

Steering and Regulating Health Systems

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2. What means GATS for health systems?
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6. Conclusions

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Why Steering Health Systems?

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Goals of Health systems

- Ensuring the provision of health care and services
- Universal access to health services
- Health services of high quality
- Equality
- Solidarity

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Health systems are no free markets!

- Information asymmetry
- Social health systems are subsidising the ill and poor (solidarity) to ensure equal access to quality health services (Government intervention)
- Patients do not have the free choice between consumption and abdication of a needed health service, between survival and death! (Free entry / exit of the market)

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What means GATS for health systems?

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The Objectives of GATS

- To ease trade in services
- To reduce trade barriers
- To promote liberalization of trade in services

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Possible effects of services liberalization according to WTO

- more competition
- improved efficiency
- improved service quality
- higher productivity
- more consumer choice
- lower prices
- faster innovation
- higher employment
- technical transfer
- greater transfer and predictability

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The Modes of trade in health services in GATS

- **Mode 1: Cross-border trade**
(shipment of lab-samples; E- and tele-health: diagnostics, clinical consultations, surveillance, pathology; tele-education, insurance)
- **Mode 2: Consumption abroad**
(movement of patients for medical and dental services, health promotion and tourism, traditional methods of treatment, elective and cosmetic health care)
- **Mode 3: Commercial presence abroad**
(hospitals, clinics, nursing homes, training, management, health insurance through FDI, M&As, joint ventures and alliances)
- **Mode 4: Movement of health personnel**
(nurses, physicians, paramedics, midwives, consultants, trainers, management personnel)

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Scope of GATS 1

Article I.3

- (b) "services" includes any service in any sector except services supplied in the exercise of governmental authority;
- (c) i.e. any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers.

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Scope of GATS 2

Annex on Financial Services 1 (b)

For the purpose Article 1 3(b) of the Agreement, "services supplied in the exercise of governmental authority" means the following:

...

- (b) ...
- (ii) activities forming part of a statutory system of social security or public retirement plans...

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GATS General Obligations

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Domestic regulation (GATS Article VI)

- Concerns sectors where Specific Commitments have been made
- Qualification requirements and procedures, technical standards, licensing requirements shall
 - not constitute unnecessary requirements
 - be based on objective and transparent criteria
 - not be more burdensome than necessary
 - not be in themselves a restriction of trade in services
- Shall not nullify or impair Specific Commitments made

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Health Exceptions (GATS Article XIV) 1

- **Article 14** authorizes Member States to take measures to restrict services and service suppliers for the protection of human, animal and plant life or health.
- Members have the right to determine the level of health protection they deem appropriate.
- Human health has been recognized by the WTO as being *„important in the highest degree“* (Asbestos case).
- => Article 14 – measures have an overriding effect of other obligations.

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Health Exceptions (GATS Art. XIV) 2

- The relevance of the measures has to be proven scientifically (Good faith).
- Health measures are required to be no more trade-restrictive than necessary.
- Unfortunately, *„no more trade-restrictive than necessary“* is not defined!

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GATS Specific Commitments

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Health-related sectors

- Medical and dental services (1.A.h)
- Health services of nurses and midwives (1.A.j)
- Hospital services (8.A.)
- Other medical services (8.B.)
- Insurance (Life and Health)

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Specific commitments I

- Each Member State is free to make - or not - Specific Commitments and to choose both the quantity (sectors) and the quality of their commitments (no, partial, full)
- If a Member State makes a Specific Commitment, this applies to all other WTO-Member States
- This is regardless of whether an other Member State made (the same) Commitments or not

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Specific commitments II

Specific Commitments can be made according to two areas:

1. Market access and
2. National treatment

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Schedule of Commitments

	Trade Restrictions	
	Market Access	National Treatment
Mode 1	e.g. unbound	
Mode 2	e.g. partial commitment	
Mode 3	e.g. full commitment	
Mode 4		

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GATS Liberalisation vs. Steering Tools Market Access (Article XVI of GATS)

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Article XVI : "Market Access"

- Recalls the Most Favoured Nation Treatment in Article II of GATS
- Limits the measures which can be adopted or maintained by Member States, if they undertake market-access commitments

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Article XVI : "Market Access"

- a) limitations on the number of service suppliers
- b) limitations on the total value of service transactions/assets
- c) limitations on the total number of service operations
- d) limitations on the total number of natural persons
- e) measures which restrict or require specific types of legal entity or joint venture
- f) limitations on the participation of foreign capital

! Economic needs tests excluded !

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Responsibility needs Steering Tools 2

Which of those tools are used to steer a health system?

Answer: All tools !

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Conclusions

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The risk to loose the ability to steer!

1. Health systems are not free markets!
To achieve their goals (universal access, quality, solidarity) regulation is indispensable!
2. Liberalisation of trade in health services has to go in line with regulation to use the benefits and to mitigate the risks.
3. A health system is in serious trouble if liberalisation renders regulation actually impossible by cancelling key steering tools.

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Responsibility needs Steering Tools !!!

1. Countries / health systems need to agree on a list of indispensable steering tools that have to be at their disposal to exercise their responsibilities for the organisation, financing and delivery of health services and medical care.
2. This political agreement has to be respected by in trade negotiations as a sovereign political decision of the Member States.

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Be careful which tools to give away!!!

1. Know about the effects of the „Market Access“ tools for the health system.
2. Know about the side-effects of not having steering tools any more.
3. Try to achieve a policy coherence between trade and health policy.

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***Once the tools are gone
they are gone.
And if you try to repair a
car without: Good Luck!***

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