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THEODORE R. KULONGOSKI
Governor

March 17, 2006

Ambassador Robert Portman
1724 F. Street, N.W.
Washington, DC 20006

Dear Ambassador Portman:

I am writing to raise concerns regarding the World Trade Organization's (WTO) General Agreement on Trade in Services (GATS) and regarding the process currently being used to consult with state and local governments on trade negotiations.

As you know, the United States is currently engaged in negotiations to expand GATS. A growing number of federal, state and local officials around the world have come to recognize that GATS, as it currently exists, contains several provisions that conflict with our ability to effectively and appropriately regulate in the public interest. Recent WTO decisions only serve to highlight these concerns. For instance, the April 2005 ruling of a WTO review tribunal against the U.S. ban on Internet gambling underscores the threat that provisions in trade agreements can pose to the ability of the U.S., as well as state and local governments, to govern in the public interest and to ensure that affordable, quality services are available to our constituents.

In May 2005, your office requested input regarding proposed new U.S. service sectors that you were considering offering to be bound under the rules of GATS. In the past, when state officials have raised concerns about how GATS rules could limit our ability to regulate services operating within our jurisdiction, U.S. Trade Representatives have reiterated that GATS is a highly flexible agreement, only covering service sectors we submit to its jurisdiction.

It is the position of the state of Oregon to decline to be covered in any additional service sectors proposed in the May 31, 2005 "offer" for inclusion in the U.S. schedule of commitments to GATS and I ask that you amend the U.S. offer to formally exclude Oregon from inclusion.

Although I respect federalism and the role of the U.S. Trade Representative, I cannot support allowing Oregon to be bound by an expansion of such a problematic agreement.

It is much more difficult to change existing GATS commitments than to ensure that Oregon is properly and legally carved out of new ones. It is for that reason that I don't believe that we should be subjecting additional U.S. service sectors to the discipline of GATS rules, but should be working to safeguard the ability on the federal, state and local levels to innovate. Waiting until a WTO challenge is filed is an inadequate response to a known threat. Therefore, in addition to refraining from making new offers that cover Oregon, I request that you take the

opportunity presented by the broad-ranging GATS negotiations currently underway to rectify a few existing areas of particular concern:

- **Health care:** Please take the necessary actions to ensure a full carve out for the state of Oregon from all of the existing U.S. commitments in the health insurance sector, as well as the related sectors of hospitals and other health care facilities. In addition, please carve Oregon out of all commitments regarding distribution of pharmaceutical products. Oregon is working, as are many states, to come up with ways to make sure that all Oregon residents have access to affordable health care and prescription drugs. It is simply unacceptable to expose our progress on ensuring Oregon residents' access to affordable, quality health care and medicine to second-guessing by a WTO tribunal.
- **Land Use and Zoning:** Please exclude Oregon's zoning and land use policies from all current U.S. wholesale, retail, and hotel and restaurant sector commitments. People in Oregon must retain the right to decide how their communities will be zoned and developed. In many instances, communities across the U.S. have decided that the best way to safeguard natural resources, historic districts and their quality of life is by placing quantitative restrictions on businesses, such as how big a retail store may be, how many may be built, and where they can be located. Key zoning policies to stop sprawl are vital to the people of Oregon. Considering that many developed nations (excluding the United States) took exceptions from these GATS commitments for historic preservation and planning purposes, it is easy to understand why our state must be freed from limitations that effect zoning and land use policies that are in the best interests of Oregon communities and our environment.
- **Gambling:** Please add a complete exclusion for the state of Oregon from the new gambling sector commitments, which the April 2005 WTO panel read into the U.S. GATS schedule under "other recreational services." The states must retain the right to regulate gambling within their borders.

Finally, I believe strongly that governors, along with other state and local officials, need to work with Congress and your office to develop a better system of state-federal consultation on these issues. State and local governments should not be bound by the terms of international trade agreements unless they give their prior informed consent. The current advisory committee structure and State Point of Contact system are not an adequate way to satisfy this common-sense standard, and I hope to work with you and others to develop a process that respects the sovereignty of state governments while advancing a trade agenda that benefits all.

I look forward to working with you to ensure that Oregon's interests are reflected in WTO negotiations.

Sincerely,



THEODORE R. KULONGOSKI
Governor