Institutional Research Consultancy Unit
RMIT University
Environmental Scan (ES)
General Agreement on Trade in Services (GATS)
Volume 2
May 2003

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This volume is the second in a series of volumes on the General Agreement on Trade in Services (GATS). Volume 1 is an environmental scan which discusses the history and key features of GATS and includes a case study of liberalisation in a services sector. This volume - volume 2 - discusses the forum on GATS held at RMIT University on 29 April 2003. This volume also includes the speaker presentations.
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RMIT University is hosting a forum on current policy developments related to the World Trade Organization’s General Agreement on Trade in Services and how these developments may impact on Australian tertiary education. Australian institutions are highly reliant on international trade in education services and the Australian government has been one of the most ardent advocates of trade liberalisation in international forums. At the same time, there are widespread concerns that the GATS could have major implications for domestic tertiary education policy.

All interested participants are invited to attend and join this timely discussion with key stakeholders and researchers.

The forum will be chaired by Dr Madeleine Reeve, Pro Vice-Chancellor (International, Enterprise and Community Development), RMIT University and Dr Julie Wells, Principal Policy Advisor, RMIT University.

Keynote speakers:

**Assoc. Prof. Ann Capling**  
University of Melbourne  
*Associate Professor, Department of Political Science*

**Dr Christopher Ziguras**  
RMIT University  
*Research Fellow, Globalism Institute, Faculty of Education, Language and Community Services*

**Robert Stevens**  
Department of Education, Science and Training (DEST)  
*Director, APEC, WTO, North and South Asia*

**Dr Grant McBurnie**  
Monash University  
*Executive Officer, Monash University International and Public Affairs*

**Dr Carolyn Allport**  
National Tertiary Education Industry Union (NTEU)  
*National President*

*This forum is sponsored by the RMIT Globalism Institute, the RMIT International Office and the RMIT Institutional Research Consultancy Unit (IRCU).*
2pm - 5pm, Tuesday 29 April 2003

RMIT Storey Hall, 336-348 Swanston St., Melbourne, VIC 3000

The forum consists of five presentations, each followed by open discussion. Afternoon tea will be provided between 3.30pm and 4.00pm.

**Session 1**
2.00pm - 2.30pm

*Australia and the GATS: Servicing whose interests?*

Assoc. Prof. Ann Capling

Ann Capling is Associate Professor in the Department of Political Science at the University of Melbourne.

Her research interests include Australian political economy and international political economy, with a specific focus on trade policy and the World Trade Organization.


**Session 2**
2.30pm - 3.00pm

*The GATS debate so far: major players and major issues*

Dr Christopher Ziguras

Christopher Ziguras is Deputy Director of the RMIT’s Globalism Institute, which fosters research across the university on the interplay of economic, technological and cultural dimensions of globalisation.

His current research focuses on how governments, education providers, and international organisation are responding to the rapid growth of international education, and especially transnational (offshore) provision.

**Session 3**
3.00pm - 3.30pm

*The Doha Round education services negotiations – an update*

Robert Stevens

Robert Stevens is the Director for APEC, WTO, North and South Asia in the Commonwealth Department of Education, Science and Training.

He has been employed by DEST in this capacity since January 2000. Prior to this he spent a number of years working as International Manager for the New Zealand Ministry of Education, Executive Advisor to the New Zealand Associate Minister of Education, and Parliamentary Researcher at the New Zealand House of Representatives.

**Session 4**
4.00pm - 4.30pm

*What does GATS mean for Australian education exporters?*

Dr Grant McBurnie

Grant McBurnie is Executive Officer International at Monash University. He has been involved in quality review programs conducted by the OECD and GATE, and in addressing host government compliance requirements for transnational education in Asia and South Africa.

His writings on international higher education have been published in several languages, and by international organisations including UNESCO and the OECD.

**Session 5**
4.30pm - 5.00pm

*The roles of Australian providers and the roles of NGOs*

Dr Carolyn Allport

Carolyn Allport is National President of the National Tertiary Education Union.

She is currently engaged in discussions with UNESCO on behalf of Education International and is an active participant in debates around trade in education services in Australia and overseas.

RSVP to attend this free forum by emailing: David.Rutherford@rmit.edu.au

If you have any queries, please contact David Rutherford on (03) 9925 4013.
An overview
GATS and Tertiary Education Seminar
RMIT University

About the Forum

RMIT hosted a seminar on GATS and tertiary education on Tuesday 29 April, 2pm-5pm, Storey Hall.
The seminar was sponsored by:
- The Globalism Institute;
- RMIT International Office; and,
- The Institutional Research Consultancy Unit (IRCU).
This seminar was advertised via: the RMIT weekly update; email to all Executive, Deans and Heads of Department; and, via a number of professional networks.
In total, 64 people attended, including representatives from: the Department of Foreign Affairs and Trade (DFAT); the Department of Education, Science and Training (DEST); the Victorian Department of Education; the National Tertiary Education Union (NTEU); and, a number of other universities (RMIT, Deakin, La Trobe, Melbourne, Monash, UniSA, Swinburne and Sydney).
The five key-note speakers at the conference were:

- Associate Professor Ann Capling (Department of Political Science, University of Melbourne): Australia and the GATS: Servicing whose interests?
- Dr Christopher Ziguras (Research Fellow, RMIT Globalism Institute): The GATS debate so far: major players and major issues
- Robert Stevens (Director APEC/WTO/Asia, DEST): The Doha Round education services negotiations – an update
- Dr Grant McBurnie (Executive Officer for International and Public Affairs, Monash University): What does GATS mean for Australian education exporters?
- Dr Carolyn Allport (National President, NTEU): The roles of Australian providers and the roles of NGOs.
Summary of Presentations

**Ann Capling** provided an overview of the history of multilateral trade liberalisation, with particular reference to the role of powerful business lobbies in setting agendas. Traditionally services tended to be consumed both immediately and proximately (i.e. at the time and place they were produced, so there was limited international trade. However, economic developments from the early 1980’s onwards broke this nexus between immediate and proximate production and consumption.

Reasons for the relevance of GATS included developments in ITC (enabling services to be delivered across borders), deregulation and privatisation of service industries (leading to these services no longer being limited to domestic provision) and the desire by multinational corporations for standardisation in service provision.

Services have become more important in domestic economies.

The above developments led to the need for GATS (originally driven in a selective fashion by USA in areas where it had a competitive advantage). In Australia’s case, there was an early concern that (a) our reliance on service exports may make us vulnerable to bilateral deals and exemptions, particularly in the context of the USA/Australia trade negotiations, and (b) that areas of cultural, social or welfare policy importance, such as health, may replicate the original GATT framework.

Ann further identified that it would be more advantageous for Australia to enter multilateral (GATS-type) agreements on tertiary education rather than pursue bilateral agreements as the former are rules-based whereas the latter are negotiated on the basis of the relative strength of the two parties. A GATS agreement may be of additional value because it applies to investment as well as trade, and because of the policy of non-discrimination (i.e. smaller members of WTO obtain benefits negotiated by larger members) and because it is potentially a forum for future regulation.

**Christopher Ziguras** looked at the specific implications of trade liberalisation for tertiary education in Australia, which include potentially opening funding schemes such as PELS to overseas students in Australia as well as to Australian students overseas.

There was a discussion of the modes of supply, noting that two thirds of Australia’s current education exports are in the category of consumption abroad (i.e. international onshore students).

Chris outlined Australia’s commitments so far, in terms of market access and national treatment.

Chris also pointed out that some components of GATS have already been present in Australia for some years and the adverse effects foreseen have not eventuated: Chris therefore suggested that GATS in the tertiary education need not necessarily be disadvantageous. Australia and New Zealand have a relatively liberalised trading approach in education. There has been general support from Australian institutions for this approach.
Potential criticisms of a GATS approach were also identified, including the possibility that social needs may not be met, the difficulty of modifying commitments, the ability to develop local expertise and a negative impact on policy options.

Robert Stevens provided an overview of the international negotiations on liberalising tertiary education, identifying Australia's two strategies which were firstly, to "concede nothing", and secondly, to target specific legislation in 19 specific countries with a view to having that legislation superseded so that the tertiary education market there is opened up. This analysis was based on a detailed "barrier mapping" exercise carried out by DEST which had identified all the barriers to cross-border education on a country-by-country basis.

Robert also identified the reasons for Federal government strategy development in education (a major exporter and employer) and emphasised that market access arrangements have only been entered for the private sector.

The WTO education alliance of which Australia is a part is a diverse grouping of countries who may be interested in entering into arrangements beyond the WTO arrangements. This group is facilitated by Norway.

Grant McBurnie discussed some of the specific requests made by the United States on tertiary education liberalisation and identified that GATS incorporates risks to institutions as well opportunities for offshore expansion (legal, sovereign and financial risks), through effective planning. Grant also identified the entry of China into the WTO and Singapore's stated intention of becoming a regional hub for tertiary education as significant factors in the development of the tertiary education market in the region. Challenges include ensuring high quality of education in this liberalised trading environment and ensuring that students are the beneficiaries.

Carolyn Allport identified that we do have options. Most commitments to date have gone to market access, but even these commitments are circumscribed, because of subsidies and the regulatory role of government. She discussed the risks to employment levels and cultural diversity in the education sector that GATS poses as well as identifying that the GATS agenda is being set by providers, not customers (students) or employees (staff), who have particular interests to be protected, particularly in offshore delivery, where the important nexus between teaching and research may be broken.

Trade rules will continue to exist outside GATS and existing regulations may also have to pass trade tests. Commitments made to GATS do not necessarily cover all areas of new education, as commercialisation tends to undermine the public status of public education, when it is pushed to provide private services. Carolyn also contrasted the differing interests which sought short-term economic gains and long-term capacity building respectively and the possibility of developing alternative frameworks, via non-government organizations.
Web links

ES – GATS Volume I
http://www2.rmit.edu.au/departments/planning/ircu/gatsforum.php

Further information on detailed issues relating to GATS:
Department of Foreign Affairs and Trade:
World Trade Organisation – General Agreement on Trade in Services
http://www.wto.org/english/tratop_e/serv_e/serv_e.htm
Overview of sponsoring organisation

The Globalism Institute

The Globalism Institute undertakes engaged research into globalisation, transnationalism, nationalism and cultural diversity. It seeks to understand and critically evaluate current directions of global change, with an emphasis on the cultural implications of political and economic transformation.

The Globalism Institute is the public face of a university-wide research strength in globalisation and cultural diversity at RMIT University, Melbourne. It was initiated in 2000 with an extended period of consultation and development. It was formally inaugurated in 2002 with the brief to initiate and manage research projects involving consortia of academics, researchers and consultants from diverse backgrounds.

These collaborative projects draw on expertise from across the university and beyond, in fields such as global politics, international relations, community studies, cross-cultural communication, international education, international trade, productive diversity, global English and media studies. Our emphasis is on critically understanding the culture and politics of global change.

The Institutional Research Consultancy Unit (IRCU)

The IRCU, along with the Quality Consultancy Unit, Planning Consultancy, Statistics and Reporting and the TAFE Centre of Excellence, is part of the Planning Group.

The unit's mission is to:

- Assist and contribute to informed decision-making;
- Contribute to strengthening the efficiency and effectiveness of RMIT's activities and programs;
- Be proactive in the study and advancement of tertiary education; and,
- Manage, share and create knowledge for the benefit of RMIT.

The main function of the IRCU is to co-ordinate the collection, organisation and analysis of institutional data and other quantitative and qualitative information to support institutional management, operations, decision-making and planning functions of RMIT University. The IRCU is also engaged in applied educational research, performance measurement, evaluation and assessment and is proactive in the study and advancement of tertiary education.
The International Office

RMIT University's international policies and strategies are developed, communicated and supported by the International Office.

The key roles of the International Office are international policy development and program support undertaken by:

- Ensuring that RMIT's international approach is focused and consistent across all areas of the University Strategic Plan;
- Developing and enhancing the University's profile through the development of international partnerships (MoUs, exchange agreements);
- Providing guidance and support to all areas of the University in relation to delivery of offshore programs;
- Coordinating, managing and promoting the RMIT's education abroad program;
- Coordinating and managing the University's international scholarships program;
- Facilitating and supporting RMIT's ongoing commitment to the internationalisation of education;
- Coordinating and advising the university's compliance with Australian government regulations relating to international students;
- Coordinating and promoting events and key international activities undertaken by the University; and,
- Enhancing the understanding of the university community on international matters through the provision of relevant resources.
GATS and Tertiary Education

Tuesday 29th April 2003

Speaker presentations
GATS and Tertiary Education

Tuesday 29th April 2003

Dr. Christopher Ziguras
GATS and Tertiary Education: Major Issues and Actors

Dr Christopher Ziguras
Globalism Institute

www.rmit.edu.au/globalism
Key GATS principles

Compulsory commitments for all WTO members
- the *most favoured nation* principle
  - treating all other WTO member countries equally
- transparency of regulations
- legal recourse in case of dispute

Voluntary commitments by sector
- Market access
  - to allow foreign providers to enter market
- National treatment
  - to not discriminate between local and foreign providers
Modes of supply of tertiary education services

1. Cross-border supply (international distance education)
2. Consumption abroad (such as a student traveling abroad to study)
3. Commercial presence (such as foreign branch campuses, or foreigners partnering with local providers)
4. Presence of natural persons (such as lecturers traveling temporarily abroad to teach)
Student mobility and transnational/offshore education

- Consumption abroad
- Traditional student mobility
- Cross-border supply
- Commercial presence
- Presence of natural persons
- Transnational education
Tertiary education in GATS

• What we call tertiary education is referred to as ‘higher education’ in the WTO
• 32 WTO members (out of 155) have made commitments on tertiary education services, making it one of the least committed services sectors
• Australia and New Zealand have relatively open markets for tertiary education
• Early commitments received little attention in Australia, but since Seattle education has been one of the most controversial services, along with health, water and media content (audio-visual services)
• Most of the opposition has been based on perceived threats to public services and misplaced concerns about forced privatisation
Australia’s existing Market Access commitments for tertiary education

• Australia made Market Access undertakings for three modes of supply—Cross-Border Delivery, Consumption Abroad and Commercial Presence.

• These commitments bind Australian governments to allow foreign providers to operate in Australia through distance education, Australian students traveling to study overseas, and through establishing a presence in Australia.
Australia’s existing National Treatment commitments for tertiary education

- Australia committed in 1995 to National Treatment for Cross-Border Delivery and Consumption Abroad.
- These commitments bind Australian governments to treat foreign providers who teach using distance education or to students who have travelled abroad to study no less favourably than local institutions.
- One important exception was that Australia did not commit to National Treatment for Commercial Presence, in order to retain the ability to discriminate between domestic and foreign providers in the allocation of government funding/subsidies.
Australia’s commitments on Research Services

• In the Uruguay Round, Australia made commitments to Market Access and National Treatment for social sciences and humanities research only
• Government subsidies for research and development remain unbound
• Australia has received requests to commit to Market Access and National Treatment for all research and development services in the current round
Promoting Trade Liberalization

- Australia has been one of the most active advocates of trade liberalisation in education services, along with the US and New Zealand.
- Australia’s bilateral free trade agreements (with New Zealand and Singapore, and being negotiated with Thailand and the US) all include education.
- The Australian government plays a prominent role in promoting trade liberalisation in education services in the WTO, the OECD, APEC and other intergovernmental forums.
- Most Australian education institutions, while wanting to be seen to be lobbying other governments, have been quietly supportive of efforts to promote liberalisation amongst trading partners.
Economic Benefits for Exporting Countries

- International trade allows institutions with additional capacity to respond to unmet demand in other countries.
- Export income from students fees, living expenses, repatriated funds from overseas operations, testing, textbook sales.
- Fees from international students support are an important source of income for many institutions, especially at tertiary level.
- Long-term connection with highly-educated overseas alumni.
Benefits for Importing Countries

Today … more countries are recognizing that the key to their economic growth is greater openness to foreign-based public and private institutions. They are seeking greater diversity among their higher-education providers – welcoming more foreign colleges and universities that cater to specific educational needs.

• Early growth has been in students travelling overseas to study
  – This is a consumer-driven response to local undersupply of places
  – Balance of trade implications
  – Difficult to restrict individual study overseas
  – Does not assist in development of increased local capacity

• Liberalisation of other forms of trade promises:
  – Increased local capacity and greater range of educational options available to students
  – Less need for students to travel abroad, leading to reduced imports
  – Development of export orientation
  – Economic development resulting from more highly educated workforce
‘Subjecting academe to the rigors of a WTO-enforced marketplace would destroy one of the most valuable institutions in any society.’

Criticisms of Market Access commitments

- Market Access commitments mean that Australian government cannot restrict the number, size, or range of offerings of foreign providers
- Qualification requirements and procedures, technical standards and licensing requirements should not constitute unnecessary barriers to trade in services
- Market-driven educational trade emphasises programs that are profitable, vocational and technical, which may meet the needs of some students and the labour market, but may not meet the social and developmental needs of the nation
- More private and foreign providers will exacerbate social inequalities in access, especially in developing countries
- Difficult for countries to retract or limit existing commitments
Criticisms of National Treatment commitments

• May prevent developing countries from encouraging the development of local institutions and prolong dependence on foreign providers
• May require governments to fund public and privately-owned institutions equally, or to fund local and foreign private institutions equally
• Even when governments state that their commitments only apply to private education services, the meaning of this is not clear
• Lack of clarity about how various policy options would be affected (eg loans schemes for fee-paying students)
GATS and Tertiary Education

Tuesday 29th April 2003

Robert Stevens
GATS Doha Round

Education Services Negotiation

Robert Stevens
Why is DEST interested in the WTO process?

- Australia has a $5 billion p. a. education export industry, employing approx 55,000 people.

- We have a strong interest in facilitating the long term easing of market access restrictions for our education exporters – new markets/modes and lower costs.

- DEST is pursuing the lowering/elimination of barriers multilaterally through WTO and APEC, and bilaterally through agreements and a number of other bilateral initiatives.
Current Commitments (1993)

- Australia has only entered market access commitments for the private sector. This means, in terms of access to the Australian market, there can be no discrimination between foreign providers and domestic private providers.

- We have not entered into national treatment commitments for public education.

- Australia has also entered a commitment protecting all public research grants in all sectors.
Current GATS Negotiating Round
Timeline

- **1993/94**: Inaugural negotiating round.
- **2000**: Stocktake and information exchange.
- **2001**: Discussion on form and scope of negotiation.
- **2002**: “Request” Phase Commences.
- **2003**: “Offer” Phase Commences.
- **2004/05?**: Negotiating round concludes.
Research into the types of barriers to trade in education services

- Consumption abroad:
  - host economy employment rules, visa requirements, foreign exchange requirements.

- Commercial presence:
  - limits on ownership.
  - rules on twinning arrangements.
Barriers (cont.)

- Presence of natural persons:
  - visas and immigration requirements.

- Cross border supply:
  - importation of educational materials (textbooks and software to support distance education).
  - blanket non-recognition for this mode of supply.
Barriers Mapping Research

- Identified 233 specific barriers to trade and investment in 19 selected countries.

- Across all four modes of supply.

- Intelligence gathered from offshore Posts, NGO’s; Australian providers; Commonwealth Govt agencies; State and Territory Govt’s.
Defensive Strategy

- Offer nothing.

- Our public position: “Australia is already very open – we are wanting other economies to match our commitments. Until this happens, we are not prepared to consider further liberalisation”.

- Minister Vaile’s statement (April 2003).
Offensive Strategy

- Make the case for removal and/or elimination of barriers to the free flow of trade and/or investment
  - Detailed, accurate information.
  - Highly specific Requests, targeted at particular barriers (cf: USA approach).
  - Make the case through a win-win frame.

- Be open to the possibility of bilateral deals outside of the WTO framework.

- Generate momentum for a grouping of economies that can share ideas on an informal basis within the WTO structure.
October 2002 negotiations

- 144 negotiating teams, ranging from 1 person to several dozen.
- Australian team: 12 officials from DFAT, DEST, Treasury, DTRS, DCITA, AG’s Office.
- 19 face-to-face bilaterals.
- Several informal meetings with Norway.
Outcomes – typical responses

- Thanks for asking, but no.
- Non committal.
- Happy to allow greater market access for Australian institutions, but not through GATS.
- Additional commitments promised………..
Types of additional commitments

- Removal of commercial presence restrictions relating to foreign private education provision.

- Removal of commercial presence restrictions on Governing Boards.

- Institutions will be allowed to repatriate profits, provided tax is paid.
Additional commitments (cont.)

- Likely to match Australia’s commitments.

- Interested in allowing recognition of on-line education, provided quality is assured – in discussion with DEST in relation to how this can be achieved.

- Other forms of cooperation: review of qualification recognition procedures – would like Aust’s assistance to model new agency on NOOSR.
WTO Education Alliance

- Norway (convenor); Australia; New Zealand; South Africa; Japan; India; Uruguay; Argentina; Chile; Thailand; the People’s Republic of China; Egypt; Senegal; Turkey; Jordan; Kenya and Mexico.
Education Alliance (cont.)

- Development of a WTO book on education issues related to:
  - some of the underpinning policy issues in GATS as they relate to education services (in particular, public/private definition; the exercise of government authority and the provision of public subsidies for education).
  - case studies.
2004 OECD/DEST Global Policy Forum on TIES

- Australia to host.
- Release of the WTO Book.
GATS and Tertiary Education

Tuesday 29th April 2003

Dr. Grant McBurnie
GATS and Tertiary Education:

What does GATS mean for Australian education exporters?

Grant McBurnie
29 April 2003
Possible Benefits of GATS for Institutions

• The opportunity to reduce some forms of risk
• The ability to plan more effectively
**Modes of International Higher Education**

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<tr>
<th>Mode</th>
<th>Percentage</th>
<th>Amount</th>
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<tr>
<td>Cross Border (DE)</td>
<td>6 %</td>
<td>(10,808)</td>
</tr>
<tr>
<td>Consumption Abroad (Students in Aust.)</td>
<td>65 %</td>
<td>(101,458)</td>
</tr>
<tr>
<td>Commercial Presence (Offshore f2f)</td>
<td>29 %</td>
<td>(45,030)</td>
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So, What’s New?

• If we want to expand it will probably be offshore
• There is/will be more competition (SG, MY, EU)
• China has joined WTO
Risks for institutions

- Legal
- Sovereign
- Financial

In bacon and eggs, the pig is more committed than the chicken.
Planning considerations for TNE

1. Transparency of regulations
2. Transparency of approvals process
3. Consistent application of rules
4. Ownership, equity and governance
5. Who, what, how can you teach
6. Movement of materials and people
7. Movement of money
Otherwise …

B road
R anging
I nternational
B usiness
E xpense
USA’s GATS requests on education

China:
Remove ban on education services provided by foreign companies and organizations via satellite networks.
Remove requirements for foreign educational institutions to partner with Chinese universities.
Remove ban on for-profit operations in education and training services.
Relax other operational limits and restrictions on geographic scope of activities.
USA’s GATS requests on education

South Africa:
Remove burdensome requirements, including non-transparent needs tests, applicable to foreign universities operating, or seeking to operate, in South Africa.

Turkey, Italy:
Remove requirement that foreign entities teach only non-national students.

Greece:
Remove restriction that the granting of degrees is limited to Greek institutions only.
USA’s GATS Requests

India, Philippines, Thailand:
Remove ownership limitations on joint ventures with local partners.

Japan, Israel:
Recognize degrees issued by accredited institutions of higher education (including those issued by branch campuses of accredited institutions); and adopt a policy of transparency in government licensing and accrediting policy with respect to higher education and training.
The challenge ...

- Ensure high quality education
- Help ensure that the liberalized trade system will benefit students
GATS and Tertiary Education

Tuesday 29th April 2003

Dr. Carolyn Allport
Australia 1 April 2003

The Government is committed to upholding the right of WTO members to regulate and to fund public services and will not support any new rules or make any offers which cast doubt on that outcome”, Mr Vaille said “Australia will not be making any offers in the areas of public health, public education or the ownership of water. The Government will ensure that the outcomes of the negotiations will not impair Australia’s ability to deliver fundamental policy objectives in relation to social and cultural goals and to allow for screening of foreign investment proposals.

The Government’s decision to publicly release the offer, recognizes strong public interest in these negotiations.
Canada’s health, public education and social services are not negotiable. Canada will preserve its ability to maintain or establish regulations, subsidies, administrative practices or other measures in sectors such as health, public education and social services. Furthermore, pending the development of a new international instrument on cultural diversity, we will not make any commitment that restricts our ability to achieve our cultural diversity policy objectives.

Canada March 31 2003

It is of great importance to our government that Canadians be informed and consulted at every step of the negotiating process... We developed our offer in partnership with provincial and territorial governments and through extensive consultations with Canadians

In keeping with what the Government of Canada has heard from Canadians, Canada has submitted no offer on the areas of health, public education, social services or culture
European Union February 2003

"This carefully constructed proposal will strengthen the EU's position in the Doha negotiations, because it addresses the interests of others, particularly developing countries. At the same time it ensures that services of collective interest in the EU, such as education and health, are preserved. In this way we ensure that the WTO is used to defend and promote the European model."

At the same time, the offer does not affect the provision of public services within the EU, the right of the EU to regulate its services sector, and to design its own appropriate regulatory frameworks. Thus, it maintains the EU position of taking no commitments in the audio-visual sector, and also proposes no commitments on either education or health services.
Joint Declaration on Higher Education and the General Agreement on Trade in Services – United States, Canada and Europe 2001

Our member institutions are committed to reducing obstacles to international trade in higher education using conventions and agreements outside of a trade policy regime. This commitment includes, but is not limited to improving communications, expanding information exchanges, and developing agreements concerning higher education institutions, programs, degrees or qualifications and quality review practices.

Our respective countries should not make commitments in Higher Education Services or in the related categories of Adult Education and Other Education Services in the context of GATS. Where such commitments have already been made in 1995, no further ones should be forthcoming.

Association of Universities and Colleges of Canada
American Council on Education
European University Association
Council for Higher Education Accreditation (United States)
Dangers of GATS

• Trade rules also apply outside of GATS.
• New areas of education are emerging.
• Internal commercialization is undermining existing definitions of public and private under GATS.
• Existing regulatory regimes for accreditation may have to pass a ‘trade test’.
• The Trade agenda speaks only for “the providers”.
The Australia-Singapore Free Trade Agreement

Reservations

• Subsidies for education (because of a broad reservation of subsidies for all sectors).

• Primary education has been reserved for both Market Access and National Treatment.

• In post-primary education, there is a reservation under Mode 3 (commercial presence) with respect to the Government’s right to “adopt or maintain any measure with respect to the supply of services”.

Domestic Regulation – Article VI GATS Agreement

New disciplines to be developed to ensure that qualification requirements and procedures, technical standards and licensing agreements do not constitute barriers to trade.

New disciplines to ensure that these requirements are:

- Based on objective and transparent criteria, such as competence and ability to supply the service.
- Not more burdensome than necessary to ensure the quality of the service.
- In the case of licensing procedures, not in themselves a restriction on the supply of the service.

A new framework - A necessity test

“A measure is not more trade restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves a legitimate policy objective and is significantly less restrictive to trade”
Issues for Staff

• Greater job insecurity, without the benefits.
• Contracting out of transnational education can “unbundle” the academic role.
• Undermining of the teaching-research nexus.
• Intellectual Property Rights
• Institutional Governance
A new policy environment

Why?

A new international rules-based framework may be a good choice for new framework for a number of reasons:

* Education is seen as a public good, not a commodity for sale.

* It is embedded in respect for human rights and cultural diversity

* It can facilitate internationalization through information sharing, partnership programs between the developed and the developing world for capacity building, and set standards through conventions and codes of best practice.

But standards, rights, and responsibilities articulated in such international instruments must be embedded in national and regional legislation.