GATS and Tertiary Education

Tuesday 29th April 2003

Dr. Carolyn Allport
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
“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.