



## **EDUCATION INTERNATIONAL**

### **GLOBALIZATION, GATS AND HIGHER EDUCATION**



Education International  
Internationale de l'Éducation  
Internacional de la Educación

This package consists of 6 documents:

**Document 1:** Executive Summary

**Document 2:** Position Paper

**Document 3:** Strategies

**Document 4:** Reciprocal Membership Agreement

**Document 5:** Guidelines on Transnational Provision of Higher Education

**Document 6:** Resolution: For a New International Instrument for Higher Education

Documents 1 and 2 are campaigning documents intended for use by EI and its affiliates to make the case for the protection of higher education and research from the threat of commodification, and to argue for a genuinely international higher education system based on collegiality, access and accountability, with national governments, union members and partner organizations.

Documents 3, 4 and 5 are strategy documents and working tools to assist in the delivery of the strategy.

Document 6 is the policy resolution adopted by the Porto Alegre Congress.

# GLOBALIZATION, GATS AND HIGHER EDUCATION

## EXECUTIVE SUMMARY

Education International (EI) has been concerned at the growing threat to higher education – and potentially to other sectors of education – by economic globalization and trade liberalization such as that moving ahead under the negotiations on the General Agreement on the Trade in Services (GATS). This threat, which has evolved significantly in recent years, now embraces other forms of regional and international bilateral agreements, but all are aimed at the creation of a profit-led marketplace in higher education. EI believes that this will not only create a range of challenges to the employees and students of universities world-wide, but that it could undermine the quality of education and research, and subvert their role and purpose in a way which has implications for civil society globally. This is not a parochial or sectorial issue. Arising from its 3<sup>rd</sup> World Congress in Jomtien in 2001, EI set up a global Task Force to consider these issues and the trade union response.

Higher education is the most international sector of education, and it is this international character, based on collaboration and collegiality in the shared pursuit of knowledge and its dissemination, which Education International wishes to promote, in opposition to the commodified marketplace model that some international institutions, governments and corporations are now advocating. Education International believes there are a number of key principles which are essential to the integrity of higher education, and its capacity to play its vital role in society as an impartial generator and disseminator of knowledge for the public good. First of these is the principle of public service, and the public service ethos: EI believes firmly that higher education and research are public goods which should be delivered through public institutions and with the ethos of the public sector, emphasising accountability, quality, access and equality of opportunity, and protections for the status and academic freedom of staff. These protections include career opportunities, good pay and conditions, opportunities for research and scholarship, and intellectual property rights.

EI has taken a leading role in alerting our own member organizations, national governments and international agencies about the dangers for higher education and research inherent in the GATS. The fact that the GATS is driven by trade considerations without regard to the nature of the services which are put up for trade or the collateral damage which will result, coupled with the virtual irreversibility of GATS commitments, make this agreement extremely dangerous, particularly when combined with the pressure of powerful industrialised countries exerted against weaker countries, which in some cases have been unaware of the disadvantageous and binding nature of the agreements they have entered into. A recent and particularly worrying feature, arising from the WTO Ministerial Meeting in Cancun, is the possibility that a less high profile sector like higher education could be 'traded off' to break a deadlock in negotiations in agricultural or manufacturing sectors. A further tendency is for the proponents of commodification in higher education, impatient at the slow progress in the GATS talks, to strike bi-lateral or multi-lateral deals, which will be even harder to police than the secretive GATS process. If the character and value of higher education is to be protected, it is essential that the future of higher education be determined by higher education ministers, in dialogue with the

academic community, and EI and its constituent organizations will take the lead in advocating this approach.

EI is concerned the impact of global marketplace in higher education and research would have at a global level, including in particular developing countries. This concern is related to the immediate economic and social impact of globalization, summed up in the concept of 'brain drain' – a one-way traffic of academic staff and students from non-industrialised to industrialised countries to work and study. But the damage is more complex and more subtle than this, ranging from international institutions – together with chronic resource constraints - effectively denying higher education systems in developing countries the right to develop research capacities of their own; and the cultural and linguistic hegemony of a few industrialised countries globally, undermining national cultures. EI believes that protocols must be established which protect higher education institutions and staff in developing countries, and promote contractual arrangements which facilitate students and staff working or studying abroad, to return to their countries of origin.

In carrying its policy forward, Education International proposes a strategy based on a number of key elements. These include the development of a new model instrument to regulate international higher education, and to promote the 'collegial' as opposed to the 'commodified' model, affording essential protections for staff and students, for quality and for academic freedom; while the instrument is unlikely to be adopted swiftly in its entirety, it will provide benchmarks for insertion into existing or new international instruments as opportunity arises and a rallying point for unions in presenting a positive alternative vision to the GATS model. A strategy is being put forward for the involvement of national unions, in collaboration with EI regionally and globally, to challenge the threats to higher education and research and to promote our vision of a genuine international higher education system. Further tools for the support of this work include a model membership inter-union agreement for unions whose members move to work from one country to another, and guidelines on transnational higher education.

# GLOBALIZATION, GATS AND HIGHER EDUCATION

## POSITION PAPER

### 1. GENERAL PRINCIPLES

Higher education today is facing unprecedented challenges. The forces of economic globalization, rapid technological changes in communication and information technology, and the increasing commercialization and privatization of teaching and research are radically reshaping higher education teaching and research. At the same time, efforts to dramatically expand the scope and application of international trade and investment regimes, through instruments like the General Agreement on Trade in Services (GATS), threaten to impose serious constraints on the ability of governments to implement educational policies in response to these challenges.

The debate over how globalization is affecting higher education must not be confused as one about whether there should be an international dimension to higher education. The exchange of ideas and research across borders has been central to the development of higher education and research and must be encouraged. Rather, at issue today is what rules should govern international higher education and in whose interests those rules should operate.

At the centre of the current debate is a fundamental clash of values. On the one hand, there are those who would see international education simply as another commercial venture and who view emerging trade treaties as ways to expand and lock-in private market forces. On the other hand, others assert that education is above all a human right and a public good, and that market forces alone cannot guarantee the maintenance and enhancement of an accessible and high quality higher education system.

In the emerging global economy where the neo-liberal values of privatization and market competition are dominant, it is crucial for those of us committed to public education to reaffirm certain fundamental values and principles. One of these principles is that education, including higher, technical, and professional education, is a right and not a commodity.

#### 1.1 Education: A Human Right

Education must be defended and promoted as a universal right linked to the human condition itself. As stated in the Universal Declaration of Human Rights, the right to education is an inalienable human right that signatory states must guarantee.

The Universal Declaration also states that access to higher education “should be open to all equally, based on merit.” That is, no barriers, financial or otherwise, should prevent qualified individuals from pursuing studies. All individuals have the right to equal access to school at every level of education and at any age without discrimination based on sex or sexual orientation, or ethnic, religious, or cultural affiliation.

If the foundation of democratic life is built on rights, access to education opens the door to the effective exercise of all other rights. A vibrant democracy rests on the active participation of citizens in the democratic process. This participation is made possible largely by the knowledge and understanding acquired primarily through education. Educational institutions must teach people to think critically for themselves and they must help build citizens who are capable of participating in society in a meaningful way.

## **1.2 The goals of higher education**

As institutions of higher learning, universities and colleges are nurseries for ideas and the pursuit of innovative knowledge. Higher education institutions provide for the education of those who will shape the world and the future of peoples and societies.

Higher education and research also contribute to the cultural development of societies through facilitating exchanges between professors and students from various backgrounds. This sharing of values and traditions promotes mutual understanding, tolerance, and cultural diversity.

It is impossible to ignore the vital contribution of higher education and research to the economic development of societies. Today, as technology and science advance at a breathtaking pace and jobs require an increasingly higher level of training and skills, expanding access to higher education takes on even greater importance.

Higher education also nurtures the talent of individuals, allowing them to more fully participate in and contribute to their communities. Informed citizens, aware of the social, political and economic issues of the day, are better able to participate actively in public debates. It is widely accepted that the better educated individuals are, the more they contribute to the social, cultural and economic development of a nation.

## **1.3 Education as a Public Good**

Developing and maintaining educational institutions for the creation and transmission of knowledge that enable people to play their roles as active citizens is a collective responsibility, falling primarily to states. Consequently, education at every level must be recognized as a public good.

Responsibility for the education of citizens is a public and collective responsibility. The social, technological and economic advances of today require that an increasing proportion of every country's citizens receive higher education. Academic research, which underpins a quality higher education, must also be viewed as a public good in order to protect its integrity and independence.

Higher education, where decision makers, scientists and opinion leaders are developed, must have as its primary concern the needs of people. Educational institutions have responsibilities that they should be able to fulfil without undue pressure for short-term financial returns. At both the national and international levels, access to education from primary school through to university subject to an individual's abilities and aspirations, is a pillar in the development of democratic, integrated and prosperous societies. The content and quality of education, offered

in every part of the world, should remain a public responsibility and respect values and principles compatible with democratic development and the equality of societies and peoples.

#### **1.4 Higher Education should promote Co-operation and not Competition**

Governments have a responsibility to provide institutions of higher learning with sufficient funding and conditions that promote co-operation rather than competition between those institutions. The tendency in many nations to stratify institutions within higher education systems has led to growing disparities. Institutional vying for new "market niches", research grants, and star professors and researchers is in many cases undermining the development and pursuit of knowledge.

Moreover, attempts to privatise or commodify certain subjects, programmes and the loyalties of professors and researchers threaten freedom of expression and academic freedom which guarantee the growth and dissemination of knowledge. Attempts to commodify and drive down the unit cost of higher education at the expense of the careers and academic freedom of university staff are destroying that which higher education should be promoting. Clearly, private for-profit institutions are the worst offenders in terms of cutting costs and attacking academic freedom.

Students, professors, researchers, administrators, and other personnel at institutions of higher learning have responsibilities for carrying out co-operative policies between such institutions. Historically, this has been how universities have best worked to the benefit of society.

#### **1.5 Encourage International Co-operation rather than Globalization and the Commercialization of Higher Education and Research**

The mobility of knowledge, as well as professors, researchers and students, is an intrinsic part of higher education. In this sense, higher education is by essence international. Since the creation of universities in the Middle Ages, science has been defined as the search for truth and has had a universal significance. Growing ease of transportation and of communication further increases the opportunities for professors and researchers to share their knowledge and discoveries and to work collaboratively without the restrictions of national borders.

Higher education and research are the most internationalised sectors of education, but some of the characteristics and challenges which it faces are shared by other post-school sectors, notably post-secondary vocational education. However, higher education and research has a clear formal status, enshrined in international conventions and agreements, whereas vocational education operates under a diversity of regimes and with different formal status from country to country.

Where appropriate, EI asserts that common solutions to the challenge of globalization may be found, but these should not be at the expense of clear policies to protect higher education and research as the sector most at risk from the advocates of the globalization.

Recent trends to appropriate certain knowledge considered profitable are very disturbing. In the context of economic globalization, where the strategic role of higher education in a knowledge based economy is clearly recognised, private companies are increasingly tempted to exercise a

dominant influence on the content of education and to control knowledge for profit, power, and prestige.

To view higher education simply as a potential market is a grave error. It threatens the basis of development, the transfer of knowledge and, indeed, the very future of democratic societies. Deprived of academic freedom, professors, researchers and students will lose the bedrock of critical thinking. Higher education must remain a public good as this is the best way to guarantee the integrity of the teaching and research professions and to protect the primary missions of education: provide the best quality teaching to the greatest number of students, conduct research which contributes to the advancement of scientific knowledge, and offer these services to the whole of society.

The globalization of higher education is rooted in a drive towards a globalised and commodified higher education market. We must continue to strongly oppose this vision of higher education while remaining vigilant to protect the positive contributions brought by the greater mobility of teachers and students.

## **2. THE TRADE ENVIRONMENT**

The drive towards the commodification of higher education within a globalised marketplace now infiltrates the whole international discourse on the future of higher education. Its protagonists at international agency, national government, corporate and university levels are trying to put it into effect in a number of ways.

In recent years, the headline way in which this is being promoted is through the General Agreement on Trade in Services (GATS). However, this battle is being waged on a number of other fronts in which trade and investment rules are being developed to lock-in and intensify commercialization and privatization. One characteristic all these threats have in common is that they are profoundly undemocratic, taking place largely outside the public arena outside the normal process of dialogue which should accompany proposed changes of this magnitude. EI takes the view that higher education matters, including the mobility of staff or students, should be the subject of open and transparent international agreements between education ministers with the meaningful participation of the higher education community.

### **2.1 The GATS**

#### **2.1.1 The GATS and higher education**

The GATS is one of several agreements adopted in 1994 as part of the newly established World Trade Organization (WTO). It is a comprehensive agreement that covers all government measures "affecting the trade in services." Any national or sub-national government rule or regulation that in any way affects the trade in services is subject to GATS disciplines and open to possible legal challenge from WTO members.

As part of a built-in work programme, members of the WTO were mandated to re-launch GATS negotiations in 2000 with the goal of further liberalizing trade in services. Extensive negotiations began in 2000 and. Despite the failure of the WTO Ministerial Summit in Cancun in 2003, talks



aimed at expanding the scope and coverage of GATS are continuing, with a deadline set for January 2005.

At its heart, the GATS is much more than a trade agreement. It is a legally-binding instrument that commits members to a liberalization agenda, not just by eliminating barriers to trade and investment, but also by encouraging and locking-in domestic regulation in the form of privatization, deregulation, and the contracting out of public services.

The GATS thus poses a number of risks for higher education. At their extreme, both the general and specific obligations of the GATS would put at risk the following measures:

- Restrictions on the presence of foreign and for-profit institutions
- Regulations that require foreign higher education providers to partner with local institutions
- Tax rules that discriminate against foreign educational institutions
- Conditions relating to nationality (such as requirements in hiring procedures that preference be given to citizens or landed immigrants or that university and college governing bodies be limited to local citizens)
- Restrictions of public subsidies and research grants to domestic universities and colleges

The GATS covers all service sectors, including higher education, in two ways:

**a)** Under the specific commitments on market access and national treatment made by countries. These commitments are contained within the sector schedules. Market access provisions prevent members from maintaining or adopting measures that restrict the entry of foreign providers into the domestic marketplace. National treatment prohibits members from treating domestic suppliers more favourable than those from other member countries.

**b)** Through the general articles or “horizontal rules” contained within the GATS especially Article II (Most Favoured Nation), Article III (Transparency), Article VII (Recognition) and Article VIII (Monopolies and exclusive service suppliers).

Under the current GATS agreement, only 23 countries made specific sector commitments in education, and only 10 made additional commitments for research (included under business services). Generally, only private higher education was committed with most commitments limited to allowing market access for foreign providers, with specific reservations taken to protect public subsidies. While some countries have been pressing for further commitments to be made on higher education in the current round, there has been growing resistance to this largely as a result of the successful lobbying efforts of EI and its affiliates. As successful as these efforts have been, however, higher education continues to attract attention in the negotiations. There is a pressing need to remain vigilant.

### **2.1.2 All modes of supply are covered**

The GATS describes four “modes of supply” involving the trade in services. Each of these modes directly relates to higher education.

**Cross Border Supply** refers to services flowing between countries transmitted by telecommunications or mail. Almost all countries that gave commitments in higher education made no reservations in this area.

The growth of transnational e-learning means this is a significant area for higher education, particularly since universities have linked with each other in associations and cartels to provide electronic distance education in key market demand areas such as management and information technology education. At times, these developments have affected higher education institutions in a positive way through enhancing collaborative projects. For academic staff, however, there have more often been significant negative outcomes. University management now claim intellectual property over course materials. Increasingly, teaching has been unbundled into course design, course delivery, assessment, and student learning support. This has accelerated the deskilling of teaching and led to an increased use of casual employment, especially in the student learning support area. It has also accompanied the adoption of new corporate governance arrangements and an assault on trade union rights.

These changes are intensified when universities enter into partnerships with private for-profit companies to deliver e-learning, such as Universitas 21, and to a certain extent also occurs with twinning operations. Transnational education practices can also undermine the teaching and research nexus, since staff involved are often appointed as “instructors”, and are not engaged with research. EI recognises that it is possible to have “best practice” transnational education, but that this is unlikely to happen in a cut-throat environment where higher education institutions desperate for more funding are competing against for-profit providers.

Furthermore, an important and yet unresolved issue in the cross-border supply of higher education is the cultural appropriateness of transmitting curricula developed for and within one national framework to students needs in another country. Some quality assurance and accreditation schemes specify that the curriculum must be exactly the same as delivered in the country of origin, while others speak only of the same standards. Meanwhile, some institutions desire adaptation to the local context. Education plays an important role in sustaining cultural diversity, and this has never been more important as global links are strengthened. As cultural policy becomes more important for governments, and there is talk of a new international instrument on cultural diversity, EI needs to examine the trends towards homogenization.

EI supports the use of the joint UNESCO/Council of Europe Code of Practice on Transnational Education, and the guidelines (see document 5 ) on Transnational Provision of Higher Education developed at the EI Higher Education meeting in Montreal conference 2002.

**Consumption Abroad** refers to the movement of consumers from one country to another, such as students studying abroad. This is the fastest growing area of the internationalization of higher education, and one that has not yet been particularly affected by the GATS. There are problems in terms of balancing the movement of students from the developing to the developed world with the need to minimise the brain drain from the developing world. There may also be impacts domestically for “export” countries as higher education institutions continue to increase the number of foreign students studying in particular countries.

It is important to note that this movement of students can encourage greater cultural understandings between countries, and can have beneficial outcomes for exporting institutions.

However, we note with concern the accelerating trend towards the predominance of the English language as a medium for teaching and learning and for the publication of research: EI and its national affiliates believe it is necessary to sustain the existing diversity of national cultural and linguistic heritages and to achieve a balance with the undoubted value of a common language for communication.

**Commercial Presence** refers to a service supplier establishing a presence in another country. This covers all foreign direct investment related to the establishment of foreign education providers, branch campuses, subsidiaries, or programs and courses offered in local markets by foreign providers. While leading exporting countries are not dependent upon the GATS alone for establishing a presence in local higher education markets, the GATS encourages far easier market access for foreign providers.

The major impacts on higher education institutions that have established campuses overseas are financial, organizational (in terms of quality assurance) and cultural. The establishment and maintenance costs for commercial presence are high, and foreign institutions have often been asked to meet specific demands by the receiving country. In the case of a public university, this cost is ultimately borne by the public university establishing commercial presence. Where commercial presence involves local partners, and is essentially delivered by a separate local entity, there can be significant quality assurance problems, particularly around the assessment of student work. There have been an increasing number of cases where institutions have been investigated because they have allegedly raised the marks of fee-paying students.

When higher education acts in a commercial way, there have also been impacts on governance. Universities and colleges come to adopt a more corporate identity, often with reduced transparency in their financial operations and reduced roles for faculty and students in governance.

Finally, there is nothing in the GATS that would encourage higher education to promote capacity building in the developing world. Rather, the challenges of rising demand and an under-funded public system confronting developing nations is viewed solely as a market opportunity for institutions and businesses in the developed world.

**Presence of Natural Persons** refers to the temporary movement of people from one member country to another to supply a service, such as academics working in other countries. Measures limiting the presence of natural persons and prohibited by the GATS include quotas on the number of temporary staff, hiring preferences for nationals, and residency requirements. Often, these measures are taken for legitimate policy reasons and reflect the specific needs and goals of particular countries.

### **Blurring of the distinction between “public” and “private”**

In some cases, the establishment of campuses in other countries by public universities from the developed world has assisted developing countries such as Malaysia to expand higher education opportunities. However, when public universities establish commercial presence abroad, they are defined as private institutions within those countries. Together with the increasing commercialization of universities on a domestic level, this is blurring the distinction between public and private higher education. This is important given that in some bi-lateral trade

agreements no such distinction applies. This could become critical if the review of the GATS classification system recommends that these distinctions be abandoned.

The blurring of this distinction between public and private is important for another reason. The current GATS specifically includes an exemption for “services supplied in the exercise of governmental authority”. In fact, those in favour of trade liberalization argue that this has given protection to public education. However this “exemption” is further defined as those services that are “supplied neither on a commercial basis, nor in competition with one or more service providers”. It is the view of EI that this exemption cannot be relied upon as a blanket protection for public education given that most countries have a mixed public and private system.

Furthermore, some governments do not accept that higher education is fully part of the public sector. Indeed, the increased commercialization of higher education, particularly at the international level, means that, if tested under WTO dispute rules, higher education may not be seen as “a service supplied in the exercise of governmental authority.”

Moreover, other elements of the GATS threaten to undermine the power of governments to set regulations and policy with regard to higher education. Article VI (Domestic Regulation) calls on the Council of Trade in Services to develop new disciplines to ensure that national qualification requirements, technical standards and licensing procedures do not constitute any unnecessary burden on trade in services. At its extreme, this would open up all government measures to potential trade challenges. There is still no clear consensus within the WTO on the outcome of this work. Questions to be resolved include whether the principles of domestic regulation should apply in all service sectors or only in some sectors, and whether it should be the same for all sectors to which they apply, or whether they should be tailored to meet the needs of each sector.

### **2.1.3 The current round of negotiations – impacts on higher education**

The continuing discussions on matters affecting higher education arising from interpretations of the GATS and on-going work mandated by the Council of Trade in Services raise several issues. Firstly, some areas of higher education are not included within the education sector as defined in the GATS classification system. For instance, research is included as a business service, while subsidies or grants to students for income support are arguably not an education service because they are given directly to a student, rather than an educational provider. Secondly, competitive research grants funded by government could be considered as exempt from core GATS obligations under Article 13 (Government Procurement). If this is the case, public research funding would be exempted from Article II (Most Favoured Nation), Article 17 (National Treatment) and Article 16 (Market Access).

However, WTO members have set up working parties to review these issues. The four working parties are reviewing subsidies, government procurement, domestic regulation and the classification system for industry sectors.

One important issue for all education sectors may be the elaboration of “other educational services” within the classification system of GATS. In the current round, the United States wants further definition of this sector and is specifically committed to opening up training services and educational testing. Opening up the educational testing area, given the current dominance of

the United States, may lead to excessive homogenization of testing instruments, the inappropriate conversion of issues of quality to quantitative scores, and undermining of national and cultural diversity reflected in the differing needs and objectives of national education systems.

The GATS still represents the most serious and far-reaching threat to higher education at the moment in spite of the breakdown of the Cancun Conference in September 2003. It is important for the higher education sector to remain vigilant against the danger that higher education may be included in an agreement primarily concerning another larger sector like agriculture. Also the extended time schedule for finishing negotiations may be used by the WTO to explore further the scope for inclusion of higher education within its remit, and therefore EI and its national affiliates must be prepared to challenge any such developments

Education International commends those countries, and professional organizations in higher education that stated clearly that public education was not negotiable in this GATS round, and asserted the right of governments to regulate to achieve social, cultural and economic objectives.

To ensure that higher education systems are safeguarded in the ongoing GATS negotiations, it will be important for EI and its affiliates to demand the following:

- No GATS requests or commitments should be made in any education-related sectors (either public or private)
- The GATS "governmental authority" exclusion should be clarified so as to effectively protect public education systems,
- All measures affecting education should be protected by a general, "horizontal" GATS exception, and
- No "disciplines" on domestic regulation should be developed under GATS Article VI:4.

## **2.2. Regional and Bilateral Trade Agreements**

It is of growing importance to defend against the threat from regional and bilateral trade agreements which are also being designed to intensify and lock-in the pressures of commercialization and privatization. Particularly if GATS discussions on higher education and research fail to make progress, such bilateral agreements will assume greater importance.

Discussions are currently under way to expand the North American Free Trade Agreement (NAFTA) with the aim of bringing 34 of the 35 countries of the Americas (Cuba is not involved) into a Free Trade Agreement of the Americas (FTAA). While talks aimed at fast-tracking such an agreement collapsed in Miami in November, 2003, negotiators are still pressing ahead with talks.

The FTAA, as it is being proposed, would include a services chapter that is intended to reach beyond NAFTA and the GATS in terms of both the number and range of services covered. The FTAA would also go beyond the GATS in setting up an investor-state dispute resolution process as currently exists in NAFTA. Such a mechanism allows multinational companies, not just member states, to challenge any government measure, not only for the expropriation of assets, but also for profits that could have been made had the disputed law or regulation not been introduced.

This dispute-resolution process puts serious constraints on the ability of governments to maintain, protect, and enhance public services like higher education. Any measure that might affect the assets or anticipated profits of private, for-profit investors could be challenged before a trade tribunal. If the tribunal finds that the measure is inconsistent with the commercial principles of the FTAA, a government could be forced to both eliminate the measure and pay compensation to the investors.

In addition to the FTAA, a number of bilateral agreements are also being negotiated in which states are making commitments on higher education. The recently signed Singapore-Australia Free Trade Agreement, for example, covers university, adult and vocational, and technical education with only limited exceptions. Such bilateral agreements are important as they often set the standard for other negotiations, including the GATS and the FTAA. Concessions that are made on higher education in bilateral talks will inevitably be placed on the agenda in multilateral settings. Other states view bilateral agreements as a means to push trade liberalization further than can be achieved in multilateral negotiations alone.

In the European region, higher education Ministers have worked collectively on the "Bologna process" for the integration of higher education in a series of inter-ministerial meetings since 1998, and the scope of the agreement now covers 40 countries. With all its faults, this process does demonstrate the possibility of international agreements being developed on an education-led rather than a trade-led basis (even if the underlying objective is to enable Europe as an integrated entity to better compete in a global higher education market). There is also a potential (not yet realised) for the inclusion of teachers' organizations in this debate. The unions concerned must continue their pressure for involvement but "Bologna" demonstrates that there is a viable alternative to the "trade" approach.

The proliferation of regional and bilateral agreements points to the necessity of developing a more comprehensive and proactive response to the threats posed to higher education by trade liberalization. This will involve proposing an alternative, rules-based framework governing international higher education based upon educational, not commercial, objectives. For this reason, Education International supports a different international rules-based framework where:

- Education is seen as a public good, not a commodity for sale
- Obligations under the framework are embedded in respect for human rights and cultural diversity
- Internationalization is facilitated through information sharing and partnership programs between the developed and the developing world for capacity building
- Standards are set through conventions and codes of best practice
- Agreements are made on student exchange and the mobility of academic staff on a non commercial basis

### **3. THE IMPACT ON DEVELOPING COUNTRIES**

The WTO and the international financial institutions have imposed policies on developing countries which favour market-based solutions over the public service ethos, and early years' education over higher education. Such policies do not recognise the need for developing countries to establish their own higher education and research capacity.

Due to increases in “consumption abroad”, larger numbers of students are bound to leave the developing nations to study in developed nations, paying much higher fees than in their own countries. This is accelerating the brain drain from the developing world and impoverishing local universities and colleges. The courses and degrees offered by many foreign providers are not accredited in their countries: those who enrol in programs offered by foreign providers must be protected by international instruments like the UNESCO/Council of Europe code.

The salaries and conditions offered by foreign providers to contract teachers are often higher than that provided for those teaching in local institutions. This creates unfair and damaging competition. Higher education teaching personnel may face unemployment, leading to the further collapse of local higher education and research. In the end, the presence of large numbers of foreign universities in developing nations may discourage the capacity building of local universities and colleges, unless accompanied by a positive policy and sustainability.

Many developing countries have no control over the contents of the curricula offered by foreign providers. Such curricula may not be culturally or socially relevant, and may not meet the economic needs of developing nations. The quality of foreign universities may not match those of local institutions, and may not take account of national cultures.

The dominance of foreign providers which are market and profit oriented may deny admission of students from deprived groups such as women, indigenous people, slum dwellers, rural poor, and academically under achieving students. When the foreign universities offer very high fees, there is pressure on local universities to also raise their fees, further creating difficulties for poorer students.

Local staff is motivated to migrate to foreign countries even as contract teachers without tenure. This creates instability and lack of motivation among the teaching community.

Teachers’ organizations in developing countries should mount a campaign against unregulated foreign providers entering their academic field and creating class divisions, a flight of talented professionals to developed nations, and a culture of profit-seeking in higher education and research. EI should support such a campaign and help to build alliances at the national, regional and international levels.

Action proposals:

1. EI and national affiliates must press the international institutions and national governments to adopt policies which respect and support the integrity of national higher education systems as key parts of the infrastructure of developing countries.
2. EI and its affiliates must promote debate and awareness on the dangers and implications of GATS-related issues among teachers in all countries.
3. Teacher organizations should lobby for tougher accreditation standards for foreign universities and for greater public regulation of their activities.
4. Consideration should be given to the appropriate forms of compensation for countries which lose their talented professionals (as recommended by the Commonwealth Ministers).

5. The courses and curricula offered by foreign providers should be screened to verify whether they are relevant and supportive of the culture of the receiving country.



# **TRADE LIBERALIZATION AND GLOBALIZATION OF HIGHER EDUCATION**

## **STRATEGIES FOR EDUCATION INTERNATIONAL AND ITS AFFILIATES**

### **1. EDUCATION INTERNATIONAL ACTIVITIES**

Education International's interest in globalization and trade matters began with support for the movement to have the WTO establish a working group to ensure respect for international labour standards in trade agreements [1997]. It did not take long to realise the connection between educational matters and trade. This was first noted on an international level in the discussions on the Multilateral Agreement on Investment (MAI) and has become even more evident in the discussions on the General Agreement on Trade in Services (GATS).

Although higher education has been international for a very long time now, particularly in terms of collaboration between academics and researchers across international boundaries, globalization of the 'market', extension of market principles to services in the public domain, and particularly the extension of GATS to the education sector have considerably modified the environment in which higher education institutions must function. In a climate characterised by the growing mobility of persons, capital and knowledge, as well as by a sharp increase in the demand for higher education, new information and communication technologies are today creating opportunities to broaden the market of educational services. These trends are visible now in higher education and research, and to some extent in vocational education, but we have no doubt that if the market approach is imposed in these sectors, attempts to penetrate primary and secondary and the other sectors of education will follow.

Through their organizations, teachers, students and representatives of higher education institutions are mobilising to assess the impact of globalization and the general commercialization of the sector, in order to draw the attention of the authorities and public opinion to a number of serious problems.

In the work related to GATS EI has followed a two-track strategy:

#### **External**

- To attend international meetings (Singapore, Geneva, Seattle, Doha, Cancun) and to develop contacts with the WTO ( EI met with the former Director General of WTO and his team at their request to discuss EI position adopted in Jomtien) and other Intergovernmental agencies like UNESCO and OECD
- To build alliances with relevant NGOs at the global and national level
- To develop contacts with the national delegations of key industrialised and developing countries to ensure they understand and acknowledge the arguments about the protection of the public sector including higher education.

## Internal

- To publish in June 1999 a joint study (EI and PSI) entitled 'WTO & the Millennium Round - What is at stake for public education.'
- To inform member organizations about GATS and to support member organizations in their work with issues related to trade in education, development of educational markets and privatization – lobbying governments not to commit education services under GATS.
- To organise EI World Congress around these issues " Educating in a global economy" and to adopt resolutions. The EI position towards GATS was summarised in a resolution where EI and its member organizations were called on " to campaign for education, health care, and social services generally to be excluded from the scope of the WTO's General Agreement on Trade in Services (GATS)."
- Concerning higher education in particular we set out our policies at several levels by organising international Conferences in 1999 and 2002 (Budapest, Montreal) where resolutions were adopted stating " the principle that publicly funded higher education and public sector research serve the greater social good, the academic freedom of research personnel and the public interest; and opposed proposals which make commercialization a fundamental mission of higher education in addition to teaching, research and service to the community". Discussions and work were also carried on within the framework of our European Standing Committee on Higher Education and Research in the framework of the so called "Bologna process".

In this context Education International is promoting the establishment of reciprocal agreements (see Document 4).

## 2. AFFILIATE STRATEGIES

In relation to the GATS, affiliates of Education International (EI) will find themselves in one of three positions.

First a very small number of countries have already committed their higher education sectors, a second group has been in a broad debate about the possibility of this and have refused, as yet, to enter higher education and the third group will not have debated it and for them the issue is not particularly live, though awareness building is probably needed.

This strategy paper therefore concentrates on the latter two groups, though it is important that EI does address the first group, namely those countries where higher education has already been committed. For these countries, trying to "de-list" higher may be difficult to achieve given the firm rules of the WTO. Nevertheless, there is a need to consider how affiliates in those countries can argue for withdrawal of commitments. This strategy document will concentrate on the activities that affiliates need to undertake to argue against the commitment of their higher education system into the GATS and, by extension, other trade and investment agreements.

In adopting a strategic approach to the issue of GATS, all affiliates will need to provide dedicated resources to deal with the matter. International trade is a complex issue and it is likely that few ordinary members of our unions will understand how committing education can affect their own work, the workplace and their interaction with colleagues both within the home nation and overseas. Affiliates may therefore need to raise the matter at national union conferences through passage of policy motions in advance of following the strategies below. Also, it should be borne in mind the other public service sectors, in particular the health sector, share some of the characteristics and threats faced by higher education, and at all levels. There may be scope for common strategies and actions with the unions in those sectors, particularly in raising member awareness of the threat from GATS.

## **2.1 Members**

### **2.1.1 Awareness Building**

Those affiliates who have already become active in campaigning on globalization and trade have probably found that building awareness among members has been the hardest and most time consuming part of the campaign. However, it is clearly the most important part of any campaign because without the membership support it will be difficult to focus the union's activities. The means by which membership awareness can be raised are as follows:

- Dedicated resources at national, union and branch level committed to campaigning on GATS and other aspects of globalization.
- Use of union journals and websites carrying articles from other countries and other affiliates on the impact of trade agreements on education.
- General awareness building about the impact of commercialization of education on the provision of the service.
- Research into the likely impact of committing education into trade agreements on one's own membership and their employment prospects.
- Publicity campaigns including speakers from other affiliates attending branch level or national level meetings.
- Dedicated conferences and seminars on the trade issues with invited speakers.
- Press media and public relations work with the media.

As it is likely the case that a number of affiliates will not have the resources to dedicate specifically to this issue, all of the above needs to be backed up by a flow of information from EI. It is suggested therefore that EI, together where appropriate with PSI, work with the best of the NGO's to prepare materials (articles, briefings, updates) for affiliates.

### **2.1.2 Mobilization and Action**

Mobilising members around an issue which is seemingly remote from their everyday experiences

such as trade is quite difficult. Members find it hard to see the impact of trade liberalization on their daily working lives because it is a strategic matter which is unlikely to impact for a number of years. Therefore, mobilization is best served by research and publicity indicating to members the likely impact or the risk assessment of committing education into trade agreements for that particular country. Only when such awareness has been built with appropriate publicity and research background can mobilization be considered. Mobilization needs to be secured around specific events, and affiliates will have to track their own governments' approach to the commercial activity in education and to agreements like the GATS in order to pick appropriate events or developments.

The following points should be looked for in this area of strategy:

- Membership awareness and research about commercialization activities in education.
- Mounting campus and school-based debates and seminars on the impact of agreements like the GATS.
- Developing publicity with local newspapers and television about union concerns over the growing commercialization of education.
- Promoting debate between the student and staff bodies.
- Developing protest action where possible around specific events.
- Maintaining information flows among members by use of email where possible.
- Conducting seminars and teach-ins to maintain membership awareness and activity.
- Holding publicity campaigns linking members to the activities of other NGOs.
- Campaigning around issues of quality and access to higher education

## **2.2 Students**

Affiliates will need to make common cause with their student bodies as there is likely to be a common interest in keeping education out of trade agreements like the GATS. Any of the member activities above could be done in concert with the students, and close contact in campaigning would be recommended. Each national student body and regional body would need to be included in the communications of the affiliates. For example, in Europe, national student bodies form a European Student Information Bureau (ESIB) which itself does a considerable amount of work campaigning on GATS. Similar world regional bodies of students need to be contacted as well.

Where there are dedicated officials or officers designated with the task of dealing with trade issues, it should be they who establish contact with the student movement in the country.

Common campaigning, common actions, common lobbying and common research activities would also be recommended to affiliates. Often the enthusiasm and expertise of the student body can be tapped to very useful purposes in publicising the impact of trade agreements. For example, the Australian study body has done a significant amount of publicity work on the GATS and materials of this sort should be exchanged between affiliates to encourage each other's campaigning.

## **2.3 Communities**

### **2.3.1 Building Alliances**

One of the features of trade and investment agreements is that they affect many areas of public and commercial life, and as such there are many community-based organizations interested in campaigning around these issues. It is therefore an essential part of any strategy that affiliates seek a broad-based approach to other non-governmental organizations in their country or their world region with a view to building alliances in order to spread the efforts of campaigning and gathering a greater resource base. It is not just education NGOs who affiliates should seek to associate with, but also other pro-international, pro-democracy and pro-sustainable development organizations as well as organizations campaigning around public services and against commercialization.

One particular group with whom contact will be important is the University Rectors. These will be organised on a country basis or a regional basis for example, the European University Association. There may well be different views among rectors in their attitude to globalization and trade liberalization, and these will be well worth bringing into the public arena.

Care needs to be taken in establishing links with some NGOs, and affiliates need to be acutely aware of the politics within their own country and regions and the politics of those organizations with whom they consider associating. However, it is clear that a broader based movement of protest has more impact at community and national level, and if affiliates can tap into broad based campaign work and within that express the interests of education then so much the better.

Many charities and NGOs operate on an international basis and many of the green movements and world development movements, while having their headquarters in the West, may well have branches in other countries. Again, association with these would be useful. It is recommended to draw up a list of those international organizations who operate at national as well as community level with whom affiliates should develop a relationship.

### **2.3.2 General Public Awareness**

Though there has been a significant amount of publicity surrounding World Trade Organization meetings, it is still arguably the case that very little is understood about agreements like the GATS and the processes involved in making offers and requests. It is also likely to be the case that the general public is very unaware of the impact of trade liberalization on the service sector in particular. It is therefore necessary for affiliates to adopt a campaign of raising the profile of these issues in their own public media.

Use of national as well as local media outlets will be important. Sponsoring articles through newspapers and encouraging media outlets to develop their own programming on these issues will be important. Affiliates could go to the outside community and set up special classes or lectures on trade issues. EI should be able to develop an alternative to global commercialization, drawing on the principles in this pack which assert a positive model of internationalization of education that could be used to challenge the mainly negative, commercialised prescriptions of trade agreements.

Raising the general public awareness will be helped by making contact with other trade unions as well as other NGOs who will themselves be able to sponsor publicity in the media. Equally, members of affiliate unions will be able to raise the issues at a local level with parents and with students in the general course of their work or at special meetings or seminars that they could set up in educational establishments.

## **2.4 Other Unions**

### **Building Alliances with Common Purpose**

Affiliates may find it easier to work with other trade unions (for example, in the health sector) in their own countries to develop a common position on trade liberalization. Initially other education unions are likely to be the most interested in doing joint work, though it is the case that these agreements have an impact on all public services, and therefore approaching the national trade union organization in each country will be an important first step.

Motions at congresses of national trade union organizations will be an essential starting point for putting agreements like GATS on the agenda, and indeed support for this from a wide range of trade unions is likely to be forthcoming, particularly the public sector unions.

However, the need to appreciate the potential impact of trade on particular sectors is important, and research therefore needs to be sponsored in order to understand the impact on education and other service sectors. It will therefore be necessary within national trade union movements for EI affiliates to seek out allies who wish to work on the trade agenda. Developing with them the best approach will be a matter of local/national judgement. For example, working with other service sector trade unions to develop impact analyses may be better than doing something alone or just primarily to do with education. However, if education unions are particularly well represented in the country, then an impact assessment on education itself may have greater potency.

Affiliates should seek out allies in the trade union movements in their countries and in the sub-regions of EI in which they work. For example, the British and Irish Group of EI Europe was able to debate the impact of GATS over a number of meetings and develop joint approaches in order to raise the issue among their members, and also among the general public. They co-ordinated the adoption of motions at their own individual conferences, and co-ordinated attempts to put it on the agenda of the British TUC and Irish Congress (ICTU). In this way the profile of GATS was raised at a world level as well as national level.

Holding joint seminars and joint publicity events with other unions at national conferences and congresses, and sharing and exchanging speakers, are also a useful tactics to adopt, and other events can be sponsored by unions acting together at these events, for example, stalls, seminars, etc.

## **2.5 Governments**

### **Advocacy**

Because committing education to trade agreements will be determined at government level, either nationally or internationally (for example the European Union), it is extremely important

that any affiliate strategy includes lobbying government representatives at both the Administrative and Elected levels.

There are four particular points in developing a strategy with national governments:

- Affiliates should develop dialogue with elected representatives and the permanent administration (civil servants).
- They should seek to promote debate around the issues of trade liberalization and provide examples of campaigning successes including viable alternatives to existing agreements.
- They should seek to urge and share research findings.
- They should develop a network of parliamentary or government support that can be used subsequently to change government position on committing education to trade agreements. At the international/regional level it may be possible to use twinning arrangements between sub-regions of EI, again to share research findings and develop dialogue between politicians. Within the British and Irish Group (a sub-region of EI Europe), this has been possible to some extent, and this sharing and understanding of research and of criticisms has been helpful.

Making representations to government in conjunction with other organizations, either trade unions or other NGOs will also be important in order to show a broad base of protest. Again, it will be important for affiliates to make judgements as to whether it is better to move on a whole public service front or just on education issues. The principle that affiliates should adopt in relating to their governments is that they should not commit their education sectors to GATS or other trade agreements. Furthermore, it must be stressed that EI's position is one of supporting and encouraging internationalization of higher education without an overt influence of commercialization.

## **2.6 International Organizations**

EI is ideally placed to provide its affiliates with support and guidance in campaigning at the international level. EI has established contacts with the WTO, the World Bank, the OECD and other interested organizations. It is recommended that this work continue and that affiliates be drawn more into these contacts. A strategy should be developed that pinpoints those major meetings of world leaders where an impact can be made; for example G8 summits, meetings of OECD members, World Bank meetings, WTO meetings and other world events where trade issues may well be raised. A programme drawn up around these meetings should be part of EI's campaign, with affiliate activities and actions focussed on them so that national governments can be alerted to the views of EI affiliates in advance of meeting on the world stage. This can be co-ordinated by EI at the world level as well. For example, in advance of the next WTO meeting,

EI should urge its affiliates to approach their national governments through the links they have established under this campaign in order to prepare and provide briefings for those taking part in the world meetings. Then, EI should be present at those world meetings to consolidate the position established by the affiliates.

# GLOBALIZATION, GATS AND HIGHER EDUCATION

## AFFILIATES RECIPROCAL MEMBERSHIP AGREEMENT

### INTRODUCTION

EI and its affiliates are committed to the international character of higher education and research.

We believe that it is in everyone's interests – academics, students and the institutions in which they work- if mobility is made as simple and attractive as possible. This includes for academic staff the maintenance of the trade union rights and protections which members enjoy, wherever they may work. This objective will be facilitated by the adoption of reciprocal membership agreements like below, and member unions are encouraged to reach such agreements for the support and protection of their members.

### PREAMBLE

- Recognising the importance of a close working relationship between all members of EI and the value of collective strength and being aware of the growing impact of globalization on the Education profession, this agreement provides for members of our unions to benefit from this relationship through the provision of individual service and participation.
- The framework agreement provides for arrangements to be adopted by all affiliates whereby members of one union can benefit from services provided by another should they take up a post on a temporary basis in a university or institution of higher/tertiary education in that country.
- This arrangement is recommended by EI to its affiliates in recognition of the increasing mobility of tertiary education staff as pressures to develop the knowledge economies grow. EI also recognises that this mobility can bring with it increased vulnerability to unscrupulous employers and governments. Therefore protection provided by unions in host countries is a vital part of the trade union response to globalization.

**Article 1.** This is a framework reciprocal membership agreement between all affiliates of EI with members in tertiary level education. The agreement can be applied to members of an affiliate (home) working temporarily in a tertiary level institution in another affiliates (host) country.

**Article 2.** EI recommends that all affiliates draw up or use a category of membership under their own rules to which temporary members can be assigned. For the purposes of this framework this category of membership will be termed "associate members" however affiliates will determine their own terminology according to their rules.



**Article 3.** For the purposes of this agreement temporary will mean members working in another country for a period not to exceed 24 months (two years). Affiliates will recommend to their members working in other countries that an EI affiliated union is the most appropriate for them to join if they fall within the bargaining unit. For periods longer than two years home affiliates will recommend taking out permanent membership with the host affiliate.

**Article 4.** Associate members will remain members of their home union and continue to pay appropriate fees to the home unions. They will become registered as Associate Members with the host union who will inform the home union of their registration. Should the flow of reciprocal members become severely unbalanced in respect of certain countries, those affiliates should review the arrangements as it applies to their countries.

**Article 5.** This agreement does not provide for full membership of the host union, but all affiliates will undertake to provide services and facilities to associate members. Associate members should have access to the following benefits:

(i) Information, advice and informal representation to determine the terms and conditions of employment and any other employment issues arising from the associate member's employment. Such assistance may be provided by the appropriate full time official or the officers of the local host union.

(ii) Access to any financial services normally available to members of the host union subject to any limitation required by the providers of such services.

(iii) Attendance at general and other meetings of the host union subject to the absolute discretion of the host union.

(iv) Involvement in national activities of the host union other than industrial action and ballots, on the specific initiation from an appropriate officer of the union.

**Article 6.** Associate members will benefit from representation but will not have an automatic entitlement to professional legal advice and representation. Where such an issue arises, the affiliates should undertake discussions to agree any liability for costs. This clause, however, does not override the discretion of the National Executive of the host union.

**Article 7.** Associate members should not have the right to vote on any policy matter or take part in elections for local and national offices of the host union.

**Article 8.** In respect of this agreement the cost of services provided by the host unions to associate members will be borne by the host union in consideration for similar services provided to members of unions which through EI affiliation agree to adopt this agreement (subject to clause 4).

**Article 9. Review:**

This agreement is a framework agreement which EI affiliates may adopt. Affiliates may review their own involvement in the agreement but must inform EI and those members affected if they wish to withdraw from the reciprocal agreement.

# **GUIDELINES ON THE TRANSNATIONAL PROVISION OF HIGHER EDUCATION**

## **INTRODUCTION**

Education International passed a resolution on the Transnational Provision of Higher Education at its Third World Congress in Jomtien in July 2001. While EI supports the international character of Higher Education, it is concerned at the development of Higher Education as a commodity in a globalised marketplace. An important feature of this development, is the lead taken in negotiations by trade ministries in discussions of inclusion of higher education under GATS, and the marginalization of educational issues in this process. Transnational higher education in this commodified form poses potential threats not only to teachers' jobs, living standards and academic freedom, but to the quality of higher education and the student experience, and to the fundamental role of universities in society as the guardians and transmitters of knowledge and culture. A marketplace in higher education and research also threatens the collegial, collective character of academic work, on which its quality and relevance depend, and threatens to break up and 'de-skill' higher education work, separating teaching from research and teaching from curriculum development, quality assurance, pastoral responsibilities and other academic functions that are currently integrated to a considerable extent. EI strongly asserts that higher education and research are public goods, which should be delivered through public institutions and with the ethos of the public sector, emphasising accountability, quality, access and equality of opportunity, and protections for the status and academic freedom of staff. EI recognises but does not support the existence of private for-profit higher education institutions, and believes that they should be required to meet the same high standards as public sector institutions.

EI proposes the following guidelines for higher education unions facing the challenge of transnational higher education. These guidelines have been considered by the European regional Higher Education and Research Standing committee of EI, and by the EI 4<sup>th</sup> world conference on higher education and research, Dakar, Senegal, in November 2003. They should be read in conjunction with the relevant international instruments and documents relating to transnational higher education and parallel issues including mobility of teachers and students, brain drain, quality assurance, and intellectual property rights, from UNESCO and other international bodies.

## **GOVERNANCE**

The development of transnational higher education should not take place at the expense of the independence of higher education institutions and their capacity to govern their own affairs within the broad requirements of public accountability and the existing and understood norms of the societies in which they operate.

Existing governance structures should be fully engaged in decisions about transnational arrangements. The participants in existing governance structures, including academic staff and their representatives, should be involved in decision-making on transnational arrangements as on other fundamental strategic issues.

EI believes that the character of transnational partnerships should reflect these principles and should be in the form of partnerships on agreed and transparent terms with other academic institutions or other parties.

## **ORGANIZATION OF TRANSNATIONAL HIGHER EDUCATION**

However, transnational provision is currently organised in a wide range of patterns, including not only institutional partnerships, but consortia or syndicates, and commercial subsidiaries. There must always be an assumption on the part of the unions, unless demonstrated otherwise, that these structures are intended to a greater or lesser extent to create greater managerial 'flexibility' in respect of modes of delivery, employment status of staff, financial regimes, or the offer made to students. The unions and the regulatory authorities at national and international levels must apply the same standards in these areas to transnational as to traditional national providers, which will require limits to be placed on this flexibility.

University education has a depth and range, characterised by contact with a number of disciplines and between teaching and research, which many transnational operations, for example for-profit institutions, off-shore campuses and IT based and distance learning, cannot match. The recognition processes for institutions, and course validation and quality assurance regimes, should take these differences into account, and seek to apply the standards of mainstream universities to transnational forms of provision.

## **QUALITY ASSURANCE**

Existing quality assurance regimes need to take account of the development of transnational provision and its implications for quality. On the other hand, these regimes should not dilute or reduce the standards or criteria which have been established at national level, in order to meet perceived needs of such transnational arrangements. Rather, they should be expected to look for added value to students from such arrangements. International quality assurance and accreditation regimes must meet the same standards as the relevant national systems, or where more than one national system is involved, the more rigorous of these, or failing that, relevant UNESCO provisions where these exist.

## **CULTURALLY RELEVANT CONTENT AND MODES OF DELIVERY**

Transnational arrangements must not be used to produce, promote or justify a standard or homogenised version of higher education. Within transnational arrangements, there must be clear and effective protections for national or regional cultures, and for the interests and expectations of students and staff. The dangers of brain drain of either staff or students need to be recognised and explicitly addressed, for example through compensation arrangements or packages to encourage staff or students from developing countries to return home after their contract or their studies are completed. Human and material resources must be deployed to ensure that such protections are effective.

A balance must be struck between the convenience of using a few languages as the international medium of teaching, research and publication, and the need to sustain linguistic diversity, bearing in mind universities' role, inter alia, as carriers of the national culture.

While transnational arrangements may have as part of their motivation the achievement of economies of scale, this is not to be achieved by a centralised approach to the content of higher education or the development of homogeneous higher education 'products'.

IT based modes of delivery are likely to have their place within many transnational modes of delivery, but it must be recognised that IT has limited usefulness for some groups of student and for the teaching of some subjects and therefore the use of IT must meet strict criteria, including particularly the quality and relevance of the student experience.

## **ACCREDITATION**

Transnational arrangements need to conform to relevant accreditation systems or build in appropriate arrangements for seeking accreditation in order to ensure that qualifications and parts of qualifications awarded under transnational arrangements conform to the standards of the relevant national regimes and have appropriate currency / recognition in the academic community, with governments and employers.

## **WEB-BASED AND ON-LINE HIGHER EDUCATION**

Web-based and on-line higher education must be offered in ways appropriate to the needs of students, and at the same standard as traditionally delivered higher education. It must be monitored by the relevant authorities, in the public interest and with the power to ensure that quality is maintained. The employment and academic rights of staff working on development, delivery and assessment of these forms of higher education must be no less than those working in traditional modes, and this should be reflected in international accreditation procedures. The use of new technologies in transnational delivery of higher education, must take account of the disparities in availability of software and hardware and the levels of computer literacy between industrialised and developing countries, and appropriate compensatory measures need to be introduced, taking account of national cultural differences.

## **INTELLECTUAL PROPERTY MANAGEMENT**

Transnational arrangements, including separate academic or commercial bodies set up to deliver them, must not be used to alienate or undermine the rights of academic staff or students over their own work, whether to be acknowledged as the authors/ originators of the work or to gain the material benefits from it, as established under national and international law.

## **ACADEMIC FREEDOM**

Transnational arrangements must not be used to limit or circumvent the academic rights of staff employed at the institutions covered by the arrangements, including companies, offshore campuses, or institutions set up by the originating parties in order to deliver the transnational provision.

## **EMPLOYMENT RIGHTS**

Teachers and researchers partly or wholly employed by transnational providers must have their employment rights with such providers protected. It must be clear under which national

employment regime they are employed, and transnational arrangements must not be used as a means of undermining the employment rights or job security of employees, denying research opportunities, or of shifting work from one country to another on the basis of cost. The employment rights, including collective bargaining rights, of staff employed by transnational institutions must be as clearly defined as those of institutions based in a single country, and rights of return to the country of origin under no less favourable conditions to those on which staff relocated in another country, guaranteed.

Employees' rights must be protected in the development of web based and on-line higher education provision, and the primary importance of academic input in the determination of quality in development, delivery and assessment processes must be recognised.

## **TEACHER EDUCATION**

Teacher education is an important element of most higher education systems, and is key to the development of the teaching profession and primary and secondary education systems, and the quality of those systems is directly affected by the quality of the teacher education available, and the adequacy of the supply. The nature and importance of teacher education, and problems of teacher supply and brain drain between regions globally make it a sector potentially vulnerable to abuse through the unsympathetic development of transnational models of teacher education and supply. Wherever appropriate, the principles enunciated in this document should apply to teacher education and supply, to protect already disadvantaged teachers and primary and secondary systems from exploitation and brain drain.

## **TRADE UNION ORGANIZATION**

It is clear that both competition and cooperation between higher education institutions and their management at the international level are increasing, and that unions for academic staff must increase their cooperation and networking as well as the level of priority they give to international work (whether global or regional). This increased capacity must include information sharing, the development and implementation of common strategies for delivery at the national, regional and global levels.

The unions must not simply be more responsive, but collectively work out their own view of the future of higher education, and assert their claim to be the authentic voice of higher education in the face of growing government intervention and commercial / managerial trends.

The development and implementation of concerted union strategies will depend on the leadership of Education International, and will make new demands upon it.

## **GENERAL**

Education International will work to achieve these principles in its contacts with the relevant international authorities, including the World Trade Organization, World Bank, UNESCO and OECD, and appropriate bodies at regional level. The higher education and research affiliates of EI will need to contribute to this work, and also to take up the issues raised by transnational Higher Education with employers and public authorities in their own countries.

Also, Education International adopted at its 3<sup>rd</sup> World Congress in Jomtien in July 2001, a number of resolutions and a Declaration on Professional Ethics, which it will seek to ensure is implemented for teachers working in transnational as in national education systems, and these should assist in providing EI and its member unions with the arguments needed to develop and promote a positive concept of international higher education.

## RESOLUTION FOR A NEW INTERNATIONAL INSTRUMENT FOR HIGHER EDUCATION

### Preamble:

1. Higher education has long been international in scope. As teachers and researchers, we recognise that the communication and sharing of ideas and information, collaborative work, and exchange of staff and students across borders are central to the development of higher education and research, and should be encouraged.
2. The UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel calls for the encouragement of "international academic co-operation which transcends national, regional, political, ethnic and other barriers, striving to prevent the scientific and technological exploitation of one state by another, and promoting equal partnership of all the academic communities of the world in the pursuit and use of knowledge and the preservation of cultural heritages."
3. The Universal Declaration of Human Rights affirms "everyone has the right to education and higher education shall be equally accessible to all on the basis of merit." As a human right, higher education must not be treated as a mere economic commodity but as a public good that must be provided equally and on a non-commercial basis.
4. The United Nations Covenant on Economic, Social and Cultural Rights calls on states to fully take up their responsibilities for financing education: "Higher education must be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education."
5. The UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel provides for the employment and academic rights of higher education teachers by: outlining the rights, freedoms, duties and responsibilities of higher-education teaching personnel; identifying the conditions needed for effective teaching, research and scholarship (such as security of employment, appraisal, discipline and dismissal procedures, salaries, workload and social security); and, establishing the rights and duties of institutions of higher education.

**The Fourth World Congress of Education International, meeting in Porto Alegre, Brazil, from 22 to 26 July 2004:**

### Affirms:

6. The continued internationalisation of higher education should be based on co-operation and exchange rather than competition and commerce. It should promote cultural and linguistic diversity and understanding, broaden educational opportunities and access, enrich the educational experience of students and staff, facilitate international development, and enhance the free flow and exchange of knowledge and ideas.
7. EI's vision of the internationalisation of higher education is fundamentally distinct from the current process of globalisation and trade. The application of trade principles to education and the

deepening of trade liberalisation are radically altering the international environment for higher education institutions, staff, and students. Multilateral, regional and bilateral trade agreements, epitomised by the General Agreement on Trade in Services (GATS), threaten to lock-in a broad liberalisation agenda, not just through the elimination of barriers to trade and investment, but also through the entrenching of domestic liberalisation and commercialisation in the form of privatisation, deregulation, and the contracting out of public services.

8. Any higher education reform, which can only be linked to the promotion of quality research, calls for the efficient participation of teaching and research personnel. This should be achieved through democratically elected university structures in all higher education and research institutes. These structures should develop appropriate guidelines and strategies, education and research programs, criteria and evaluation procedures which would guarantee quality in higher education and research and the development of knowledge and know-how and of the national and universal cultural heritage.

**Recommends:**

9. EI and its affiliates continue to oppose the inclusion of education within trade agreements and instead promote an alternative, legally binding international instrument for higher education. While the ideal will be an international convention governing international education, the principles set out below can be pursued in the context of any international agreement.
10. The underlying objectives of this new international instrument should be to:
  - a) recognise that higher education is a human right and a public good;
  - b) respect cultural and linguistic diversity;
  - c) balance the goal of protecting indigenous and national higher education systems with the need to encourage international cooperation and exchange;
  - d) advance and defend the employment and academic rights of higher education teaching personnel, staff and students;
  - e) defend and promote freedom of speech and thought, and in particular academic freedom and professional rights;
  - f) ensure the integrity and quality of higher education;
  - g) promote equality within and between countries; provide full equality for equality seeking groups; and, protect the rights of indigenous peoples;
  - h) establish global institutions that are open and transparent, and that recognise the priority of human, labour, and environmental rights over commercial rights; and
  - i) preserve the ability of national governments to regulate higher education in the public interest, and to maintain and expand publicly-provided higher education independent of market pressures and free trade disciplines.
11. The new international instrument should strengthen and make legally binding existing agreements, conventions, codes and declaratory statements as reflected in the Universal Declaration of Human Rights, the United Nations International Covenant on Economic, Social and Cultural Rights, and in declarations, recommendations, conventions, and codes of best practices from UNESCO and the International Labour Organisation.
12. The new international instrument for higher education:
  - a) must reflect the principles of cultural and linguistic diversity as embodied in the 2001 UNESCO Universal Declaration on Cultural Diversity: "All persons should...be able to express themselves and to create and disseminate their work in the language of their choice, and particularly in their



mother tongue; all persons should be entitled to quality education and training that fully respect their cultural identity.”

- b) must also incorporate the rights provided under the following International Labour Organisation Conventions: Convention 29 (Forced labour); Convention 87 (Freedom of Association and Protection of the right to organise); Convention 98 (Right to organise and Collective Bargaining); Convention 100 (Equal remuneration); Convention 105 (Abolition of Forced Labour); Convention 111 (Discrimination, Employment and Occupation); and Convention 13 (Minimum Age), among others.
- c) must ensure the integrity and quality of international higher education. One model for this is the 1997 Lisbon Recognition Convention (European Region, Canada and Australia) which adopted a Code of Good Practice for Transnational Education establishing eleven principles relating to academic quality and standards; policy and the mission statement of transnational education institutions; information to be provided by such institutions; awareness of cultural context; qualifications of staff; and admission of students.
- d) should strive to promote equality within and between nations. Such an agreement must encourage and promote equitable access to higher education within nations, with the explicit recognition that participation in higher education must not be subject to the ability to pay. As well, full equality must be provided for equity seeking groups, and the rights of indigenous peoples must be fully respected.
- e) must first and foremost promote the development of domestic higher education systems in developing countries, including genuine transfer of technology and academic knowledge, not the commercial penetration by providers based in the developed world. A new framework should therefore encourage debt cancellation along with aid programmes to developing countries to help build and maintain an academic environment that sustains and advances accessibility and quality, and provides proper conditions of work for higher education staff in those countries.
- f) must be guided by global institutions that, in contrast to trade institutions like the WTO, are open, transparent and democratic. All international institutions, in interpreting any disputes, must give priority to human, labour, and environmental rights over commercial rights.
- g) must explicitly preserve the ability of nations to maintain and adopt measures that meet the needs of their citizens. Such measures include: providing financial support, subsidies, and incentives to individuals, institutions, state enterprises, non-governmental organisations, and enterprises; restricting the presence of foreign, private, or for-profit institutions; regulating in whatever way is considered appropriate to meet national education objectives; and requiring local content and performance requirements for foreign-based institutions.
- h) must be the focus for campaigning work by EI globally and its higher education affiliates nationally and locally. While the achievement of the full range of principles will no doubt take time and may be achieved through several new instruments or revisions of existing ones, they provide a political focus for EI demands.

**Calls on:**

- 13. EI, in cooperation and consultation with affiliates, to prepare a draft of the new instrument.
- 14. EI and its affiliates to campaign and lobby for the adoption of the new instrument.