



SENATE CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

March 28, 2003

Ambassador Robert Zoellick
Office of the United States Trade Representative
1724 F Street, N.W.
Washington DC, 20006

Dear Ambassador Zoellick,

The undersigned members of the California Legislature are writing to share with you our deep concerns regarding the current negotiations of the General Agreement on Trade in Services (GATS). This far reaching trade agreement of the WTO could have profound implications for our state and municipal lawmaking authority, specifically on our ability to fulfill our obligations and our authority to govern, legislate and regulate for the benefit of our communities and for the broader public interest.

While we acknowledge the economic and social importance of trade for the economy of California, we believe that trade and investment agreements that undermine the ability of governments to enact domestic safeguards, standards, preferences and regulations, jeopardize the public welfare and pose grave consequences for democratic governance throughout the world. These agreements limit the authority and traditional processes of democratic governance, and disregard the long established notion that such government regulation plays a vital and positive role in our social and economic life and long term sustainability. The resulting trade policy is less accessible and accountable to the people of each nation and more accessible and responsive to multinational corporations that do not see themselves as citizens of any particular country.

The GATS is of particular concern to us because of its massive scope and the lack of clarity as to the extent to which it will apply to state and local laws. The GATS negotiations suggest that a wide range of public protections and services, enacted in the public interest, could be considered barriers to trade. According to the text, the only services exempted would be those services "supplied in the exercise of governmental authority", defined as "any service which is supplied neither on a commercial basis, nor in competition with one or more service providers." These are critical terms that remain undefined and could be interpreted by a dispute panel in a way that renders the exemption meaningless. Many public services are currently provided for a fee and

have public or private competitors, and few government services, such as transportation or water delivery, are provided as an exclusive monopoly.

The GATS seeks to establish disciplines that would liberalize trade in services, broadly defining services as "any service in any sector", and would apply to "all measures affecting trade in services taken by all governmental authorities at all levels of government". This broad definition would not just include government policies directly related to services, but those that merely *affect* trade in services. No government measure "affecting trade in services," whatever its aim--environmental protection, consumer protection, enforcing labor standards, promoting fair competition, ensuring universal service, or any other goal--is, in principle, beyond GATS scrutiny. This would include a multitude of publicly provided services, including health care, the delivery of water, postal services, garbage collection, education and many other services commonly provided in the public interest.

For example: The proposed rules on "domestic regulation" could allow foreign corporations and governments to challenge a wide range of California health care regulations as "more burdensome than necessary". This could include nurse-to-patient staffing ratios, professional licensing standards and laws against discrimination by licensed insurance companies on the basis of genetic characteristics. Service rules could also have devastating impacts on the environment by restricting the ability of governments to limit permits for oil drilling, land use and waste incineration. Drinking water standards, pesticide application standards, renewable energy laws, and toxic waste laws could also be challenged under domestic regulation, as well as national treatment or market access provisions.

These implications are very troubling and strike at the heart of our ability to regulate in the public interest. Recently leaked negotiating documents from the European Union (EU) reveal that the EU not only seeks market access to our service sectors, but explicitly requests future limits on state and local regulatory authority. These documents request that the U.S. open up a number of public services to trade by multinational corporations, including drinking water, electricity, postal and sanitation services. In addition, they request the elimination of state oversight of insurance, the extension of small business loans to foreign companies and the elimination of approximately 44 specifically identified state laws. This is just one of the 'Request' documents that your office has received from some of the WTO members engaged in these negotiations. Yet, in spite of the magnitude of these requests, neither state nor local lawmakers nor the public have been granted access to these documents.

For the reasons outlined above, we request information regarding the following questions:

Which service sectors will your office be making commitments on and what commitments will it offer?

What is the specific substance of the GATS negotiations and how will requests, offers and proposed GATS rules impact the state of California?

Will public services, such as municipal power or water agencies, be covered by GATS?

Will GATS affect general powers of domestic regulation?

- What requests have you received that will impact the state laws and regulations of California?
- What requests will your office be making that could impact the state of California?
- Will you release the GATS requests, offers or proposals on domestic regulation for public and legislative analysis?
- And finally, please explain the ways in which your office will work to consult with state legislatures in regards to these negotiations.

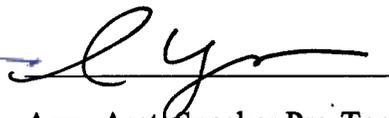
In the absence of any real engagement on these issues, it will remain our position that state and local government actions should be carved out of the scope of international trade and investment agreements.

Thank you for this opportunity to raise these concerns. We look forward to engaging with your office during the negotiation of this agreement.

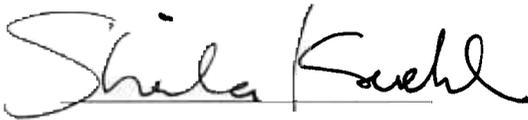
Sincerely,



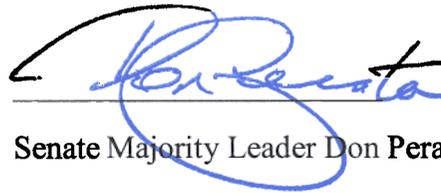
Senator Liz Figueroa



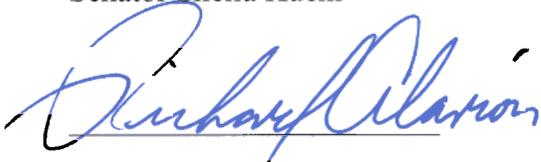
Asm. Asst. Speaker Pro-Tem Leland Yee



Senator Sheila Kuehl



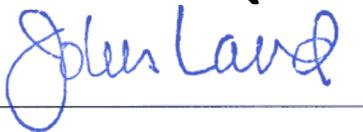
Senate Majority Leader Don Perata



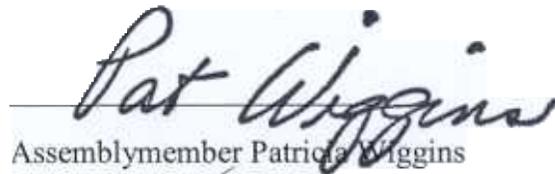
Senate Majority Whip Richard Alarcon



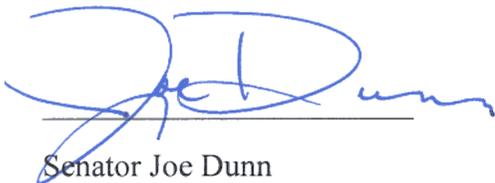
Assemblymember Lloyd E. Levine



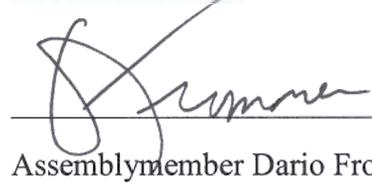
Assemblymember John Laird



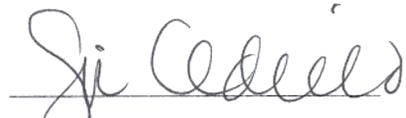
Assemblymember Patricia Wiggins



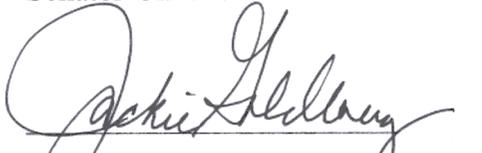
Senator Joe Dunn



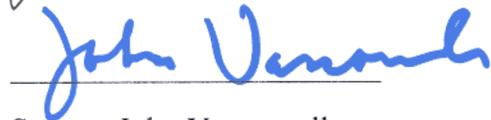
Assemblymember Dario Frommer



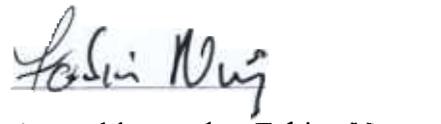
Senator Gil Cedillo



Assemblymember Jackie Goldberg



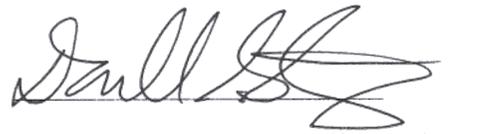
Senator John Vasconcellos



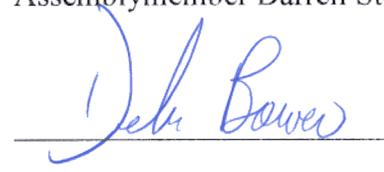
Assemblymember Fabian Nunez



Assemblymember Loni Hancock



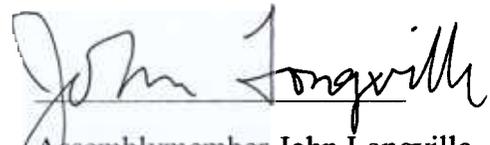
Assemblymember Darrell Steinberg



Senator Debra Bowen



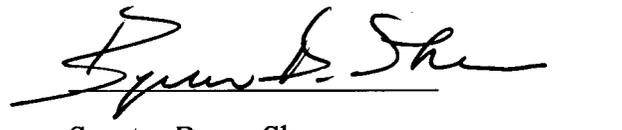
Assemblymember Patty Berg



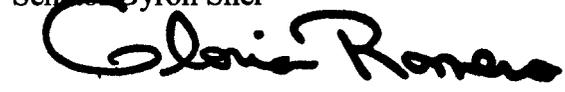
Assemblymember John Longville



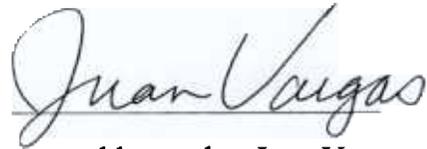
Assemblymember Sarah Reyes



Senator Byron Sher



Senate Dem Caucus Chair, Gloria Romero



Assemblymember Juan Vargas



Senator Tom Torlakson



Senate President pro Tem John Burton



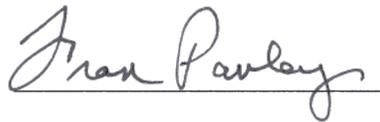
Assemblymember Mark Ridley-Thomas



Asse**mbly**member Paul Koretz



Asse**mbly**member Sally Lieber



Asse**mbly**member Fran Pavley

cc: California Congressional Delegation
Congressional Oversight Group on Trade
National Conference of State Legislatures