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Opening Up Borders

Is the travel industry paying enough attention to the implications of liberalisation? Probably not

As part of the follow-up to the December 2005 World Trade Organization (WTO) summit in Hong Kong SAR, talks on promoting free trade in service sectors, which includes travel and tourism, are due to start this month. The final draft schedules of market liberalisation commitments are set to be completed by October 31, 2006.

In view of the tight time-frame, global non-government organisations (NGOs) and civil society movements are warning the Asia Pacific travel and tourism industry that it is becoming increasingly urgent to better understand the full consequences and implications of what is on the negotiating table. They have issued a persuasive appeal for the industry to first carry out a thorough assessment and analysis of the cost-benefits of free trade and debate the deregulation, liberalisation and privatisation undertaken so far before committing to further measures.

These groups, which have been following the talks much more closely than mainstream travel industry executives, feel that such an evaluation would better serve the cause of creating a better balanced and more sustainable industry over the long-term. Hailing from India, Peru, the Pacific, South Africa, England, Switzerland, Germany and Hong Kong SAR, these NGOs attended the WTO ministerial summit in Hong Kong SAR last December. They say their central goal is to seek not just "free trade" but "fair trade" in tourism, even if it means altering the "power imbalances in the way the industry does business."

Their call for a debate is consistent with the conclusions of the 2005 PATA membership survey "The Industry Speaks" which suggested that many such issues need to be "brought out into the open" and discussed objectively and transparently.

This edition of *Issues & Trends* provides a synopsis of the NGO positions. It is a follow-up to a detailed report outlining the critical areas of relevance in the WTO talks which appeared in the November/December 2005 edition of *PATA Compass*.

[Editor's note: The views and conclusions reflected below are those of the NGOs and should not be construed as the views of the Pacific Asia Travel Association.]

BACKGROUND ON THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

Tourism and travel-related services under the GATS are divided into four sectors: 1) Hotels and restaurants (incl. catering); 2) Travel agencies (retailers) / tour operators' services; 3) Tourist guide services; and 4) Other services.

As early as 1994, when services were negotiated for the first time in the WTO talks, 119 out of 127 countries agreed to liberalise these tourism and travel-related services. There was no other service sector in which countries made as many commitments as in tourism.

In spite of crises and recessions, tourism has become one of the world's leading industries. Developing countries have turned to tourism in order to earn foreign exchange, create jobs and alleviate poverty.

Encouraged by organisations such as the International Monetary Fund (IMF) and the World Bank, business groups appealed to politicians to "acknowledge business realities" at the international level and to actively push for the dismantling of existing barriers to an open services market in order to achieve growth, prosperity and development – while the industry pursues its own objectives of maximum returns.

Many countries readily opened up their tourism markets, often by arguing that in practice this sector already was liberalised to a major extent, but in many cases also because the negotiators, while skilled in financial matters, were less aware of the complexities of tourism and its extensive impacts on communities in the tourism destinations.

Today, within GATS, tourism is one of the most liberalised but least debated sectors, even though it has a profound influence on social structures and people's ways of life.

Many other service sectors are related to tourism, such as transportation, any form of leisure, culture and sports, financial services such as credit cards, the services of banks and travel insurers, agriculture, construction, estate agents, education, communication such as postal services and telecommunications. Public services, including environmental services like water and waste management, and energy supplies, as well as nature protection are affected.

Although developing countries have undertaken deep liberalising commitments in tourism with very few limitations, they are under pressure to do more. In 2000, the United States requested under the WTO the following de-regulations at a global level:

- Abolition of limitations to the share of foreign firms in a joint venture;
- Abolition of restrictions with regard to the sale or renting of property;
- Abolition of the requirements of Economic Needs Tests;
- Abolition of the imperative to collaborate with a local partner;
- Abolition of local players' access to government programmes or tax incentives;
- Abolition of the imperative to employ local personnel; and
- Abolition of limitations to the repatriation of profits.

The European Union has also listed the following regulations it would like see abolished:

- Jordan requires foreign travel agents to have their tours conducted by local companies;

- Egypt limits the number of hotels and restaurants and demands an economic needs test. Casino services are permitted only in 5-star hotels;
- Barbados charges a special tax on the sale or purchase of land, shares and stocks by foreigners, according to the value of the transaction.

The EU is also trying to abolish restrictions that require foreign companies to collaborate with local partners.

To speed-up the liberalisation process, some governments (especially the EU) have succeeded in altering the structure of the GATS to incorporate mandatory benchmarking and plurilateral negotiations. Free trade in tourism is also included in several of the bilateral and sub-regional free-trade agreements being negotiated between developed and developing countries, which often go beyond what is included in the GATS.

After ten years of "progressive liberalisation", civil society movements say that the exact nature and scale of tangible benefit to the developing countries needs deeper analysis. They note that as the primary beneficiaries of trade must be local communities in tourism destinations, any development policy for the sector, including trade must ensure equitable benefit sharing.

"Experiences from various parts of the world have shown that excessive liberalisation, deregulation and privatisation have often led to speculation and the exploitation of nature and people in tourist destinations. This is potentially dangerous and can exacerbate existing inequities in tourism.

"If liberalisation has resulted in concrete gains for local communities, the data or empirical evidence to corroborate this is missing. If liberalisation is to directly benefit local communities, a serious examination of current policies and development frameworks is needed such that benefits are channelled towards them. Both situations call for an assessment."

Here are some of the issues raised by the civil society groups:

ECONOMIC ISSUES

In most developing countries potential benefits that trade can bring to domestic tourism sectors are nullified by 'leakages' – a drain of revenues generated by tourism from the receiving country. Studies estimate that on an average, of each US\$100 spent on a vacation tour by a tourist from a developed country, only around US\$5 actually stays in a developing country destination's economy (UNEP, 2004).

UNDERSTANDING THE WTO

The WTO agreements, including the GATS, cover a wide range of activities across a number of sectors. As such, they are extremely varied and complex. There are, however, a number of simple, fundamental principles that form the foundation of the multilateral trading system.

Trade without discrimination

Most-favoured-nation (MFN) treatment

Under the WTO agreements, countries cannot normally discriminate between their trading partners. This principle is known as most-favoured-nation (MFN) treatment. In theory, this means that any trading privileges or restrictions must be extended to all WTO members; however, free trade agreements allow for the extension of special privileges for certain goods traded within the group. MFN is considered a priority in the GATS, though certain exceptions are permitted in the services sector.

National treatment

Imported and locally-produced goods should be treated equally – at least after the foreign goods have entered the market. The same should apply to foreign and domestic services. National treatment only applies once a product (or service) has entered the market. Therefore, taxing an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax. This principle of “national treatment” (giving others the same treatment as one’s own nationals) is also found in all the three main WTO agreements, including the GATS.

Liberalising trade

Lowering trade barriers – such as tariffs, import bans or quotas – is one of the most obvious means of encouraging trade. Other issues such as reducing “red tape” and exchange rate policies have also been discussed. While initial WTO rounds focused on lowering tariffs, in recent years, the negotiations have expanded to cover non-tariff barriers on goods, and to new areas such as services and intellectual property. The WTO agreements allow countries to introduce such changes gradually, through “progressive liberalisation”.

Transparency and stability

Promising not to raise a trade barrier can often be as significant as lowering one because the promise gives businesses a clearer view of their future opportunities. With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition.

In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments, forming ceilings on tariffs. A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. To further encourage stability, the WTO also encourages clear and public disclosure of trading policies (“transparency”). Many WTO agreements require governments to disclose their policies publicly within the country or by notifying the WTO.

Promoting fair competition

The WTO is sometimes described as a “free trade” institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. The WTO is fundamentally dedicated to open, fair competition. The rules on non-discrimination – MFN and national treatment – are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The rules try to establish what is fair or unfair, and how governments can respond, such as by charging additional import duties calculated to compensate for damage caused by unfair trade.

Encouraging development and economic reform

Over three quarters of WTO members are developing countries and countries in transition to market economies. The WTO system contributes to development and recognises the need for flexibility as developing countries implement the system’s agreements. The WTO agreements provide transition periods to allow developing countries time to adjust to the more unfamiliar and difficult WTO provisions. In addition, the WTO calls for better-off nations to implement market access commitments on goods exported by the least-developed countries and encourages the transfer of information and technical assistance.

More details can be found at: www.wto.org

profound influence

In cases of conflict, the WTO dispute settlement system becomes the judge of whether a measure is to be considered reasonable, objective and impartial. This significantly impairs the possibility of governments to regulate their tourism and investment policies at national, sub-national and local levels.

It will impede local governments from passing laws which favour local ownership and land tenure, or give concessions to hotels which employ a high percentage of staff from local communities, give preference to local building materials, food supplies and handicraft, and take a cautious approach to water and energy supplies.

The WTO principles related to national treatment and the most-favoured-nation requirement demand equal treatment of all investors (both foreign and domestic), and prevent the promotion of and specific support for companies that are striving for sustainability. This could cause serious setbacks to important processes of local democratisation and decentralisation underway in a number of countries.

Countries will also need to amend their domestic regulation to facilitate trade in services. For an already under-regulated sector like tourism, GATS rules on domestic regulation could sound the death knell for sustainability and potentially exacerbate existing adverse impacts of tourism development. The situation is worse in developing countries with incipient regulatory regimes and rudimentary institutional mechanisms to implement regulation.

Tourism not only needs to significantly increase the local and regional value-added in order to derive maximum benefits for the local people, but proper local regulatory structures are necessary to hold companies accountable in cases of non-compliance. The assets of locally registered companies can be confiscated through local courts, while foreign multinationals are able to easily transfer their assets "off-shore".

To rationalise positions taken in the GATS, governments argue that the sectors have already been opened up autonomously and therefore there is no harm in extending it to the GATS. But there is substantial difference between opening up sectors autonomously vis-à-vis undertaking binding commitments in the GATS.

Under autonomous liberalisation, countries retain the right to go back on any policy or position in the event that it becomes detrimental to public interest. However, being an internationally applicable and legally binding regime, GATS principles make such a 'roll-back' of sector-specific commitments infeasible for Member governments.

Therefore, extension of autonomous liberalisation positions to the GATS must be done with caution and after thorough assessment of the potential implications.

POLICY ISSUES

Most developing countries are yet to address the GATS as a factor influencing tourism development. Indeed, most national tourism policies do not even mention the GATS.

Generally speaking, liberalisation policies in most countries have been the outcome of closed-door consultations amongst the relevant Ministry and its bureaucracy or influenced by powerful external players as part of "economic restructuring" and "structural adjustment" programmes.

Liberalisation of tourism is rarely subject to thorough public debate as the belief is that it will readily bring in foreign exchange and generate jobs. It is only now that countries are beginning to recognise the need for consultations outside bureaucratic circles. Worldwide, tourism is a relatively unregulated sector and faces few explicit barriers. As a result, it has – in some cases at least – adversely impacted the social and environmental life of communities residing in tourism destinations.

There are two aspects to understanding and assessing the role of domestic regulation tourism – one, formulating pertinent regulation and two, ensuring its implementation. In the context of GATS both aspects need to be studied. Questions of the validity of existing regulation and future ability to regulate by all levels of government need analysis.

Along with GATS, governments are also signatories to other international agreements and conventions pertaining to environmental, social and economic justice in development. They need to ensure that the WTO's legally binding trade agreements do not take primacy over other such international conventions that reflect their commitment towards upholding civil, political, economic, social and cultural rights of its people.

ENVIRONMENTAL AND SOCIAL ISSUES

The environment bears the brunt of heavy tourism traffic and use of natural resources often beyond its natural carrying capacity. GATS is designed to promote trade and does not place equivalent weight on the implications of increased investment on environmental and social aspects of life. It does not address the question of ownership of natural resources like land, water bodies, forests and coastal stretches.

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Tourism in developing countries mandates an assessment of the leakage vis-à-vis linkage effect to determine what benefits entry of foreign operators can bring and how efficiently the domestic economy can retain additional revenues generated from tourism.

Excessive tourism promotion makes an economy dangerously dependent on tourism as the main "export". It also becomes highly susceptible to external and internal contingencies, including politically volatile situations, natural disasters, outbreak of disease and pandemics and even economic phenomena like fluctuations in exchange rates, rises in oil prices, etc.

Developing countries are more prone to such externalities. In the context of GATS, countries must ask if more liberalisation increases their dependency on tourism or facilitates diversification of the export base.

In many developing countries, tourism growth has not necessarily resulted in more meaningful economic gains to communities dependent on tourism. This reflects huge existing imbalances in the share of business and distribution channels between tourist sending and receiving countries.

PRIVATISATION

Tourist attractions such as natural and cultural sites, protected areas and even national parks are increasingly being privatised. The land speculation it entails leads to an increase in property prices, and above all takes away communal land from poorer sections of the local population.

For example, government authorities in several countries of Eastern and Southern Africa, under increasing financial pressure, have for a couple of years been giving long-term concessions for entire national parks and related infrastructure for visitors to the parks, such as accommodation and catering, to the private sector.

The conditions under which private businesses are being granted concessions are hardly ever subject to public debate. In one African country, this led to fierce protest against the government, which, against the interests of the indigenous population who had been protecting the natural heritage for centuries, granted concessions to the private sector.

In these extremely fragile areas, tourism has more than doubled, raising a number of unresolved problems that government authorities need to handle responsibly and with care, especially in relation to indigenous peoples.

INCREASED CORPORATE CONCENTRATION

In many industrialised countries, corporate concentration in the tourism sector is much more advanced than in poorer countries. While in the United States, three in four hotels belong to a hotel chain, in developing countries this applies to a maximum of one in ten hotels. In developing countries, small and family-owned businesses predominate.

Small- and medium-sized players, very common in the tourism sector, especially in the developing countries, increasingly find themselves competing with financially powerful and technologically well-equipped multinationals.

In Germany, the three leading tourism companies control a market share of more than 60% in the sale of tourism products. Concentration is likely to increase in future. While ten years ago many companies world-wide operated at national level, nowadays a small number of big tourism corporations have come to dominate international tourism. They are more and more vertically integrated across the chain of production (conceptual design, tour operating, sales, marketing, transportation, accommodation, etc.).

It is especially in the fields of hotels and travel agents (the retailers) and tour operators that industrialised countries request further liberalisation from developing countries in the GATS negotiations. Developing countries fear that a further opening up of markets will lead to oligopolies by a few large tourism enterprises, which will increase the competitive pressure on local SMEs which do not have access to cutting edge technologies, large customer databases and sophisticated loyalty programmes.

This, plus the possibility of imposing external labour and environmental standards, will ensure their exit from the market. Most SMEs are locally based and thus backward linkages to the economy – like local employment and purchase of local commodities – are strong. The entire chain will be affected.

LOCAL GOVERNMENTS' RIGHTS TO REGULATE

Even though the preamble to GATS acknowledges the right of WTO member states to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives, GATS article VI demands that domestic laws and regulations be "administered in a reasonable, objective and impartial manner" and that they "should not constitute unnecessary barriers to trade in services".

Unregulated tourism development has breached environmental regulations worldwide and jeopardised the livelihoods of local communities. GATS impacts biological diversity not just through tourism but also through a range of other service sectors including construction, transportation and even environmental services (including waste management, water distribution and landscaping).

In many developing countries, tourism has displaced indigenous people and forest dwellers to make way for hotels and resorts. Women face economic discrimination and sexual exploitation through tourism. Work in tourism-related activities has made children vulnerable to sexual and non-sexual forms of exploitation, forcing the International Labour Organization to categorise tourism as "one of the worst forms of child labour."

UNKEPT PROMISES

During the Uruguay round, many developing countries, some of them with weak tertiary sectors opposed a WTO agreement on services. They were finally persuaded to agree, partly by the promises made by industrialised countries with regard to improving their international market access and access to new technologies and information systems. Most of these promises have yet to materialise.

CONCLUSION

Civil society groups feel that an independent, authoritative and comprehensive assessment of the impacts of domestic and international economic liberalisation policies on tourism is urgently required.

The groups note that such an evaluation is actually mandated under Article 19.3 of the GATS Agreement which requires the WTO's Council for Trade in Services (CTS) to undertake impact assessments "in overall terms and on a sectoral basis" and "with due regard for the need and interests of developing countries" before further negotiations are undertaken.

At the same time, civil society groups note that countries seldom have the resources or inclination to conduct such assessments which would require a standstill in negotiations on services as a whole or specific sectors being assessed, a move that does not draw support from the WTO and several member countries keen on hurriedly concluding the talks.

Today, the feeling is that such a time-out may not necessarily be a bad thing. Civil society groups pose these questions:

- Why shouldn't the travel and tourism industry devote sufficient time and resources to conducting a thorough and comprehensive assessment of the pros and cons of liberalisation so far?

- Why shouldn't it be conducted in an open and transparent manner, comprehensively covering all the relevant policy, institutional, economic, environmental and social issues?
- Wouldn't that actually be better for the development of future tourism strategies, locally, nationally and regionally?
- Would it not be in line with the principles of democratic consultation and scrutiny by all the involved and affected parties in tourism?
- Would it not be better for governments to engage with stakeholders at all levels and devise a policy that addresses their concerns well before they become hugely damaging and controversial?

Civil society groups say they plan to intensify national campaigns, lobbying and advocacy efforts on tourism in the WTO. For the public and private sectors in travel and tourism to join them would be a welcome bonus.



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