

# **The General Agreement on Trade in Services (GATS) and international trade in health services. Impact and regulations**

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## **Abstract**

*This article is interested in studying the impact of trade agreements on the quality of health services, and the statement of the role of the Ministry of Health to protect the quality of these services. The problems that arise in this study; how the application of GATT on trade in health, and services? This article also includes the impact of international trade agreements on the issue of attracting foreign investments in the field of health, and to clarify the government's ability to maintain the health and political, and the capacity of national health products to compete with foreign products. Different research methods were used in the study, including: analysis, synthesis, deduction, induction. However, the most used method was comparative considering the specifics of the subject under studying. The study ends by mentioning that although so far only a few countries where trade in health services has a major role, trading. However, there seems to be agreement that is wide enough, with respect to health services. Furthermore, Trade liberalization -or privatization - can may lead to the development of second-degree health care system.*

**Keywords:** *gats agreement; health services; health policy; the TRIPS agreement.*

**JEL Classification:** K13, K32.

## **1. Introduction**

At first, trade negotiations and the opening of the market seen as a problem that has not been a priority for health policy makers so far, health policy makers are interested only in the TRIPs Agreement and its implications for public access to the drug<sup>2</sup>. On the other hand, trade negotiations' services can have a major impact on the provision of health services; therefore, the role of the health department to be important that the health department must try to understand what happened and take a more proactive role again. Traditionally, provision of services is a non-economic activity, however, because such a rapid development of technology, services- including health services began to be traded. Due to increasing their economic importance, the following basic range of guidelines and rules for

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<sup>2</sup> Helmi Khair, Is the right to health undermined by the agreement of trade-related aspects of intellectual property rights?: University of negri sembilan 4, *Journal of Academia*, 2016, 4 (01): 28-33.

international trade in services through a short business multilateral called GATS agreement (General Agreement on Trade in Services).

GATS agreement covers all kinds of services in all sectors and as most multilateral trade agreements, intended to open up the market (liberalization) however GATS agreement is only a framework; where content and obligations of members, in general, depends on the commitment made by the member for multilateral trade negotiations<sup>3</sup>. Through various negotiation effective, member states are expected to increase their commitment to open up their services markets, for example: to open up the face of foreign competitors.

Opening the market of a sector can be good, because it can attract foreign investment but may also cover the benefits of a particular policy<sup>4</sup>. however, the GATS agreement is an agreement that is flexible; this agreement promises many opportunities for commitment is carefully therefore, in compiling a commitment in the health sector need to be considered ripe conditions most conducive and clear boundaries, and that is done through domestic regulations in force, so that eventually the government can protect the goal of health policy, however, it may be unrealistic to expect the trade negotiators to learn about the public health implications of liberalization of trade in services; where the role of the health sector is the largest by providing policy direction and inputs.

When preparing the policy, keep in mind that putting together a good policy not just sign something that is not understood. And it is not wise when making a decision is not based on an in-depth analysis. Therefore, decision makers should be interested in the health services trade liberalization process then able to analyze the implications nationally, and ultimately provide feedback and direction for the trade negotiators. It should be noted that if the decision makers of health do not have accurate information or are not actively involved in the discussions and voice their opinions and their problems, they will not be heard it must be remembered the process of negotiations and the signing of trade agreements will continue - with or without input of health sector.

Based on the above background, the problems that arise in this study can be summed up in two parameters. On one hand, finding the appropriate means to apply GATT's trade rules on health and services. On the other hand, to what extent the government can protect health and trading services?

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<sup>3</sup> Nick Drager, *Managing liberalisation of trade in services from a health policy perspective*, GATE and health related services. Geneva, Switzerland: world health organisation, 2004, p. 04.

<sup>4</sup> Amit Bikram Chowdhury and Partha Bhattacharjee, Trade in Health Services in the BIMSTEC Region: An Overview, USA: Center for Promoting Ideas (CPI), *International Journal of Business and Social Science*, 2014, 5 (01): 164-170.

## 2. Trade, services and GATS

### 2.1 The World Trade Organization (WTO)

At the end of 1940, 23 countries signed the General Agreement on Tariffs and Trade. GATT agreements create a framework that underlies various international trade rules, aimed at seeking peaceful solutions to the conflicting trade, tariffs, and other trade barriers through deliberation<sup>5</sup>. In negotiations to eight, or Uruguay negotiations, which lasted from 1986 to 1994 and ended on January 1, 1995, set up the WTO (World Trade Organization), and currently has more than 140 member countries.

WTO is the umbrella organization for the implementation and interpretation of the various multilateral trade agreements or the so-called WTO Agreement. In this Agreement set out the rules for international trade, which has been negotiated and established by the WTO member countries. The WTO agreement not only covers goods only (GATT the General Agreement on Tariffs and Trade), but also services (GATS The General Agreement on Trade in Services) and copyrights (TRIPS the Agreement on Trade-Related Aspects of Intellectual Property rights). Although these agreements vary in scope and content, however, there are some basic principles that underlie all three, namely:

- **Non-discrimination:** In the WTO Agreement states that a country can not generally discriminate against its trading partners. This principle is called the principle of MFN (most-favored-nation); this means that the government should treat all foreign countries are similar, however, there may be exceptions, such as regional free trade agreements. Non-discrimination aspect of the second was "national treatment"; This means that goods imported and produced locally should be treated equally, at least after the goods that enter the market<sup>6</sup>.

- **Progressive liberalization:** Opening markets can be beneficial, but it also requires adjustment. Therefore, most of the WTO Agreement allows countries to apply the changes gradually, through progressive liberalization.

- **Transparency and predictable:** To encourage free trade, the business environment must be stable and predictable. Rules and trade practices must be clear and open to the public<sup>7</sup>.

In the WTO, decisions are prepared by consensus; therefore it is important for member states to participate in any meeting of the WTO.

Another important aspect of the WTO Agreement is the dispute settlement Trade relations often involve conflicting interests. Contracts and agreements, including agreements negotiated in the WTO system, often require legal

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<sup>5</sup> Alison Burrows, *General Agreement on Trade in Services (GATS)*. Australia: Department of Foreign Affairs and Trade, 1999, p. 18.

<sup>6</sup> Treatment 'no less similar' means that should the equality of conditions competitiveness.

<sup>7</sup> Susy Frankel and Daniel Gervais, Plain Packaging and the Interpretation of the TRIPS Agreement, Vanderbilt Law School: South Nashville. *Vanderbilt Journal of Transnational Law*, 2013, 46 (05): 1149-1214.

interpretation. When there are differences of interpretation, disputes can arise between countries; the best way to accomplish this is a standard procedure and agreed<sup>8</sup>.

WTO dispute settlement process consists of several stages. The first stage consists of the consultation with the countries involved in the dispute. If unsuccessful, the parties to the dispute will select a panel or, if not possible, the panel may be appointed by the Director-General of the WTO. The panel will analyze the evidence and hear arguments from both sides. The panel will then make a report and recommendations that will be used by the Dispute Settlement Body through a negative consensus means that the report would be used unless there is a consensus that rejects Perselisiha Settlement Body. The parties to the dispute have the option to appeal to the report prepared by the Panel; however, the Board of Appeal level will only review the legal interpretation of the agreement and WTO rules, and will not do a re-evaluation of evidence<sup>9</sup>.

State loser has to obey the recommendations given by the Dispute Settlement Body. If the country does not obey them within a certain period then the country will be required to provide compensation; if not, then as a final settlement for trade sanctions to be given to the country.

## 2.2 Trade in services?

Outside of a few exceptions, such as transport and international communication traditionally, 'services' are considered as a non-economic activity, which requires the presence of agents (providers) and consumers simultaneously. However, due to technological developments, especially the new communication technologies, as well as political and economic reforms of services has increased so that it can be traded.

Although trading services across bats still smaller than the trade in goods traffic (trade in services represents approximately 20% of cross-border trade), but this trade is growing faster Due to huge growth in international trade, a number of countries (particularly the countries that have held industrialization) felt that trade negotiations between countries should include trade in services. Although initially controversial, was agreed in Uruguay round required a multilateral basis and regulations framework that would regulate the international trade in services; basic and regulations are set out in the GATS.

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<sup>8</sup> Rudolf Adlung, *Trade in healthcare and health insurance services : the gats as a supporting actor*, World Trade Organization Economic Research and Statistics Division, 2009: p. 17.

<sup>9</sup> Nicholas Skala., "The potential impact of the world trade organizations general agreement on trade in services on health system reform and regulation in the united states", Northwestern University School of Law: Chicago Avenue. *International Journal of Health Services*, 2009, 39 (2): 363-387.

### 2.3 General Agreement on Trade in Services (GATS)

GATS is an agreement between the first nation, which can be imposed on international trade in services. Highlights of these goals include the expansion of trade in services with a condition that is transparent and progressive liberalization as a means to pursue growth and development. As trade agreement in goods, the GATS has three parts, namely: 1) the main part of the manuscript contains general principles and obligations, 2) attachment that contains the rules for specific sectors; 3) schedule with details of specific commitments of each country to open up certain service sectors for international trade. Furthermore, the GATS schedule also contains limitations and restrictions, if any, from countries where the sector 'scheduled'. Liberalization schedules are an integral part of the agreement<sup>10</sup>.

#### **Basic principles:**

GATS agreement applicable government policy that covers trade in services does not apply directly to the company's policy.

Two basic principles of the GATS is non-discrimination and transparency. To improve transparency, GATS requires governments to publish all relevant regulatory laws, and allow, so that the other WTO Member States have the opportunity to be informed about national regulations that apply to the various service sectors are different.

#### **Non-discrimination is described on two levels:**

The treatment of the most favored nation MFN: MFN treatment means that states must treat all foreign trade partners as equals then from this<sup>11</sup> is the treatment should "not be less similar" no less favorable). The state is not allowed to distinguish the goods, services or agents (suppliers) on the basis of a difference in origin (foreign). In principle, the doctrine of MFN applies to all services and all sectors, even when the country has not made a commitment to provide access for foreign companies in the sector. Limited exceptions allowed.

National Treatment: National treatment means treating the company, products or services of no less alien similar treatment of the country's own products and services. Although the national treatment is a general principle of the WTO, in the context of GATS is valid only when the country has made a specific commitment, and exemptions are allowed.

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<sup>10</sup> Patricia Arnold, *The General Agreement on Trade in Services (GATS)*: School of Business Administration, University of Wisconsin-Milwaukee. *Journal of Business Ethics*, 2000, 63 (4): 313-332.

<sup>11</sup> The words are actually in the GATS (Article II.1) is the treatment should "not be less similar" no less favorable).

**Exemption and Exclusion:**

In the GATS, exceptions are allowed both to the principle of MFN and national treatment. Although the substance of this exception is quite different:

- **Exemption from MFN:** When the GATS negotiations began, several countries have signed preferential agreements in services with some of their trading partners, whether it is bilaterally or in small groups. WTO members felt that it was important to maintain the preferential agreements for a while.

Therefore, they allow stating their own to provide treatment that is more favorable in certain countries in the activities of certain services by allowing "exemption from MFN in addition to their commitment. In order not to reduce the general principle of MFN, such exceptions can only be done once (at the time of entry into the WTO); nothing can be added again later. Furthermore, this MFN exemption, which must be reported, usually valid for no more than 10 years.

- **National Treatment:** National treatment means treating foreign country no less the equivalent to the state itself. This means that foreign companies have been allowed to supply a service, there should be no discrimination between foreign companies with local companies. In the agreement governing international trade in goods, national treatment is usually automatically applied to all imported goods are legitimate. In contrast, in the GATS, 'national treatment' only applies when a country has made a specific commitment to provide access for foreign companies to market their services. National treatment does not apply to sectors that are not already committed - indeed, even in the commitment, the GATS allows some restrictions on national treatment.

- **Other exceptions:** Furthermore, it is important to note that the GATS does not apply to government services as "services supplied in the exercise of powers of government"; services like these have been described as services that "are not supplied on a commercial basis, nor in competition with one or more providers services Typical examples of such services include the services of police<sup>12</sup>, tax collection, and customs. This definition also shown does not include health care free at the health facility the community of regulatory GATS, but health services commercially provided by clinics and private hospitals are within the scope of GATS. Furthermore, there is a risk that this exclusion shall not apply if the private health care and public coexistence - like most cases in most countries.

**How to trade in services:**

Services' can include a wide range of activities, from banking, transportation or construction to tourism to education and health services<sup>13</sup>, Because services can be very different in nature, it is difficult to determine without a double meaning; indeed, GATS has dodged the issue of defining the scope of 'services'. Instead,

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<sup>12</sup> GATS Article I.3.

<sup>13</sup> Trade in services information on the WTO website: [www.wto.org/services](http://www.wto.org/services). [Accessed October 10, 2016].

GATS has specified services delivered in the form of their way, to distinguish four ways or modes of delivery of international services<sup>14</sup>:

1. Supplies that cross the borders: from the territory of one member state to the territory of another member state (international calls).
2. Consumption abroad: the territory of member states and to serve consumers in country A (tourism).
3. Commercial presence: of the agent (dealer) services from member countries B, through commercial presence in the territory of A country<sup>15</sup> (additional branches or foreign company)
4. The movement of indigenous people: through the presence of indigenous people from member countries B, distribute services in the territory of a member state (foreign workers or consultants).

#### **Mode (way) and scope:**

Based on the principle, trade in services can be related to the import or incoming services, or services export or exit; for example, in mode 1 (supply across the border), country A can deliver services to country B, or receive services from B. As also, in a second mode, consumers can go from A to obtain services in country B or country A consumers can receive from B. However, the GATS only applies to the consumption of 'export'; This does not affect national policies that deal with the entry of foreign consumers.

In addition, in mode 3 and 4, the GATS only applies to commercial presence incoming and indigenous people to enter; This does not affect national policies that allow companies to invest abroad, or determine whether or not the state allows its citizens to go and work abroad.

### **2.4 Health services in the GATS**

The list is usually used by WTO Members to schedule their commitments in GATS shared services into 12 sectors staple, which is then subdivided into about 160 parts sector. To top it all, the sector following sections relate directly to health: medical and dental health care; services provided by midwives, nurses, physiotherapists; hospital services and "other human health services". Each sector-sections can be subdivided according to all four modes mentioned previously.

Useful to remember that during the Uruguay Round negotiations, few countries have made a commitment to health; indeed, there is among the education and health sectors have so far committed at least look. Two examples of countries that have included health-related services are India and Singapore.

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<sup>14</sup> Greg McGuire, *trade in services; market access opportunities and the benefits of liberalization for developing economies*. United Nations, Geneva: Conference on Trade and Development Palais des Nations, 2002, p. 39.

<sup>15</sup> Mode 3 is mainly related to foreign direct investment.

### **ASEAN Framework Agreement on Services:**

Framework Agreement on Services ASEAN (AFAS) was signed in December 1995 and stated one of its goals is "to liberalize trade in services by expanding the depth and scope of liberalization beyond those already taken by the Member States in the GATS with a view to realizing a free trade area in services." So, therefore, explicitly aimed at AFAS commitments' GATS-plus' between ASEAN countries. As GATS, have not been established, AFAS pursue progressive liberalization through the round-round negotiations<sup>16</sup>.

Today, AFAS focus on seven priority sectors, excluding health. Nevertheless, the goal is to expand the number of sectors in a timely manner so that health services can be included in the future. Furthermore, ASEAN countries have recently agreed to begin negotiations based on the Mutual Recognition Arrangement for expert services in the AFAS; a possibility which is also provided in Article VII of GATS. This plan could include health services<sup>17</sup>.

## **3. Trade, health and health problems**

### **3.1 Trade in services and public health problems**

Under the concept of GATS, trade in health care services are associated with the four way / mode that has been mentioned above. Furthermore, in every way the state can be fundamentally -at least - can be a recipient country or the country of export services. This section will briefly discuss the key issues, from the standpoint of public health, which are associated with both the flow of services (export and import) will involve discussion outside the scope of GATS, aim is to be given a more complete picture of the issues and opportunities associated with health services trade<sup>18</sup>.

### **3.2 The experience and data**

Attempts to analyze the impact of trade and trade liberalization on health services and the health status of the inevitable problem of shortage of data. Ideally, an agency must have comprehensive data on the number and origin of trade volume of foreign investment, the country which is the goal of the departure of patients and workers, the amount of remittances, foreign currency entry, etc. Unfortunately, in many developing countries are difficult to obtain adequate data. Groups of data that already exist today, such as trade statistics and balance of

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<sup>16</sup> Mia Mikic, *Health-related Services in Multilateral and Preferential Trade Arrangements in Asia and the Pacific*. Asia-Pacific Research and Training Network on Trade Working Paper Series: No. 30, 2007. pp. 16-17.

<sup>17</sup> Arunanondchai, J. and C. Fink, "Trade in health services in the ASEAN region", paper prepared for the project on trade in health services undertaken by the ASEAN Economic Forum and supported by the World Bank Institute. Mimeograph, 2005, p. 09.

<sup>18</sup> O. Adams and C. Kinnon, *Measuring trade liberalization objectives against public health*. Geneva: WHO, 1997, p. 22.

payments data, usually not sufficiently separated; specific data on trade in health services often do not exist and that certainly does not fit the way the supply of GATS; therefore, they can not easily be used to track the health service trade scale, or changes that occur as a result of trade liberalization<sup>19</sup>. Now, there is no enough information to determine with certainty whether the trade in health services is beneficial or not.

### 3.3 The failure of the medical market

**Access, costs and competition:** In the end, the notion of liberalization more inclined to the increased role of the private sector, rather than market expansion. So what is the effect of the increasing role of the market in health services? And whether the reasons enhancement want this role initially? From an economic perspective, the main benefit is supposed efficiency gains due to competition, and the fact that the private sector contribute or add a new source, which expand the total capacity of the health system. In addition, the contribution of the private sector can, fundamentally, freeing resources from the public sector, which can then be given to groups that are weak and vulnerable, or intervention in the market that may be overlooked.

Likewise, health insurance companies that compete will tend to focus on the low-risk (or healthy), and handed the high-risk groups to the public sector, which is the majority of the population, and ultimately will cost at most.

The increasing presence of private healthcare facilities can increase the gain employment in the private sector, and therefore may reduce the suction labor (coming out) - but this could pose a risk - particularly in countries where medical personnel are eligible bit transfer will occur from sector government to the private sector - which in public health facilities may suffer - and, finally, access to quality services may decline, especially in distant areas<sup>20</sup>.

### 3.4 Challenges and selection policy makers

At the time of developing and formulating a position on GATS and health services, or when formulating proposals that will be submitted in the GATS negotiations, health policy makers can expect some problems. These include lack of familiarity with the trade agreements, the difficulty in assessing the situation, the lack of data, etc. Despite these difficulties is quite real, they must not reduce the effort to analyze the situation, to develop suitable policies and to provide input to the negotiators.

**Analysis:** At the time of preparing the input or suggestions for officials who intervened in trade negotiations and / or in coaching a position with respect to

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<sup>19</sup> Rupa Chandra, *Trade in Health Services*, Working Paper 4: 5. the Commission on Macroeconomics and Health, 2001, p. 05.

<sup>20</sup> Richard D Smith, „Foreign direct investment and trade in health services”, The Elsevier Publishing Campus: *Journal of Social Science & Medicine*, 2004, 59 (02): 2313-2323.

the liberalization of trade in health services, an analysis of the present situation and the potential implications of liberalization should be implemented, in order to identify possible opportunities and difficulties. Logical framework for an analysis shall contain the following:

Beside the necessity of obtaining a general overview of GATS, trade in health services, the risks and opportunities that exist in health, finding out if there is an already made commitment, gathering information about the position of other countries, mainly the commitments made by neighboring countries and trading partners, restrictions..., is also of importance. Moreover, analyzing the status and peculiarities of health services in the country, paying attention to the combination of public and private efforts, the distribution of health services in the country etc.

The experience of other countries can be of help in matter of being a reference or to get a lesson from, but the analysis of the real situation of the country that may require an amendment to the status of health services that in turn vary from country to another. Therefore, finding the best approach to tackle the issue of inventing the status of trade in health services in the country, and the questions raised, including whether the country has become a destination of foreign patients, whether people tend to seek treatment abroad, if there is foreign investment in the health sector, whether health experts and officers are working in other places etc.

The following point is that of analyzing the impact of such trade in health services on the existing trading affect the quality, efficiency and equity of health care. Furthermore, analyzing tyhe future impact of trade on health services. Additionally, the identification of the existing and potential barriers facing trade in health services, domestic and foreign. Concentrating on countries that do trade like that, or where the prospects are promising, and the main drag. Looking at the domestic constraints and bottlenecks elsewhere.

Last but not least, assess the impact of liberalization on trade in health services; identifies the need for protection, the opportunity to open and restrictions that may be encountered, and connect it with the existing selection in the GATS. Given that there are many connections between the ways, and therefore, an action that is done in a way may influence trading in other ways.

### **3.5 The views of the court**

Outside of making its own analysis, policy-makers should bear in mind the court; therefore, they should keep in touch with all the groups concerned and the court, which can provide information about the expected consequences of their view, the actions and commitments. The starting point should be the consumer, because of discussions on the subject usually dominated by professionals / caregivers. But despite their position varies depending on the national context, at a glance it can be concluded that some of the views, opinions and problems of some of the court with respect to the GATS and the liberalization of trade in health services in Indonesia have different views and priorities.

### 3.6 Difficulty

Difficulties faced when preparing a negotiating position will include:

- There are numerous uncertainties inherent in the GATS Agreement.
- The required data is not usually available<sup>21</sup>.
- Perhaps the most populous lack of cooperation, or mechanisms for cooperation between the trading department and health department.
- The court can have different views and interests, even antagonistic.
- Variations in performance Country can give you a very different opinion especially in the vast country; Where in certain areas that get will push for liberalization, but for other region others they may be time to sleep so that balanced national vision must be developed carefully ..... etc.

### 3.7 The road ahead

Given that the new round of GATS negotiations have been initiated, as well as other trade negotiations, regional and/or bilateral<sup>22</sup> -where services include-health already has lasted or can be started at any time, the health sector must prepare his analysis and input as critical; time is running out, the opportunity to influence the direction to be taken by the state, and the commitments that will be taken or not, are at the moment.

Therefore, now, many health policy makers are in a position where they have to act, and where they came to the conclusion, based only on limited data or anecdotal evidence available - and/or a reasonable assumption.

It is important to realize that trade in services may not be able to meet all three criteria, namely equity, quality and efficiency simultaneously. And also, one should look at the advantages and disadvantages. On several occasions, the discussion talked about trafficking vs. Health - but instead the views of trade and the view of health, it is important for both sectors to work together to achieve the interests of a comprehensive national, to develop the view that an integrated and to address questions such as whether the financial benefits balanced the potential loss of public health.

### 3.8 Trading vs. health

Taking the example of health personnel working abroad, among its benefits, of course, no remittances. It will be focused by the Commerce Department. To weigh the advantages and disadvantages of this kind, it is important to know whether the workers who went out in a state of surplus or not. Another positive aspect is gaining knowledge; if they return to their home countries, they will come back with more knowledge, and the country can benefit from this activity. Also, a new technology that can get into the country in this way.

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<sup>21</sup> See paragraphs 3.2 (GATS agreement).

<sup>22</sup> Examples APA.

Among other negative aspect is the possibility that health workers who went to settle abroad, which resulted in the siphoning of labor and loss of investment in their education. Another negative thing is the potential to create or expand inequalities; although the workers back and invest in the health sector, they may set up a fancy clinic that did not serve the poor - which will increase inequality<sup>23</sup>.

It seems there is a trend among developing countries to take effect passive position, waiting for the request and then respond. This is dangerous because the policy can be run by outsiders, and cause overall policy becomes inconsistent. It certainly would national interests are better performed by analysis of domestic policies and report on national policy decisions. In addition, developing countries should not forget that they can also make a request. Examples: countries that want to attract foreign patients will receive income from the portability of health insurance<sup>24</sup> from foreign countries are being targeted, which makes the second mode commitment of these countries to be more meaningful.

It is important for health policy makers to solicit input from and work closely with colleagues in the Department of Commerce, that can certainly understand the scope of trade in services in connection with health care, and also to understand the scope and implications of the horizontal commitments. It will also help the establishment of cooperation between the different sectors, and to promote understanding. For example, in Thailand, the Ministry of health has been a proactive force and establish a multi-sectoral working group, involving the Ministry of Commerce and other relevant departments, experts from universities, hospitals and also private foundations and other stakeholders. This group works together to identify strengths, weaknesses, opportunities and risks, as well as information needs. They discuss options and see the potential effects of size and different scenarios, to determine what the state should try to get at the time of the negotiations, in which the request must be filed, and whether and to what extent the health sector will open up.

### **3.9 Department of health: recommended**

In order not to lose the opportunity to influence trade policies that may have important implications for health, is recommended because of its importance, that the Ministry of Health:

- Learn about the trade in health services, and will understand the main points of the GATS Agreement.
- Analysis of national circumstances with respect to trade in health services, and to anticipate the impact of liberalization; considering the advantages and disadvantages, economic and health aspects; and identifying national interests;

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<sup>23</sup> David Woodward, *Globalization, global public goods, and health*. Department of Health in Sustainable Development, Geneva: World Health Organization, 1999, p. 06.

<sup>24</sup> Portability of health insurance means health insurance will pay the costs of health care abroad.

- outlining policies and strategies; in order to answer the demand/request GATS related to health, determine our limitations and build various safeguards if necessary;
- Communicate policies and the limitations clearly against its counterparts in the Department of Commerce;
- If time allows: consider to compile a list of requests, which indicates the maximum leeway given as balasanya working group or task force, and also at the same time establish a mechanism for coordination and communication. This Task Force should be able to consult with all of the court, but its members do not need to be composed of representatives of the court.

#### 4. Conclusion

As pointed out repeatedly in this paper, it is too early to make definitive conclusions regarding the impact of GATS, or the liberalization of trade, in the health sector. But thoughts are spacious and conclusions can be outlined as follows:

**First**, although so far only a few countries where trade in health services has a major role, trading as it does - which is not based on the GATS or GATS commitments - and appears to be increasing. GATS agreement provides a framework of rules for international trade in services, including health services, but the actual content and obligations are determined in large part by the national government. Therefore, the responsibility lies with the government to use the GATS guidelines in the best interests of the country and its people, and for all this time with respect to the health sector, the Ministry of Health should take an active interest and role in formulating policies and negotiating positions.

**Second**, the situation is complicated by the lack of data, the cause analysis and impact assessment becomes difficult. However, there seems to be agreement that is wide enough, with respect to health services, that is the central issue of privatization or commercialization, not trade - although it is known that international trade and foreign state participation in the privatization of services will increase, which will increase its influence. Furthermore, Trade liberalization - or privatization - can cause or increase inequality and may lead to the development of second-degree health care system.

**Third**, the shape and size of health care services trade, and their impact, are largely determined by the situation existing in the country, especially with regard to the mixing of public and private, domestic regulations and regulatory framework in the health sector. By considering carefully to make a commitment or not in the health sector, and if so, the restrictions which one will be determined, and by developing domestic regulations accordingly, the government can protect the goals of health policy and equality, and can lead and direct behavior actors in the health sector.

GATS has further implications for health and health services. It can, when appropriate commitments made, reduce inventory space policies in the health sector, which is therefore the purpose of the acquisition endanger people's health. This may be further exacerbated by the development in the future in the context of GATS, such as the rule in domestic law. Furthermore, although a number of developing countries that liberalized its health sector can provide opportunities, for others, this does not seem to exceed the risks.

Therefore, it is important and required that the Ministry of Health is involved in the discussion and in formulating domestic policy, and ensure that the policy space essential guarded, and that no commitments were pushed, and that health, as a sector of economic interest is limited, not for sale.

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