

Liberalization of trade in services and the right of the child to the highest attainable standard of health

Outline of a presentation to the NGO Group for the CRC:
Sub-Group on the Child's Right to Health
19th March 2004

- **About 3D**

3D → Trade - Human Rights - Equitable Economy is a not-for-profit NGO based in Geneva, Switzerland, working to enhance collaboration amongst trade, development and human rights professionals, to ensure that trade rules are developed and applied in ways that promote an equitable economy.

Our objectives are the following:

1. To promote collaborative efforts between people working to promote an equitable economy.
2. To strengthen the capacity of human rights advocates to raise their concerns with trade decision-makers.
3. To encourage the use of human rights mechanisms and rules in support of efforts to promote an equitable economy.
4. To ensure accountability of all economic actors.

- **About the WTO**

- Member-driven organization that aims to regulate trade at a multilateral level.
- Agreements cover most aspects of trade: GATT, TRIPS, GATS, AoA, etc.
- Doha Development Agenda: stated objective is to accommodate development needs.
- Lack of external transparency and inequality in bargaining power for developing countries, particularly least developed countries (LDCs) has distorted the development agenda.

- **About the WTO General Agreement on Trade in Services (GATS)**

- GATS: multilateral framework on trade in services which aims to ensure the progressive liberalization of all service sectors.
- Some provisions for developing countries: subsidies permitted to strengthen domestic capacity, safeguards if facing balance of payment problems, provisions for technology transfer, market access.
- States make "commitments" (market access and national treatment) on particular service sectors in the form of schedules. There are 11 service sectors, including health services.
- Public services: GATS excludes "public services" but there is no definition of the term in the agreement. Developing countries need time to decide an appropriate definition for themselves.
- Once commitments made, States cannot easily change them as have to pay compensation to other States. Effectively get "locked into" liberalization.
- WTO current negotiations: countries now making "offers" of new commitments (43 offers made). Developing countries are being pressurized to make offers. Countries' offers are not always made public.

- **Concerns about the impact of GATS on the right of the child to the highest attainable standard of health under article 24 CRC**

Article 24(1) CRC: obligation to ensure that no child is deprived of his or her right of access to health care services.

Article 24(4) CRC: obligation to promote and encourage international cooperation to progressively achieve this right, particularly taking into account the needs of developing countries.

- ensure *availability, accessibility, acceptability* and *quality*.

- Health services: they are spread throughout the GATS agreement and not only limited to the schedule entitled “health services.” Professional services under GATS cover medical services, dentists and midwives. GATS rules on insurance cover social and medical insurances. Therefore, States must ensure that they retain the right to regulate, and subsidize, domestic service providers in all these areas to ensure that the price of services is accessible to children and the most vulnerable groups, and that the quality of health care is sufficient.

-GATS Mode IV: movement of health workers. Risk of “brain drain” of competent medical professionals from developing countries to developed countries, thereby leading to insufficient availability and quality of health services.

-Impact of liberalization: If States commit to “unlimited market access” they will be “locked” into a situation of deregulation. States must ensure that the commitments made allow sufficient policy space to regulate health services to ensure access to the most vulnerable groups, especially children.

-Link between liberalization and privatization: liberalization can lead to a two-tiered health system with under-funded public health services on the one hand and inaccessible private services on the other.

- **Recommendations**

- Liberalization must be preceded and accompanied by a sound regulatory framework for both public and private service providers.

- States must retain their “policy space” and not make far-ranging commitments on services affecting health that they cannot go back on.

- States must assess the domestic and international implications of services liberalization before making commitments. They should undertake social and human rights impact assessments and consult with civil society in order to make an informed commitment under GATS.

- **Possible Actions**

- Ask for information from the government on their services offers in the GATS negotiations.

- Analyse that information or have it analysed for its effects on development and on human rights. For instance, in what areas is the government offering to liberalize services? Do its offers include health services, professional services and insurance services? What impacts will this have on the provision of such services?

- Encourage the government to make assessments of the impact of liberalization on access to health care services before making any commitments in the GATS negotiations.

- Encourage alliances between civil society groups worldwide to ensure accountability of governments (existing WTO Members) to human rights obligations in their WTO dealings.