

**BRIEF ON GENERAL AGREEMENT ON TRADE IN SERVICES
SUBMITTED BY THE CANADIAN FEDERATION OF STUDENTS
OCTOBER 15, 2000**

PREAMBLE

The Canadian Federation of Students thanks the Department of Foreign Affairs and International Trade for the opportunity to present our recommendations on the scope and content for negotiations on trade in services under the World Trade Organization General Agreement on Trade in Services (GATS).

Since 1981, the Canadian Federation of Students has been the progressive and democratic voice of Canada's college and university students. Today, the Federation unites over 400,000 graduate, undergraduate and college students from over 60 student unions from Newfoundland and Labrador to British Columbia.

The assumption on which our movement was founded -- education is a fundamental right, not a privilege limited to the wealthy -- does not make a distinction between primary, secondary or post-secondary education. A free and democratic society, and a vibrant and socially just economy, depend on universal access to public post-secondary education.

The system of education for which we advocate is one that is based on the five principles of the Canada Health Act: public administration, comprehensiveness, universality, portability and accessibility. Unfortunately, the current round of negotiations under GATS, to "achieve progressively greater liberalization of global trade in services by expanding the commitments of member countries," puts at risk Canada's public health care and education systems, including post-secondary education.

In this brief, we will outline the flawed theoretical assumptions of the World Trade Organization General Agreement on Trade in Services, the Government of Canada's flawed bargaining position at the current round of negotiations and offer tangible recommendations to ensure Canada's public system of higher education remains in the public good, not for private gain by multinational corporations.

As the Government of Canada participates in the renegotiation of the GATS, the Canadian Federation of Students asks that the federal government acts courageously and stands up to those seeking to redefine education and other public services from a public good to a for-profit commodity.

INTRODUCTION

International finance and trade agreements may appear to be value-neutral (and inevitable) instruments in the age of globalization, but the current negotiations illustrate the underlying assumptions driving the international trade agenda: to curb the power of sovereign governments and establish a bill of rights for corporations.

This veiled "hands-off" approach to international investment and capital flow is about commodifying the common good to a product to be bought and sold on the market, while stripping citizens of their democratic right to direct their country's public policies. "A trade deal simply limits the extent to which the U.S. or other signatory governments may respond to pressure from their citizens," admitted Michael Walker, executive director of the ultra-conservative Fraser Institute, based in Vancouver.¹

The Government of Canada does not speak in these terms when it discusses the current trade in services negotiations at the WTO. It mentions rules, but in a misleading way. "Canada benefits from predictable and clear international trading rules. These rules serve to promote a stable environment for trade and provide greater consumer choice," the Department of Foreign Affairs and International Trade states.²

The federal government implies that Canada will benefit from greater liberalization of global trade in services because trade in services is increasingly important for the Canadian economy: as the 12th largest exporter of services, these exports grew by 7.1 per cent in 1999, to over \$49-billion (imports of services increased by 5.5 per cent, to over \$55-billion). Canadians are told that this "steady increase in trade in services [contributes] significantly to Canada's prosperity."

In its material to promote consultation, the Government of Canada, however, does not state that public services, including publicly funded social programs such as education, are considered "unfair subsidies" at the negotiating table, and are at risk of privatization and commercialization at the behest of international corporate interests. The Government does not explain that if a public service is to be traded, it must be split into segmented economic units and reduced to a specific commodity on which a private price can be put.

TRADE IN SERVICES: EDUCATION IS A GOLD MINE

Since 1945, international trade has increased tenfold. In 1997, for example, the value of global trade reached US\$5.47-trillion and global trade in services amounted to \$1.295-trillion, equivalent to about one-fourth of the overall figure for global trade commodities.³

Until 1994, international trade was monitored by a permanent negotiating forum that also doubled as an international agreement, the General Agreement on Tariffs and Trade (GATT), drafted in 1947. The World Trade Organization was established at the conclusion of the 1994 Uruguay Round of GATT. The WTO enforces several sets of trade rules, including the General Agreement on Trade in Services, mandated to apply the goals of GATT (to eliminate all remaining tariff and non-tariff barriers to the movement of capital and goods between countries) into the area of services.⁴

Whereas the GATT governed trade in commodities, the WTO agreements are now applicable to investments, services and copyrights. According to the WTO Secretariat, the GATS, in particular, represents "the world's first multilateral agreement on investment, since it covers not just cross-border trade but every possible means of supplying a service, including the right to set up a commercial presence in the export market."⁵

International corporate lobbyists had good reason to put services on the international trade table. The economies of most of the richest countries -- including US and Canada -- now consist of as much as 70 per cent services. Included in this push to open up trade in services are public services, such as health care and education.

In the case of public and higher education, predatory entrepreneurial interest seek to dismantle it by subjecting it to international competition. This is a lucrative strategy: last year, global public expenditure in the education sector exceeded a trillion dollars, covering more than 50 million teachers, a billion students and hundreds of thousands of educational establishments.⁶

Higher education, in particular, is undergoing a period of intense change and expansion. In 1995, international trade in higher education was estimated at US\$27 billion. In the U.S., the export of education services reached \$7-billion in 1996, ranking fifth among exported services.⁷

Part of this phenomenal boom is explosion of for-profit distance learning. As the Belgium-based Education International and France-based Public Services International explain, "twinning agreements" are frequent in South-East Asia (these institutional arrangements enable foreign private higher-education establishments to offer courses leading to degrees issued by a foreign university; some of these agreements result in the "franchising" of certain elements, including specific courses and programs).

In Europe, states the Education International, several countries have replaced government regulations on their higher education system with new "framework laws," which outline the major objectives and leave the individual institutions free to choose the means of achieving them. The government accords them a higher degree of autonomy while it reduces the level of public funding. Such a dynamic, which pushes institutions

into cutting back their costs and increasing their income by all available means, results in universities behaving like commercial companies (for private gain, not for the public good). Last year, for example, France's Ministers of Foreign Affairs and Education announced the creation of the Edufrance Agency, whose aim is to promote the French offering of higher education on the world "market" and move away from a public-service logic to compete on the global market, particularly with North American universities.⁸

It is not surprising that since GATS was drafted, there has been open discussion to encourage international trading of education services, treating them as if they were simple goods, a product to be transported from one country to another and sold. WTO documents are peppered with references to the "education market"⁹ instead of referencing education as a "public service." In an internal document, the WTO Council for Trade in Services has divided this "market" into five categories (primary education, secondary education, higher education, adult education and other education services). During the Uruguay Round, certain countries committed themselves to opening up the private component of their primary and secondary education systems to foreign investment. Forty of 143 WTO member countries agreed to include the education sector in the Agreement. Meanwhile, Canada's former trade minister Sergio Marchi -- Canada's representative at the WTO -- has already called for international rules to oversee the global trade in the "education industry."¹⁰

The negative ramifications for Canada's public services and public system of higher education are immense: according to these proponents of privatization and deregulation, government regulations impede the liberalization of trade and undermine "fair" trade. In the case of education, "obstacles" of non-tariff barriers include government regulations such as limitations on the mobility of students, the refusal to recognize foreign establishments, measures aimed at discouraging investment abroad, limits on the recruitment of foreign teachers, the existence of public monopolies and the financing of universities and colleges.

In other words, under GATS, foreign education service providers would be guaranteed access to the Canada's "education market" (including degree-granting status), governments would have to give these providers the same grants and financial assistance as they provide to the country's publicly funded universities and colleges, provide student loans, bursaries and other financial aid to students attending foreign schools, and eliminate preferential tax treatment for Canadian schools and research and development carried out therein.¹¹

EDUCATION: UP FOR GRABS

Trade Minister Pierre Pettigrew stated at the World Trade Organization meeting in Seattle in December, 1999, that Canada's public education and health care systems would not be on the table at the next rounds of negotiations. The evidence, however, suggests otherwise. While he did not present a strategy to protect Canada's education and health care systems from attack under the structures of the GATS, Canada's trading allies have made their intentions very clear.

The general framework and agenda of the GATS are intended to progressively liberalize international trade in services. The Agreement, in other words, is the first step, not a final outcome. "Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the Agreement Establishing the WTO and periodically thereafter, with a view to achieving a progressively higher level of liberalization. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access." The Agreement also calls for negotiations on government procurement in services as part of the agenda.¹²

With reference to "public services," the Agreement states services "provided in the exercise of governmental authority" are excluded, but these are defined narrowly as "any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers."¹³ To be excluded, a country's education system must be completely financed and administered by the State without any private financing or commercial purposes.

Like most countries, Canada's system of higher education does not fulfil these conditions for exclusion: as with most countries, the system is mixed, in which the private funds play a role and the private sector

competes with the public sector. In the case of Canada's post-secondary education system, it could even be argued that the payment of fees (tuition fees) for courses falls within the category of "commercial activity."

According to the GATS, government measures "affecting trade in services" include, among others, tax measures, subsidies and grants, nationality requirements, residency requirements, licensing standards and qualifications and market access limitations.

The effects on Canada's publicly support system of higher education would be clear: federal and provincial governments could not block private for-profit companies to set up educational institutions in Canada, while these same competitors could mandate the privatization of Canada's public universities and colleges under the rubric of "fair competition."

To preserve Canada's post-secondary education system, this public system requires a complex and comprehensive framework of federal, provincial and territorial policies, laws and funding arrangements that restrict the rights of private investors and service providers. The Federation believes that the Canadian as well as provincial and territorial governments must have the power to enact laws to protect the public system of education, laws that reflect and enhance the regional, cultural, linguistic and political complexities of Canada.

GATS and the trade liberalization agenda of the Government of Canada, in cooperation with the various international financial institutions, however, are in direct conflict with these principles. At a time when higher education is the educational threshold in the new economy, it is time to protect the essential role of this public service, not to subordinate education it to market forces, undermine its accessibility, and exacerbate social inequalities.

CANADA'S TRACK-RECORD: PUBLIC EDUCATION IS AT RISK

The existing GATS was negotiated by a "request-offer" or "bottom-up" approach (only those services that countries voluntarily put forward were subject to negotiation; to date, Canada has no made any specific commitments in health, education and social services sector). However, the current round of re-negotiation, in which every sector is on the negotiating table, is the first in a series of talks to broaden and deepen the agreement by maximizing GATS coverage and applying a top-down approach to include all services.¹⁴

Canada, along with its negotiating allies, the United States, the European Union and Japan (they are known as the "Quadrilateral" government), are pressing for new approaches to liberalize trade.

In particular, Canada and its allies advocate the insertion of new "horizontal" provisions to apply across-the-board to all members, services, sectors and modes of supply, resulting in new constraints on domestic regulations. "Formula" approaches will dictate that each signatory makes a minimum level of commitment in every sector or countries must offer to cover a certain specified percentage of its total services.

The United States and the European Union have already announced that they plan to broaden the application of GATS to the health care and education sectors, and these new approaches (accepted by Canada), will facilitate this process. In other words, Pettigrew's assertion that he will not put health care or education the WTO table is a moot point.

The U.S. proposal, for example, calls for the reclassification of services, from an uncovered to a covered sector, enabling negotiators to increase coverage without otherwise changing the Agreement. Scott Sinclair, a research fellow of the Canadian Centre for Policy Alternative, provides a poignant example: if hospital management were reclassified under a general category of management services, Canada's country schedule could remain intact.

Furthermore, Article VI:4 calls for the development of any "necessary disciplines" to ensure that "measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade." As Sinclair points out, the proposed restrictions would apply to all

service sectors, not just those in which member governments have made commitments (and they would extend at university accreditation among other things).

This new globalization ideology and its goal of 'commodification' of education is not a hidden agenda. Canada is in line. Consider, for example, Industry Canada's wholeheartedly endorsement and promotion of the strategy of turning 'rights' into 'products,' and the promotion of the commercial trade of education. In his letter of August 2000, the Chairman of the federal government's Advisory Committee for Online Learning, David Johnston, offers evidence of the new philosophy of public policy: "...Industry Canada recognises the potential for expanding domestic and international markets for a Canadian learnware sector. Both recognise the interdependence of the economic and educational policy agendas."

In the same letter, Johnston uses similar language to describe online learning. The justification for online learning is not to improve the quality of or accessibility to post-secondary education. The reason given to embrace this new technology is that "Canadian institutions face severe competition in their local markets from foreign public and private training enterprises." He adds, "we are concerned that the majority of our universities and colleges are not in a good position to take advantage of online learning opportunities and benefit from the transformative potential of online learning."

The great symbol, or "showcase" of this new ideology of education will be on display November 26-30, 2000 in Halifax at the 14th Conference of Commonwealth Education Ministers Education. In a concerted effort to promote the trade of education, a parallel event will be held, an International Trade Fair, with the theme "Shopping for Solutions". According to the June 2000 Operational Management Plan, the goals and objectives of the trade fair are as follows:

1.3.1. Goal

The International Trade Fair will place an emphasis on putting on show a range of systems, packages, projects and approaches, from traditional to technology-based, that offer proven solutions to many of the challenges that the Ministers will be deliberating on.

1.3.2. Objectives

The International trade Fair is not simply about putting a range of products on display. It is expected to enable delegates from a wide range of Commonwealth countries to have a one-stop appreciation of possibilities for tackling the many issues and problems that they are grappling with in education. It is also expected that, where there are packages on display, it should be possible for countries to make the kind of contact that can promote rapid transfer, adaptation and sharing of these, in the best tradition of the Commonwealth, and in keeping with mutually beneficial commercial transactions.

1.5. Incentives (Expected Results/Outcomes)

As we know, the domestic/international education and training markets are evolving quickly and the education sector is one of the important integral elements of Canada's knowledge-based industry. Canadian educational "savoir-faire" and products are in great demand in all parts of the world and the need for expertise in the development of educational and instructional products requiring different delivery models and infrastructures are increasing in all countries. A number of Canadian organisations are currently investing considerable resources to the marketing and export of Canadian educational products and services. Participation at the International Trade Fair will be seen and managed as such, an investment in showcasing products and services, and potentially an opportunity to expand our market share internationally.

Stripped clean of any pretence to equity, fairness, quality and accessibility, herein lies the new public policy, or ideology, of post-secondary education. Education is considered a business opportunity, a 'sector' of the economy like any other. Under the market-obsessed direction of Industry Canada, education has now

become perversely redefined as a "knowledge-based industry" that offers "training services" and "instructional products" requiring different "delivery models".

The Federation rejects this vision of education. Education is a universal right, not a business opportunity. Education is not optional but an essential part of being a full and equal citizen in the new economy, and it is a mistake to redefine it as a commodity, something that can be traded, or bought and sold in the 'global market'. Education is part of what the ancients called the *res publica* - the public's thing - the common good. Education must therefore be publicly funded and administered for all to enjoy and benefit equally. Like Canada's cherished health care system, education must be protected from GATS's attempts to reduce it to a personal privilege, or GATS's effort to subject it to the profit-driven logic of supply and demand in the international marketplace.

Our resistance to the very idea that education is an industry, a business, a product, a commodity, a 'sector', that has compelled the student movement to organize in historic numbers. As you know, on January 25, 1995 and in succeeding peaceful public demonstrations (February 7, 1997, January 28, 1998, November, 1999 and February 2, 2000) hundreds of thousands of students and their supporters demonstrated against home-grown structural adjustment economic policies and international structural adjustment economic policies promoted by various international financial institutions and trade regimes, such as the Asia Pacific Economic Cooperation (APEC) organisation and the World Trade Organisation (WTO).

Students marched, rallied, organized forums, leafleted, camped out and even conducted strikes to highlight the crisis in post-secondary education. Part of the criticism raised in these student protests was to call into question the subordination of human rights (the right to education and health care, for example) to the international "rules" of trade and commerce and the dictates of private corporations.

The stated goals of the GATS undermine the integrity of basic social, economic and environmental standards, and clash with the principle of high quality and accessible education. To reduce or compare education - our shared and contested understandings of the world -- to a collection of commercial transactions, is simply ridiculous. To turn what is a right into a consumer product is simply absurd. The 'student' cannot be reduced to a utility maximiser in a great marketplace of learning. The student is an apprentice, scholar, researcher, pupil, disciple, fellow, and novice. The student is someone who is taught not just to understand but also to challenge traditions and conventions. Rather than 'consuming' knowledge, students are researching, investigating, questioning, probing, receiving collective wisdom, and in the words of Milton, "beholding the bright countenance of truth in the quiet and still air of delightful studies."

The Government of Canada has a duty to abandon its current function at the GATS negotiating table. Instead, it must declare its opposition to the growing commercialization of education and support instead publicly funded and publicly administered post-secondary institutions, and the non-profit sharing of science and technology.

To promote the right to education is also a global strategy and it is not a new one. In fact, it was a Canadian who helped to co-author The United Nations Universal Declaration of Human Rights of which Article 27 (1) provides:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible on the basis of merit.

Furthermore, in 1976, Canada recognized the right to education by signing the International Covenant on Economic, Social and Cultural Rights. Article 13(1)(2)(c) obliges signatory states to achieve the full realisation of the right to equally accessible higher education, "in particular by the progressive introduction of free education."

By voting in favour of the Universal Declaration and then ratifying the International Covenant on Economic, Social and Cultural Rights, Canada has not tacitly but expressly recognized that higher education must be

free in order to be "equally accessible". We would like to note for emphasis that the Declaration, one of the most sacredly held and influential human rights charters of the 20th century, lists education as a universal right, not a universal product or a universal service. Therefore, to treat education as a 'sector' and a 'product,' as GATS does, is to expressly violate both the spirit and letter of the Universal Declaration and the International Covenant.

To keep these international promises, the federal government must adopt another global strategy than the one being promoted at the GATS. That is, Canada must create and support democratically accountable institutions whose focus is not just finance and trade but also the advancement and protection of human rights, social justice and the environment. We must promote institutions in which knowledge (the humanities, science and technology) is shared equally, not to the highest bidders.

RECOMMENDATIONS

- Remove health care and social services from the negotiating table in the new round of GATS negotiations.
- Remove education and post-secondary (tertiary) education from the GATS negotiations.
- Eliminate the ability of WTO trade rules to overturn nation-state laws and protect public systems of health care and education.
- Advocate fundamental structural reform of the GATS onto the international negotiating agenda to curtail the features of the flawed and threatening agreement.

CONCLUSION

A fundamental mistake of the new globalization ethos is to reduce all human practices to commercial transactions. History does not support this view. Since the first university was founded in Bologna in the 11th century, scholars around the world have shared their understanding of nature and the human condition without the goal of profit.

Canada must be a leader at the GATS negotiating table, not an apologist for international corporate lobbyists eager to profit from an education "industry." Canada must defend the rights of its citizens to be educated and the ability to participate in the new economy. This can only be achieved if Canada's public system of higher education is protected.

NOTES

1. As cited in Larry Kuehn, "Globalization, Trade Agreements and Education: Trade deals prevent governments from protecting education," *The Canadian Centre for Policy Alternatives Education Monitor*.
2. All references to the position of the Department of Foreign Affairs and International Trade, see "Trade in Services: Consultations on Trade in Service Negotiations," *Canada Gazette*, July 29, 2000.
3. Education International and Public Services International, *The WTO and the Millennium Round, A Joint EI/PSI Publication*, Belgium, 2000. All subsequent monetary references are in US dollars.
4. For an excellent overview of international trade agreements and the GATS in particular, see Scott Sinclair. The Canadian Centre for Policy Alternatives, Ottawa, 2000.
5. As cited in Scott Sinclair, "The WTO Third Ministerial meeting, Seattle, Washington, Nov. 30-Dec. 3, 1999," *Briefing Paper Series: Trade and Investment*, CCPA, Ottawa, November 24, 1999, 5.
6. Education International and Public Services International, 1.
7. *Ibid.*, 4.
8. *Ibid.*, 4.
9. *Ibid.*, 3.
10. As cited in Maude Barlow and Tony Clarke, *A WTO Primer*, Council of Canadians, Ottawa, 1999.
11. For an excellent summary, see the Canadian Association of University Teachers, "Trade Talks - Risk to Education," *CAUT Bulletin*, Ottawa, November 1999.
12. Articles XIX and XIII cited Scott Sinclair, "The WTO Third Ministerial meeting," 5.
13. *Ibid.*, 5.
14. For an excellent overview of the GATS and Canada's negotiating positions, see Scott Sinclair. The Federation benefited greatly from Mr. Sinclair's overview and analysis, on which we relied.