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MOTION FOR A RESOLUTION

further to the Commission statement

pursuant to Rule 37(2) of the Rules of Procedure

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on behalf of the Verts/ALE Group

on the General Agreement on Trade in Services (GATS) within the WTO,
including cultural diversity

European Parliament resolution on the General Agreement on Trade in Services (GATS) within the WTO, including cultural diversity

The European Parliament,

- having regard to the General Agreement on Trade in Services (GATS),
 - having regard to paragraph 15 (Services) of the Doha Ministerial Declaration of 14 November 2001,
 - having regard to the requests made by the European Community to other WTO members for further services liberalisation,
 - having regard to the requests made by other WTO members to the European Community,
 - having regard to the draft initial offers intended to be made by the European Community to other WTO members,
 - having regard to Article 133 as amended by the Nice Treaty,
- A. whereas the sensitivity of trade in services is recognised in Article 133 of the Nice Treaty by the retention of shared competence between the Community and Member States for agreements relating to trade in cultural and audiovisual services, educational services and social and human health services,
- B. whereas the provision of public services is an important factor in economic, social and environmental cohesion and as an instrument of democracy,
- C. whereas it is therefore necessary for public authorities and institutions at national, regional and local level to retain the ability to regulate public services (such as education, healthcare, public transport, water distribution and waste management) in order to maintain social and environmental standards, free from challenges under GATS,
- D. whereas public services excluded from GATS are defined narrowly in Article I:3 as ‘services supplied in the exercise of governmental authority’, meaning services ‘supplied neither on a commercial basis, nor in competition with one or more service suppliers’,
- E. whereas the EU Charter of Fundamental Rights states that ‘the Union shall respect cultural, religious and linguistic diversity’ (Article 22) and whereas the need to maintain and protect these values both inside and outside the EU should take precedence over trade,
- F. whereas the UNESCO Universal Declaration on Cultural Diversity stresses ‘the specificity of cultural goods and services which, as vectors of identity, values and meaning, must not be treated as mere commodities or consumer goods’ (Article 8) and states that ‘market forces alone cannot guarantee the preservation and promotion of

cultural diversity, which is the key to sustainable human development' (Article 11),

- G. whereas GATS commitments, once made, may only be withdrawn under very onerous circumstances and whereas new proposed commitments were not made available for public and parliamentary consultation and scrutiny before they were finalised,
- H. whereas the EU should maintain coherence between the requests it makes of other countries and the offers it is prepared to make for its own service sectors, so that we do not apply double standards,
- I. whereas Article IV:3 of the GATS requires that 'particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs',
- J. whereas the Commission's WTO negotiating mandate was set by the Council in 1999, before Seattle, and should now be revised,

Transparency and Democratic Scrutiny

- 1. Notes that there are no constitutional provisions within the European Union under which this Parliament can undertake detailed scrutiny of the Commission's draft proposals and regards this both as a telling example of the democratic deficit within the Union and as a serious indictment of the interinstitutional power structure;
- 2. Signals, especially in the context of the diminishing powers of national parliaments in this domain, the necessity for this Parliament to play a stronger role in external commercial policy-making, including oversight of negotiations and the conclusion of international trade agreements;
- 3. Considers it unreasonable that the Commission continues to negotiate within the WTO on the basis of a Council mandate granted in 1999 and takes the view that, especially in the realm of trade in services, where the implications and complexities of GATS are now more clearly understood, the Council should give new instructions to the Commission; expresses its wish to be closely associated with the formulation of this mandate;
- 4. Acknowledges that the Commission has made a limited effort in sharing general information on the GATS negotiations, but asserts that this in no way represents a detailed consultation process with this Parliament; states its conviction that democratic legitimacy in such negotiations should require the active and informed participation of parliamentarians at both European and national level;
- 5. Points out that public scrutiny and debate on GATS within the EU has been conducted almost entirely on the basis of leaked copies of the request and offer documents made available by non-governmental organisations, thus adding a strong element of irony to the process;

Public Services and Public Policy-Making

6. Understands well the considerable public concern over the very narrow definition of public services excluded from GATS and calls therefore for an amendment or interpretative clarification to make clear the legitimate scope and authority of national laws and regulations;
7. Considers that the new Commission mandate should make explicit the rights of public authorities and institutions at national, regional and local level to regulate public services (such as education, public healthcare, public transport, water distribution and waste management) in order to maintain social and environmental standards, free from challenges under GATS;
8. Wishes to see a further and overriding clarification on the right to regulate so that the ultimate test is one of public benefit and is not subject to the application of trade-related criteria, for example necessity tests or least trade restrictive measures;

Impact on Developing Countries

9. Calls on the EU to refrain from making demands on developing and least developed countries for further services liberalisation unless and until sustainability impact assessments are available which demonstrate a clear benefit to the country concerned;
10. Recognises that the ability of some developing and least developed countries to regulate service sectors which were previously under public control or ownership may be limited or non-existent and demands therefore that the EU should not in any case push for further liberalisation in such sectors;
11. Further emphasises that many of the requests made by the EU, particularly in respect of investment controls, would require the removal of legitimate protective measures put in place by developing countries;
12. Insists that certain service sectors, such as water and sanitation, have a special status in developing and least developed countries, impacting directly and dramatically on people's daily lives, and therefore require special protection from exploitation;
13. Understands that the WTO Council for Trade in Services has not undertaken, as it is required to do under Article XIX:3 of GATS, 'an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement', and considers therefore that these assessments should be made and published before the current negotiations can be completed;

Cultural Diversity

14. Stresses the importance of cultural diversity and the need to respect national and regional diversity and to bring the common cultural heritage to the fore; each Member State should have the legal flexibility to take all necessary measures in the areas of cultural and audiovisual policy to preserve and promote cultural diversity;
15. Underlines that cultural goods and services are different from other goods and services

and require different treatment in international trade agreements, setting them apart from standardised mass consumption;

16. Calls on the Commission to maintain the possibility for the Community, its Member States and its regions to preserve and develop their capacity to define and implement policies in the cultural and audiovisual sectors in order to preserve their cultural diversity;
17. Instructs its President to forward this resolution to the Council, the Commission, the Member States and the Director-General of the WTO.