

Massachusetts House of Representatives



Resolutions

CALLING UPON THE U.S. TRADE REPRESENTATIVE TO RENEGOTIATE A PROPOSED WTO DEAL THAT WOULD SUBJECT "BULK STORAGE SERVICES OF LIQUIDS AND GASES" TO WTO JURISDICTION, THUS LIMITING THE REGULATION OF LNG FACILITIES.

WHEREAS, THE UNITED STATES OF AMERICA IS A SIGNATORY TO THE WORLD TRADE ORGANIZATION'S (WTO) GENERAL AGREEMENT ON TRADE AND SERVICES (GATS), WHICH CONTAINS AN ARRAY OF LIMITS ON NORMAL GOVERNMENT REGULATORY ACTION TO WHICH DOMESTIC SERVICE SECTOR POLICY MUST CONFORM ONCE A SERVICE SECTOR IS BOUND TO COMPLY WITH GATS THROUGH INCLUSION IN EACH MEMBER COUNTRY'S GATS "SCHEDULE OF COMMITMENTS". THE GATS RULES LIMIT DOMESTIC REGULATION WITH RESPECT TO EVERY WAY THAT A SERVICE MAY BE DELIVERED. THUS, SUBMITTING A NEW U.S. SERVICE SECTOR TO GATS MEANS NEW LIMITS REGARDING DOMESTIC POLICY TO REGULATE FOREIGN INVESTORS DELIVERING A COVERED SERVICE BY BOTH OPERATING WITHIN THE UNITED STATES, AS WELL AS CROSS BORDER TRADE IN SUCH SERVICES; AND

WHEREAS, THE UNITED STATES TRADE REPRESENTATIVE HAS PROPOSED BINDING A NEW SERVICE SECTOR - "STORAGE AND WAREHOUSING SERVICES" - WHICH INCLUDES THE SUBCATEGORY OF "BULK STORAGE SERVICES OF LIQUIDS AND GASES" UNDER THE JURISDICTION OF THE GATS AS COMPENSATION FOR THE UNITED STATES BEING ALLOWED TO REMOVE ITSELF FROM GATS JURISDICTION THE CATEGORY OF "OTHER RECREATIONAL SERVICES-GAMBLING," WHICH IS A SERVICE SECTOR IN WHICH THE U.S. LOST A PREVIOUS WTO CHALLENGE AND NOW FACES TRADE SANCTIONS; AND

WHEREAS, THE CATEGORY OF "BULK STORAGE SERVICES OF LIQUIDS AND GASES" BRINGS UNDER WTO JURISDICTION POLICIES RELATING TO THE SITING, OPERATION, AND EXPANSION OF LIQUEFIED NATURAL GAS (LNG) FACILITIES; AND

WHEREAS, THE UNITED STATES OF AMERICA HAS FEDERAL AGENCY REVIEW PROCEDURES IN PLACE TO ENSURE THAT LNG FACILITIES ARE APPROPRIATELY SITED WITH REGARD TO PUBLIC SAFETY, ENVIRONMENTAL PROTECTION, AND ASSESSED NEED; AND

WHEREAS, THE COMMONWEALTH OF MASSACHUSETTS AND OTHER STATES IN THE UNITED STATES OF AMERICA HAVE STATE REGULATORY PROCESSES IN PLACE TO ENSURE THAT LNG FACILITIES ARE APPROPRIATELY SITED WITH REGARD TO PUBLIC SAFETY, ENVIRONMENTAL PROTECTION, AND ASSESSED NEED; AND

WHEREAS, THE UNITED STATES HAS AMPLE SOURCES OF NATURAL GAS, MAKING NATURAL GAS ONE SECTOR IN WHICH THE UNITED STATES COULD ACHIEVE ENERGY SELF-RELIANCE; AND

WHEREAS, THE INCLUSION OF "BULK STORAGE SERVICES OF LIQUIDS AND GASES" WOULD COMPROMISE THE ABILITY OF STATE AND FEDERAL GOVERNMENTS TO REGULATE THE SITING, OPERATION, AND EXPANSION OF LNG FACILITIES DUE TO THE LIKELY CONFLICT WITH GATS RULES, PARTICULARLY WITH REGARD TO THE GATS "MARKET ACCESS" PROVISION WHICH FORBID USE OF NEEDS TESTS AND CONSTRAIN GOVERNMENTS FROM LIMITING THE NUMBER OF OR BANNING SERVICES TO WHICH THE RULES APPLY; AND

WHEREAS, THE UNITED STATES IS INVOLVED IN WTO GATS NEGOTIATION TO ESTABLISH NEW CROSS-CUTTING CONSTRAINTS ON "THE DOMESTIC REGULATION" OF SERVICES THAT COULD FURTHER LIMIT THE ABILITY OF STATES TO REGULATE LNG FACILITIES TO ADVANCE ENERGY INDEPENDENCE, ENVIRONMENTAL AND PUBLIC-SAFETY GOALS; AND

WHEREAS, REGULATORY AUTHORITY OVER THE SITING, OPERATION, AND EXPANSION OF LNG FACILITIES IS MORE APPROPRIATELY LEFT TO FEDERAL AND STATE GOVERNMENTAL BODIES CONCERNED WITH ISSUES SUCH AS SAFETY AND SECURITY OF LOCAL RESIDENTS, ENVIRONMENTAL PROTECTION AND PRESERVATION, AND LEVEL OF DOMESTIC DEMAND FOR LNG THAN TO AN INTERNATIONAL AGREEMENT SUCH AS THE WTO GATS; AND

WHEREAS, NUMEROUS FOREIGN FIRMS ARE CURRENTLY INVOLVED IN AND SEEK FUTURE INVOLVEMENT IN THE U.S. LNG SECTOR AND SUCH FOREIGN FIRMS WOULD OBTAIN NEW RIGHTS TO BE FREE FROM CERTAIN KEY U.S. FEDERAL AND STATE REGULATIONS WERE LNG FACILITIES BOUND TO WTO JURISDICTION; AND

WHEREAS, UNDER WTO RULES, ANY WTO SIGNATORY COUNTRY CAN CHALLENGE THE LAWS AND POLICIES OF ANOTHER SIGNATORY FOR FAILING TO CONFORM TO WTO RULES WITH THE IMPOSITION OF TRADE SANCTIONS AS A PENALTY FOR FAILING TO COMPLY WITH WTO ORDERS TO CHANGE DOMESTIC POLICIES; THEREFORE BE IT

RESOLVED, THAT THE MASSACHUSETTS HOUSE OF REPRESENTATIVES URGES THE UNITED STATES TRADE REPRESENTATIVE TO RENEGOTIATE ITS PROPOSED WTO GATS ARTICLE XVI COMPENSATION DEALS WITH RESPECT TO WITHDRAWAL OF THE GAMBLING SECTOR SO AS TO WITHDRAW THE CATEGORY OF "BULK STORAGE SERVICES OF LIQUIDS AND GASES" FROM THE U.S. OFFER OF NEW COMMITMENTS AND TO CLARIFY EXPLICITLY THAT THE SITING, OPERATION, AND EXPANSION OF LNG FACILITIES IS NOT COVERED IN ANY ADJUSTMENTS BEING MADE TO THE U.S. GATS SCHEDULE; AND BE IT FURTHER

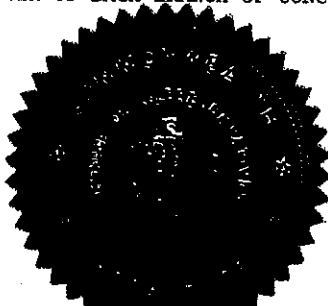
RESOLVED, THAT THE MASSACHUSETTS HOUSE OF REPRESENTATIVES URGES THE UNITED STATES TRADE REPRESENTATIVE TO REJECT PROPOSALS IN THE GATS "WORKING PARTY ON DOMESTIC REGULATION" THAT WOULD IMPOSE REGULATORY "NECESSITY TESTS" OR THAT WOULD PROVIDE A PRETEXT FOR THE FEDERAL GOVERNMENT TO PREEMPT THE STATES' REGULATORY AUTHORITY OVER SERVICES; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE FORWARDED BY THE CLERK OF THE HOUSE OF REPRESENTATIVES TO THE OFFICE OF THE PRESIDENT OF THE UNITED STATES OF AMERICA, TO THE UNITED STATES TRADE REPRESENTATIVE, TO THE PRESIDING OFFICER OF EACH BRANCH OF CONGRESS AND TO THE MEMBERS THEREOF FROM THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES ADOPTED, SEPTEMBER 23, 2009.

ROBERT A. DeLEO  
SPEAKER OF THE HOUSE

STEVEN T. JAMES  
CLERK OF THE HOUSE



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REPRESENTATIVE DAVID B. SULLIVAN

*Byron Rushing*  
REPRESENTATIVE BYRON RUSHING

*Brian M. Ashe*  
REPRESENTATIVE BRIAN MICHAEL ASHE

*Kevin Aguiar*  
REPRESENTATIVE KEVIN AGUIAR

*Antonio P. Carral*  
REPRESENTATIVE ANTONIO F. D. CARRAL

*James M. Cantwell*  
REPRESENTATIVE JAMES M. CANTWELL

*Geraldine Creedon*  
REPRESENTATIVE GERALDINE CREEDON

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REPRESENTATIVE STEVEN J. D'AMICO

*Stephen L. DiNatale*  
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REPRESENTATIVE DAVID L. FLYNN

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REPRESENTATIVE WILLIAM G. GREENE, JR.

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REPRESENTATIVE DAVID M. NANGLE

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