



**EDUCATION INTERNATIONAL
Higher Education International Conference
Melbourne 7 – 9 December 2005**

Declaration adopted by the participants

**Statement to the Delegations to the 6th WTO Ministerial
concerning GATS and Education**

As representatives of education unions and associations, we write to you regarding our concerns and recommendations with respect to current services negotiations under the General Agreement on Trade in Services (GATS).

Our concerns with GATS coverage of education services are as follows:

1. We believe strongly that the principles of GATS are, at root, in conflict with educational values. GATS is a commercial agreement aimed at expanding business opportunities for investors. By contrast, the goal of education is to serve the public interest. Education advances human understanding, preserves and promotes cultures, and strengthens civil society and democratic institutions.
2. Education must not be treated as a commodity or subject to commercial trade rules. Education is, as the UN Universal Declaration of Human Rights states, a human right to be equally accessible to all people regardless of their ability to pay.
3. We are deeply troubled about the potential impact of GATS disciplines on education. Once a country has agreed to commitments, GATS rules can enforce open education markets and enable offshore institutions and companies to engage freely in education activities. Local authorities, including accreditation and quality control agencies, may have little control.
4. Troubling questions have also been raised about the impact of GATS on educational access and quality, on public subsidies and funding, and on domestic authority to regulate education providers. While many of these questions remain unsettled, it is clear that there are significant risks associated with including education services in the GATS.

5. We are also concerned that the rules of GATS will have the effect of imposing one model of education – a private, commercial and import-oriented one -- on developing countries, thereby weakening their own national systems of education.
6. We remain concerned that the exception for public services in GATS is ambiguous and open to conflicting interpretation. Article 1:3 of GATS provides a very narrow interpretation of “services supplied in the exercise of governmental authority” that, in a strict reading, would not fully exclude education, health care and other mixed public-commercial services from GATS.
7. We oppose attempts by some Members to seek commitments on private education services. Given the mixed public and private nature of many education systems, particularly at the tertiary level, we believe it is extremely difficult to define which education services are supplied strictly on a non-commercial basis. Commitments taken on private education services may inadvertently expose the public education system to deregulation and commercial competition.
8. We are deeply troubled by recent proposals from developed countries for a “benchmarking” or “complementarity” approach to negotiations. This approach threatens to take away what limited flexibility there is in the GATS. It would coerce Member Countries into making commitments in areas, such as education and other public services, in which they were not prepared to do so.
9. We are aware of a substantial list of requests for the deregulation of education systems which plurilateral groups intend to pursue. These include removal of regulatory settings which affect governance and ownership of institutions, accreditation, recognition of qualifications, educational materials, and quality.
10. Discussions aimed at developing a “domestic regulation” discipline under GATS could also adversely affect education. Current proposals would apply a necessity test to technical standards, licensing and qualifications requirements to ensure that these regulatory measures are not “more burdensome than necessary to ensure the quality of the service.” If applied to education services, domestic regulation rules could well mean that the ability of domestic authorities to control the quality and accreditation of overseas institutions may be hampered.
11. Other discussions on GATS rules include government procurement and subsidies. We are concerned that GATS already applies to subsidies (such as through its National Treatment provisions). Introduction of rules on government procurement into the GATS, or changes in the rules on subsidies could further constrain the ability of governments to fund public education and related services without accepting increasing commercialization and private competition.

12. We are also aware of how other WTO negotiations can affect education. We note that discussions on Non-Agricultural Market Access (NAMA), for instance, could result in a lowering of tariffs. For many developing countries, tariffs account for a substantial portion of overall government revenues. Less revenue from tariffs would mean less public funding available for education.
13. Similarly, we recognize that commitments made in other service sectors can also have a significant impact on education. An example is computer related services or commitments in telecommunications that involve cross border transfer of educational content. Also, commitments taken in research and development services can affect tertiary education.
14. We recognize the need for capacity building initiatives to expand education opportunities in developing countries, in particular for higher education. This may occur through financial assistance to the governments of developing countries to create more student places, or agreements between those governments and education institutions from other countries. The key point is that capacity building should be able to occur at the request and initiative of the government of a developing country without that country reducing its policy options by making binding commitments on education services under GATS.

Accordingly, we offer the following recommendations to Member States:

Recommendation 1: Adopt a precautionary approach

Recognizing the risks outlined above, we strongly encourage Member States to adopt a precautionary approach by not making or seeking any further commitments in education services, or other service sectors that may affect education.

Recommendation 2: Do not make or seek commitments in private education services

Given that it is extremely difficult to clearly define which education services are provided on a strictly non-commercial basis, we urge Member States not to make or seek any commitments in private education or other related services.

Recommendation 3: Clarify and make effective Article 1:3

Substantive changes are needed to Article 1:3 to ensure that its meaning is clarified and, most importantly, that it is made fully effective. Article 1:3 should be amended so that mixed public-commercial services are explicitly excluded from the GATS.

Recommendation 4: Reject benchmarking and complementarity

Proposals to develop benchmarking and plurilateral approaches to GATS negotiations may coerce countries into making commitments in sensitive sectors like education and other public services. This would seriously reduce the flexibility of Member States, particularly those from the developing world. We strongly recommend that Member

States reject benchmarking and the use of plurilateral groups to bring undue pressure on Members.

Recommendation 5: Oppose further domestic regulation disciplines

Changes to the GATS' Domestic Regulation disciplines, as proposed, could seriously limit the ability of governments to regulate their education systems. The existing provisions already raise concerns. For this reason, we recommend that Member States reject proposals to further constrain domestic regulation.

Recommendation 6: Oppose further disciplines on subsidies or government procurement

Introduction of rules on government procurement into the GATS could allow commercial competitors to demand access to government funding. Changes in the rules on subsidies could further constrain the ability of governments to fund public education and related services. We recommend that Member States reject proposals to develop further rules in these areas.

Recommendation 7: Review the GATS

We note that the mandated review of the GATS has not been carried out. We recommend that this review occur, and include a review of coverage of education within the GATS with a view to removing it. The review should also focus on ways to improve transparency in negotiations. As part of this review, we also recommend that Member States who have made GATS commitments in education or education-related services should be permitted to withdraw those commitments without compensation.

Conclusion

We strongly support increased international cooperation, mobility and exchanges of students and staff and we reaffirm that in international education/academic cooperation, education/academic values should prevail not commercial ones. We believe that education is not simply a commercial product. Its most important characteristics are cultural, social and developmental. For it to be governed by commercial agreements like GATS is simply inappropriate.

At the same time, we recognize that education-specific international rules are needed to address the emerging issues in cross-border education, rules that allow domestic regulation as required. For these reasons, we call on Member States to remove GATS coverage of education.

Adopted unanimously by the delegates to the 5th Education International Higher Education and Research Meeting
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