trade disputes must be opened up to public comment and participation. A new WTO round should not be launched and mandated negotiations should be suspended until the issues outlined in these comments are addressed and the legitimacy of the international trading system is rebuilt from the ground up.

The first step towards reforming the WTO must be a full and open assessment of the economic, social, labor, gender, environmental, and developmental impacts of existing WTO agreements and the potential impacts of any further negotiations. This assessment must be conducted with the participation of the WTO, UN agencies including the ILO, parliamentarians from WTO member countries, academics, and trade unions and other civil society groups from around the world. This assessment is necessary to identify flaws and gaps in the existing trading system, to address the perceived lack of political legitimacy of the institution, to educate politicians and the

public about the real impact of trade rules, and to guide negotiators in any future work. The U.S. government should insist that this assessment be completed before any new WTO negotiations begin and before “built-in” negotiations continue.

Reform of the Trading System

The AFL-CIO joins with the international trade union movement in calling on our governments to use this ministerial conference to make significant progress on a number of unresolved trade issues before pushing to launch a new WTO round or continuing with mandated negotiations. The details of this position can be found in the International Confederation of Free Trade Unions (ICFTU) Statement on the Agenda for the 4th Ministerial Conference of the World Trade Organization (attached). The ICFTU represents unions in 148 countries with a total of 156 million members, including the 13 million working women and men of the AFL-CIO.

In line with the ICFTU statement, we urge the U.S. government to work with other WTO members to address the following concerns:

- Greater openness to trade has so far not been sufficient, on its own, to stimulate robust and stable growth in developing countries or to significantly reduce poverty. The rules of trade must provide equitable and transparent market access to developing countries – especially the least developed countries – that respect workers’ rights, while ensuring that safeguard provisions allow timely and effective national actions to be taken when unanticipated import surges threaten domestic industries. The WTO must also make rules on special and differential treatment more operational, reach an agreement on the extension of implementation deadlines for developing countries, and incorporate developing country concerns regarding life-saving medicines, traditional knowledge, and the patenting of life forms into the TRIPs agreement. Outside of the WTO, more must be done to provide deep debt relief and generous development aid to developing countries; for example, the IMF and World Bank should cancel 100% of the debts owed to them by impoverished countries and rich countries, including the United States, must meet the UN aid target of 0.7% of GDP.
- Trade rules must not allow countries and companies to undercut competitors and gain market advantage by violating core labor standards. Core labor standards are universal human rights, and they are defined by the International Labor Organization (ILO) 1998 Declaration on Fundamental Principles and Rights at Work to include freedom of association, the right to organize and bargain collectively, and prohibitions on child labor, forced labor, and discrimination. As a first step, the WTO must institutionalize a review of the relationship between trade and labor standards. This review should involve the ILO, but it must be housed within the WTO and report back to the WTO so that its results can serve as a basis for reforming international trade rules.
- The WTO must become more transparent and provide greater financial and technical assistance to developing countries to enable them to participate meaningfully in WTO activities. The WTO must also become more transparent and open to outside parties. UN bodies (including the ILO), member country parliaments, and trade unions and civil society must have full information on, and be able to provide input into, the trade policy review mechanism, trade negotiations, and the dispute settlement process.

- Preservation of the environment and protection of public health and safety, including any precautionary measures and labeling programs undertaken to meet these goals, must take precedence over trade rules. Current WTO provisions on these sorts of measures give more weight to private interests than the public interest, and are insufficient to protect the environment and public health and safety.
- Trade rules must not undermine the ability of governments to provide and regulate services in the public interest. Detailed comments on services trade in the WTO follow below.
- Discussions regarding new disciplines on government regulation of foreign investment and competition policy appear to be headed in exactly the wrong direction. Rules on investment and competition must enable, not restrain, governments – especially developing country governments – to regulate investors and financial flows in the public interest. In addition, any new rules must enforce responsibilities, not just rights, for international investors.
- Any rules on government procurement must not restrict the ability of state, local, and national governments to purchase goods and services using criteria relating to the environment, human rights, workers’ rights, economic development, and social equity.

Until real progress is made on these vital issues of development, workers’ rights, transparency, sustainability, and social justice, the AFL-CIO will oppose the launching of a new round and the continuation of “built-in” negotiations at the WTO.

Trade in Services

Whether or not a new round is launched in Qatar, negotiations to expand the General Agreement on Trade in Services, or GATS, are slated to continue as part of a “built-in” round. Negotiators are not only trying to extend the reach of GATS to more sectors and thus more areas of our lives, but they are also working to create new GATS rules that will further limit how governments around the world regulate and provide services. Unfortunately, negotiators are prying open countries’ markets to foreign service providers without any clear assessment of the impacts these negotiations may have on workers’ rights, the environment, and social and economic development. The AFL-CIO is deeply concerned that GATS negotiations, if allowed to continue in the current direction, could facilitate the privatization and deregulation of services in a broad range of sectors.

Given the potentially serious and far-reaching consequences of the GATS, negotiations should be suspended until a full and open assessment of the GATS is completed. This assessment must address how existing and proposed GATS rules affect the economic and social development of poorer countries, the provision of public services, the use of government subsidies and responsible procurement policies, the effective regulation of services, and the protection of workers’ rights, the environment, and human rights. This assessment must be conducted in the same open and participatory manner as the more global impact assessment of WTO rules recommended above.

As a condition of future GATS negotiations, the GATS, like all trade agreements, must include enforceable commitments to protect workers’ rights and the environment. No company or country should be allowed to benefit from GATS rules if it violates ILO core labor standards.

Service sector workers are some of the most poorly paid in the world, they are more likely than workers in other sectors to be women, and they receive fewer benefits and enjoy less job security than other workers. Like all workers, they must be able to freely exercise their fundamental rights if they are to enjoy the benefits of increased trade and investment.

In addition, we oppose any expansion of the GATS until the following guarantees are fully incorporated into the agreement:

- All essential public services, like healthcare, education and utilities – including public services provided in competition with the private sector – must be clearly excluded from the GATS. The U.S. must not use our negotiating leverage to convince other countries, especially developing countries, to make WTO-enforceable commitments to privatize their essential services. Countries must be free to reverse any existing commitments to privatize essential services if they determine that it is in their public's interest to do so. Rules on subsidies and procurement must fully protect the ability of governments to support and purchase services in ways that promote economic development, social justice and equity, public health, environmental quality, and human and workers' rights.
- Guestworker programs too often are used to discriminate against U.S. workers, depress wages and distort labor markets. Meanwhile, the proliferation of these programs has resulted in the creation of a class of easily exploited workers who cannot fully exercise their fundamental rights. Before any new commitments on temporary entry are made under the GATS, these programs must be reformed to include more rigorous labor market tests, involve labor unions in the labor certification process, and guarantee the same workplace protections for temporary workers that are available to all workers.
- The GATS must allow governments to regulate foreign investors and other service providers to fully protect public health and safety, consumers, local economic development, the environment, and workers' rights. In particular, GATS rules should not be based on the so-called "necessity test," which bars any regulations that are not absolutely necessary – from the WTO's perspective – to ensure the quality of the service. This test, under which everything from professional licensing requirements to city zoning ordinances could be challenged at the WTO, does not adequately balance the public interest against private interests. It would place the burden of proof on governments to show that defending the public interest is "necessary" in each individual case, giving foreign investors more rights under international law than domestic companies and local communities.
- A number of transportation service sectors, such as maritime, air transport, and trucking, should be exempt from the GATS entirely. The current GATS exemption for air transport services, for example, must be preserved to protect against foreign carrier cabotage operations, allow restrictions on foreign ownership, and preserve our obligations under international aviation agreements. The flawed idea of including air transport services in the GATS regime stands in stark contrast to the time tested system of bilateral agreements currently employed by the U.S. to expand opportunities for U.S. airlines and customers. Many of these agreements have been successful in eliminating restrictions on destination, capacity, frequency, and pricing. In addition, inclusion of maritime matters under the GATS framework would only disadvantage the U.S.-flag industry. It would put at risk continued support for the maritime industry and eliminate its ability to effectively address unfair

foreign trade barriers.

- Other sectors that are heavily regulated because they are natural monopolies or have an inherently social component, such as postal services, utilities such as water, energy, and sanitation, corrections, education, and health care, should also be exempt from the GATS. Liberalization of these sectors could reduce universal access to these services, weaken legal protections for service users, and diminish service consistency and quality. Any such liberalization must be debated amply in the domestic political arena, including at the state and local levels, and not locked in through international trade negotiations.

We understand that USTR agrees with some of these positions, and has, for example, resisted pressure to make a necessity test for domestic regulations enforceable across all service sectors and to make commitments that would significantly weaken worker protections under our temporary entry system. USTR also seems to recognize that further disciplines on government subsidies and the wholesale incorporation of government procurement rules into the GATS are unwarranted at this time. USTR has also encouraged other WTO members to release their negotiating proposals and has received input on the GATS from cleared advisors and briefed other interested segments of civil society.

Yet USTR has made a number of worrisome negotiating proposals, suggesting, for example, that countries should commit under the GATS to privatize their telecommunications systems, that the U.S. is willing to make commitments under the GATS regarding college and university education, and that a broad range of domestic regulations in other countries should be rolled back for U.S. investors. Draft USTR negotiating proposals have not been available to the public at large for comment, and the number of cleared advisors continues to be heavily tilted towards private industry. While some federal agencies review U.S. negotiating proposals and selected proposals from other countries, and a number of state officials advise USTR on GATS issues, there is no effective system in place to ensure that all relevant regulatory agencies at the federal, state, and local level have the capacity and the opportunity to analyze all GATS proposals (both our own and those of other countries) for potential conflicts with our domestic laws. Furthermore, members of Congress and state and local legislators, who write the laws that GATS rules are designed to discipline, have contributed little to the GATS negotiations so far. Given the complexity and novelty of GATS issues, and the Agreement's broad reach into many areas of our lives, it is absolutely imperative that regulators at all levels of government, members of Congress and state and local legislators, and the public at large all be able to provide informed and sustained input into the U.S. position on the GATS.

Unfortunately, we have been given no reason to believe that our government intends to press for progress on the issues outlined above in Qatar. Without a profound shift in the policy of the U.S. government, we do not see any prospect of these issues being satisfactorily addressed at the WTO. The AFL-CIO opposes the launch of a new trade round at the WTO and the continuation of any mandated negotiations unless and until there is a clear indication from our government and from the WTO that the rules of trade are being significantly reformed to make the global economy work for working families.