

## **Letters in Support of Ecuador's Proposal for Ministerial Declaration at 8<sup>th</sup> Ministerial Conference (2011)**

These letters refer to an initiative requesting a review of the WTO rules on financial services in view of governments' efforts to re-regulate in the wake of the global financial crisis.

1. International Trade Union Federation's (ITUC) Letter to Ambassador Zhao Quan, Chair of WTO's Committee on Trade in Financial Services (October 21, 2011)
2. Australian Fair Trade & Investment Network's (AFTINET) Letter to Dr. Craig Emerson, Australia's Minister for Trade (October 25, 2011)
3. AFL-CIO and Consumer Groups' Letter to Michael Punke, Ambassador Deputy U.S. Trade Representative to the WTO (October 21, 2011)

**MICHAEL SOMMER**  
PRESIDENT  
PRÉSIDENT  
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PRESIDENTE

**SHARAN BURROW**  
GENERAL SECRETARY  
SECÉTAIRE GÉNÉRALE  
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Ambassador Zhao Quan  
Permanent Mission of the People's  
Republic of China to the World Trade  
Organization  
Rue de Lausanne, 228,  
1292 Chambesy,  
Geneva Switzerland

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ESP/JH

21 October 2011

Dear Ambassador Zhao Quan,

I have pleasure in writing to you in your capacity as Chair of the Committee on Trade in Financial Services (CTFS) of the WTO.

As you would be aware, Ecuador has proposed an initiative at the forthcoming 8<sup>th</sup> WTO Ministerial Conference for the inclusion of a point in the Ministerial Declaration or Chair's Statement asking the CTFS to start reviewing WTO rules on financial services against the background of the financial and jobs' crises. The ITUC supports that proposal.

In the aftermath of the global financial crisis, which has created the greatest unemployment crisis in decades, various fora – from national legislatures to the G20 to the IMF and UN – have promoted enhanced regulation of the financial sector. For such regulation to succeed, it is critical that the policies of the various international economic bodies are coherent.

Governments around the world as well as an unprecedented array of scholars have called for improved domestic and international-level financial regulation as a means to avoid future crises and restore global financial stability. Numerous government officials, leading economists, financial experts and trade lawyers are concerned that some WTO rules could undermine WTO member countries' financial regulatory instruments. These experts note, for instance, that certain provisions of the WTO's General Agreement on Trade in Services (GATS) would appear to prohibit or otherwise impede various commonly recommended financial regulatory measures including capital controls and other capital management mechanisms, bans on risky financial services, size limits on banks and "firewalls" between banking and investment services.

It would seem apparent therefore that a review of current WTO rules is needed to examine their relation to such necessary proposed reforms. Given the above concerns, we believe it would be most important for the forthcoming WTO Ministerial Conference to instruct the Council on Trade in Services and the CTFS to conduct a thorough review of WTO rules on financial services in light of the crisis.

We look forward to hearing from you and to discussing how we can work together at the WTO to promote enhanced financial stability through improved regulation. Supporting the proposal from Ecuador at the 8<sup>th</sup> Ministerial Conference for the CTFS to start reviewing WTO rules in the crisis context would be an important first step, and as chair of the CTFS we hope we may count on your support.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'A. R.', written in a cursive style.

General Secretary



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Dr Craig Emerson  
Minister for Trade  
Parliament House  
Canberra ACT 2600

25 October 2011

Dear Dr Emerson,

We are concerned about how current and any future expanded financial liberalisation under the current WTO rules may affect financial reregulation efforts here at home and in other countries. We believe it would be appropriate and timely for the Ministers meeting at the WTO's December 2011 Ministerial Conference to instruct the appropriate negotiating bodies to conduct a thorough review of WTO rules implicating financial services in light of the crisis.

In the aftermath of the global financial crisis, governments around the world as well as an unprecedented array of scholars have called for improved domestic and international-level financial regulation as a means to avoid future crises and restore global financial stability. For these measures to succeed, it is critical that the policies of the various international economic bodies' are coherent.

As the G-20 and IMF have issued proposals for international regulatory improvements, the review we proposed would be helpful to study how the current WTO rules relate to these reforms. As you know, numerous government officials, leading economists, financial experts and trade lawyers are concerned that some WTO rules could undermine signatory countries' financial regulations and limit their policy space for improvements.

These experts note, for instance, that the provisions of the WTO's General Agreement on Trade in Services (GATS) prohibit commonly recommended financial policies, including capital controls and other capital management mechanisms, bans on risky financial services, and size limits on banks, "firewalls" between banking and investment services.

The United Nations Commission of Experts on International Financial and Monetary Reforms, chaired by Nobel-prize winning economist Joseph Stiglitz and comprised of a host of distinguished academics, including former finance ministers and central bank heads from around the world, issued this warning in the aftermath of the global financial crisis:

“Agreements that restrict a country’s ability to revise its regulatory regime – including not only domestic prudential but, crucially, capital account regulations – obviously have to be altered, in light of what has been learned about deficiencies in this crisis. In particular, there is concern that existing agreements under the WTO’s Financial Services Agreement might, were they enforced, impede countries from revising their regulatory structures in ways that would promote growth, equity, and stability.”

The 2011 UNCTAD Trade and Development Report, released on 6<sup>th</sup> September 2011, includes similar concerns.

Whilst Australia appears to be well placed, the United States and much of the world are still reeling from the 2008 global financial crisis and threats of a renewed financial crisis. In various fora – from national legislatures to the G-20 to the UN – governments have promoted reregulation of the financial sector. We understand that a group of WTO member countries are advancing a proposal in the Committee on Trade in Financial Services for inclusion of a rather modest paragraph in the Declaration for the pending 8<sup>th</sup> Ministerial Conference. This paragraph calls on the Committee on Trade in Financial Services to review WTO rules on financial services in light of the crisis to promote and ensure sufficient policy space for macroprudential regulation. It is precisely because there are differing opinions as to whether current WTO rules provide sufficient policy space that members should engage in this timely conversation. **We strongly urge your government to support and not oppose this proposal, both within the Committee and in the General Council.**

We look forward to hearing from you and to learning about how your government can work at the WTO to promote its goal of enhanced financial stability through improved regulation. Supporting the proposal at the 8<sup>th</sup> Ministerial Conference for a forward workplan at WTO that includes review of the WTO rules for trade in financial services to ensure their compatibility with the global consensus for improved regulation would be an important first step.

Yours sincerely



Harvey Purse  
Trade Justice Campaigner  
Australian Fair Trade and Investment Network

Cc: Treasurer, the Hon. Wayne Swan.

Minister for Finance and Deregulation – Senator The Hon Penny Wong.

Reserve Bank Governor – Governor Glenn Stevens.

Australian Ambassador to WTO – Mr Tim Yeend.

October 21, 2011

The Honorable Michael Punke  
Ambassador Deputy U.S. Trade Representative and Permanent Representative to the WTO  
Permanent Mission of the United States of America  
11 Route de Pregny 1292 Geneva

Dear Ambassador Punke:

As it becomes increasingly clear that the Doha round of WTO negotiations remain at an impasse, many questions are being raised about what is appropriate for the agenda of the upcoming WTO Ministerial Conference in December. Given that many of us worked tirelessly on the major financial reform package promoted by the Obama administration last year, we, the undersigned organizations, are concerned about how current and any future expanded financial liberalization under the current WTO rules may affect financial reregulation efforts here at home and in other countries. Therefore, we believe it would be appropriate, now that sufficient time has passed from the height of the financial crisis, for the Ministers meeting at the WTO's December 2011 Ministerial Conference to instruct the Council on Trade in Services and the Committee on Trade in Financial Services to conduct a thorough review of WTO rules implicating financial services in light of the crisis.

In the aftermath of the global financial crisis, governments around the world as well as an unprecedented array of scholars have called for improved domestic and international-level financial regulation as a means to avoid future crises and restore global financial stability. For these measures to succeed, it is critical that the policies of the various international economic bodies are coherent.

The G-20 and IMF have issued proposals for international regulatory improvements. The review we propose would be helpful to study how the current WTO rules relate to these reforms. As you know, numerous government officials, leading economists, financial experts and trade lawyers are concerned that some WTO rules could undermine signatory countries' financial regulations and limit their policy space for improvements.

These experts note, for instance, that the provisions of the WTO's General Agreement on Trade in Services (GATS) prohibit commonly recommended financial policies, including capital controls and other capital management mechanisms, bans on risky financial services, size limits on banks, and "firewalls" between banking and investment services. As a young Treasury Department official in 1990, now-Treasury Secretary Timothy Geithner authored a memorandum highlighting many of the ways in which these rules could conflict with U.S. domestic financial regulation. Indeed, the United States promised in its WTO schedule of services commitments to "reform" the Glass-Steagall Act, which established a firewall between investment and banking services. Earlier this year, WTO signatory Barbados tabled a paper at WTO, which calls into question the WTO compatibility of various measures under the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, including measures to control the size of "too big to fail" banks.

The United Nations Commission of Experts on International Financial and Monetary Reforms, chaired by Nobel-prize winning economist Joseph Stiglitz and comprised of a host of distinguished academics, including former finance ministers and central bank heads from

around the world, issued this warning in the aftermath of the global financial crisis: “Agreements that restrict a country’s ability to revise its regulatory regime—including not only domestic prudential but, crucially, capital account regulations—obviously have to be altered, in light of what has been learned about deficiencies in this crisis. In particular, there is concern that existing agreements under the WTO’s Financial Services Agreement might, were they enforced, impede countries from revising their regulatory structures in ways that would promote growth, equity, and stability.” The 2011 UNCTAD Trade and Development Report, released this fall, includes similar concerns.

The United States and much of the world are still reeling from the 2008 global financial crisis, which has created the greatest unemployment crisis in the United States in decades. In various fora – from national legislatures to the G-20 to the UN – governments have promoted reregulation of the financial sector. We understand that a group of WTO member countries are advancing a proposal in the Committee on Trade in Financial Services for inclusion of a rather modest paragraph in the Declaration for the pending 8<sup>th</sup> Ministerial Conference. This paragraph calls on the Committee on Trade in Financial Services to review WTO rules on financial services in light of the crisis to promote and ensure sufficient policy space for macroprudential regulation. It is precisely because there are differing opinions as to whether current WTO rules provide sufficient policy space that members should engage in this timely conversation. **We strongly urge the Obama administration to support this smart proposal, both within the Committee and in the General Council.**

We look forward to hearing from you and to learning about how the Obama administration can work at the WTO to promote its goal of enhanced financial stability through improved regulation. Supporting the proposal at the 8<sup>th</sup> Ministerial Conference for a forward workplan at WTO that includes review of the WTO rules for trade in financial services to ensure their compatibility with the global consensus for improved regulation would be an important first step.

To be in touch with any of the letter signatories, please contact Lori Wallach at Public Citizen (202-454-5107).

Sincerely,

AFL-CIO  
Americans for Financial Reform  
Citizens Trade Campaign  
Consumer Watchdog  
Public Citizen  
U.S. Public Interest Research Group (PIRG)

Cc: United States Trade Representative Ron Kirk; U.S. Treasury Secretary Timothy Geithner; The Honorable Michael Froman, Deputy Assistant to the President and Deputy National Security Advisor for International Economic Affairs