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SAVE OUR SERVICES

S.O.S. SERIES No. 7 – Safeguarding Local Land Use Laws Against WTO Attack *How WTO GATS rules promote the Wal-Martization of the world*

A global commercial agreement of unprecedented scope and power is currently being renegotiated behind closed doors. The agreement, the World Trade Organization's General Agreement on Trade in Services (GATS), could result in the privatization and deregulation of essential services. You can collect Public Citizen's whole S.O.S. Series at www.citizen.org/trade/wto/gats. For more info: gtwfield@citizen.org or 202-546-4996.

Bottom Line: In 1994, the United States volunteered to have retail and wholesale distribution services, as well as the hotel and restaurant sectors, comply with the extensive rules of the GATS. Among the GATS rules are bans on limits on service sectors business size, the number of service sector operations and more. However, unlike many other countries who agreed to have these service sectors covered by these GATS' rules, U.S. negotiators failed to safeguard state and local land use policies that limit the location, number, size or design of service businesses! Unless the United States takes action to fix this problem in the current GATS negotiations, we may lose our ability to regulate foreign retail, hotel and restaurant operations, and face WTO attacks on state and local land use laws.

Key provisions of the GATS threaten the following types of land use laws:

- **Environmental Preservation:** Under the GATS "market access" rules, governments are prohibited from placing limitations on the "total number of service suppliers," and a flat ban of pernicious activity is considered a GATS-forbidden "quota of zero." Thus, if communities banned retail operations in an environmentally sensitive zone, or limited the number of hotels, restaurants or stores that could be built on a beachfront, these policies could be challenged in WTO tribunals as a violation of GATS rules.
- **"Big Box" Stores:** GATS also prohibits "limits on the total value of a service transaction or asset" or "limitations on the total quantity of service output" expressed in terms of "numerical units," "quotas" or an "economic needs test." Many communities place height and size limits on big box retail stores and limit chain stores in order to safeguard small businesses, stop sprawl and promote vibrant downtown business districts. Los Angeles is just one city that requires retailers seeking to build stores larger than 100,000 square feet to pay for an economic analysis on the impact their store would have on the surrounding area. These kinds of land use policies are jeopardized by GATS rules. Indeed, in official submissions, Wal-Mart has supported the application of GATS rules against policies limiting the size, number or location of retail stores abroad.
- **Historical Preservation:** Rules that prohibit development in historic zones, or require buildings to conform to particular architectural or design standards, are jeopardized by GATS rules, because they limit the number or the "total value of the service transaction or asset." Thus, many European and Asian nations specifically exempted historic districts from the GATS. But, the United States did not ensure such safeguards.
- **The Chilling Effect:** To avoid a WTO attack, local governments might allow foreign service firms to violate land use rules and other laws that domestic firms must meet, creating an uneven playing field against local businesses. Unlike many trade pacts, GATS does not "grandfather in" existing state or local measures that do not meet "trade" rules. GATS does not even have the standard weak exception to protect natural resources.