
SUBMISSION BY THE AUSTRALIAN EDUCATION UNION TO THE JOINT STANDING COMMITTEE ON TREATIES:

AUSTRALIA'S RELATIONSHIP WITH THE WORLD TRADE ORGANISATION

Introduction

The Australian Education Union (AEU) represents 155,000 teachers and allied education workers in public schools, colleges and pre-schools in Australia. Members work as teachers, principals, administrators and allied educational staff, including Aboriginal and Islander education workers in general and vocational education in the pre-school, primary, secondary and TAFE sectors.

As such, AEU members are involved in the provision of education services of all kinds. While the services the AEU is associated with are in the main state-provided, they increasingly operate in competition with private providers funded substantially by government. Consequently, the members of the AEU have a vital interest in the operation of the General Agreement on Trade in Services (GATS) through which the Australian Government has made commitments on the terms under which education services may be provided in Australia. The GATS operates under the aegis of the World Trade Organisation (WTO) and is currently negotiating further liberalisation.

Opportunities for Community Involvement in Developing Australia's Negotiating Positions

As far as the AEU is aware any opportunity for input to Australia's negotiating position has been completely denied. This is to be condemned in an era where the terms "transparency" in dealings between non-government organisations and government is often bandied about. During the original 1994 Uruguay Round, there was some opportunity afforded to the Australian Council of Trade Unions, to which the AEU is affiliated, to comment on some aspects of the development of the GATS. On this occasion even such a limited opportunity has not been afforded to the unions.

Recent polling conducted for the Australian Manufacturing Workers Union (AMWU) shows that a large majority of Australians do not support the concept of "free trade". While not supporting tariffs to protect inefficient industry, voters strongly believe that "free trade" harms farmers and industry, particularly employment.¹ Many others have concerns about aspects of globalisation as illustrated by the thousands who exercised their rights to say so at the World Economic Forum in Melbourne in September 2000.

¹ AMWU Public Perception Research in 18 Marginal Seats

As if to rub salt into the wounds, “The Age” reported that the WTO Deputy Director, Andy Stoler, told the paper that the WTO would in future avoid “big bang” ministerial meetings such as that which failed in Seattle in 1999. Instead the WTO would proceed with negotiations on services and agriculture quietly and was backed by an unnamed “senior Australian official”. Mr Stoler is reported to have said, in an article by Economics Editor Tim Colebatch,

“Now that we have agriculture and services under way, there’s no reason why we couldn’t agree to add on additional subjects. If we can manage to advance the round quietly, rather than by a big bang, why not?”²

The Australian Government may hold this view, but it is not shared by a considerable majority of Australians and is an outrageous denial of the rights of citizens of Australia on a matter which may have considerable long-term effects on their interests. In this case, as educators employed in the provision of education services, our workers want open public discussion.

The apparent bipartisan support from the major political parties for secret negotiations at the WTO to further liberalise trade in services, including education services, is condemned by the AEU. The Australian Government has only limited potential exports of services to contribute input.

Canadian Government Contrast to Australia

Unlike Australia, the Canadian Government has not made commitments to GATS to apply to education services. In contrast to the Australian position, the Canadian Government issued a paper entitled “The Commercial Education and Training Services Industry” late in 1999 in preparation for the GATS negotiations currently underway. The concluding section of the paper invites Canadian teachers and trainers to provide input to the Government.”³

The contrast with the Australian approach could not be more graphic.

Transparency and Accountability of WTO Operations and Decision-Making

While many Australians know about the WTO and trade in agricultural and industrial goods, most will be shocked to know that the General Agreement on Trade in Services in principle covers all services - health, education, tourism, construction, transportation, telecommunications, finance, retail, distribution, postal, broadcasting, environmental, computing, cultural, recreation and sporting services - and thus opens these up to private international corporate provision and competition.

Under the operation of the GATS, global corporations providing such services cannot be prevented from establishing themselves, on pain of penalty damages or trade retribution, and from attracting the government subsidies available to domestic providers.

² The Age, September 14, 2000, Page 9.

³ Government of Canada, Services 2000, Canadian Services Industries and the GATS 2000 Negotiations, Industry Canada, November 8, 1999.

The GATS is only the starting point for a process designed to progressively liberalise trade in services in future, as expressed by Article XIX, “...Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the Agreement Establishing the WTO and periodically thereafter, with a view to achieving a progressively higher level of liberalisation. Such negotiations shall be directed to the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access”.

While an exemption applies to services supplied “in the exercise of governmental authority,” and without a commercial purpose, this is confined to services “not provided on a commercial basis or in competition with other suppliers.” As Australia is a country where the private education sector plays a significant and increasing role in competition with the public sector, the GATS applies to many areas of public provision in Australia, including state and territory school and TAFE education. It could also well be established that fee-paying courses in public schools and colleges fall within the definition of “commercial activity” and are thus brought within the terms of GATS.

The Extent to Which Education as a Major Cultural Institution has Influenced WTO Priorities.

Education of the next generation is as significant as any other area of social activity in the promotion and development of cultural values. Yet this does not seem to have entered into the thinking of the WTO or Australian Governments in committing education provision to the GATS. Only economic considerations seem to have been considered. The countries which have made GATS commitments in education is as follows, as included in the Canadian Government publication.⁴

⁴ Government of Canada, Services 2000, Canadian Services Industries and the GATS 2000 Negotiations, Industry Canada, Nov 8, 1999, Page 23. (See Over)

Table**Government of Canada, Services 2000, Canadian Services Industries
and the GATS 2000 Negotiations, Industry Canada, Nov 8, 1999**

Country	Primary Education	Secondary Education	Higher Education	Adult Education	Other Education Services
Australia		X	X		X
Bulgaria	X	X		X	
China	X				
Congo RP			X		
Costa Rica	X	X	X		
Czech Republic	X	X	X	X	X
European Community	X	X	X	X	
Gambia	X			X	X
Ghana		X			X
Haiti				X	
Hungary	X	X	X	X	
Jamaica	X	X	X		
Japan	X	X	X	X	
Lesotho	X	X	X	X	X
Liechtenstein	X	X	X	X	
Mali				X	
Mexico	X	X	X		X
New Zealand	X	X	X		
Norway	X	X	X	X	X
Panama	X	X	X		
Poland	X	X	X	X	
Rwanda				X	
Sierra Leone	X	X	X	X	X
Slovak Republic	X	X	X	X	X
Slovenia		X	X	X	
Switzerland	X	X	X	X	
Thailand	X	X		X	
Trinidad and Tobago			X		X
Turkey	X	X	X		X
USA				X	X
Number of Countries with Commitments	35	36	35	33	12

The Australian Government listed Secondary, Higher and Other education services for the implementation of the GATS in Marrakesh in 1994 without any opportunity for public consultation as to whether this was appropriate and what the effect would be. This represents a progressively deepening democratic deficit as the economic, financial and business interests of a handful of large corporations are covertly allowed to subvert the processes and interests of government and the public good.

The 1994 Agreement was followed on 25 February 2000 by the launching of a full-scale renegotiation of GATS, following a commitment contained in the original to re-negotiate “*with a view to achieving a progressively higher level of liberalisation,*” as per Article XIX. The potential for Australian education both private and public to become a target for international entrepreneurs is real as a result with consequent dramatic impact on national sovereignty, culture and equity.

In relation to education many governments have placed limits on the operation of the principles of *national treatment* and *most favoured nation*, as well as restrictions on “commercial presence” nevertheless the sectors named are now liable to be affected by the *standstill rule* and the *rollback rule*. The effect of these rules is to prevent limits on foreign service provision without compensation to countries affected by that protection, and over time, to gradually lift more and more restrictions on trade in education services.

The Education International, the world’s largest non-government organisation, to which the AEU is affiliated, has published its concerns about the GATS negotiations and education services. Publicly-funded school education services are seen as a \$22 billion “market opportunity” representing the costs of 300,000 teachers, 4 million students and 10,000 schools throughout Australia as a result. In global terms, the sector involves on thousand billion dollars, more than 50 million teachers and a billion students.⁵

In the course of the negotiation of the GATS, the issue of subsidies for for publicly provided services was one of the most hotly debated issues. Under challenge from the corporations was the provision of public funding for national institutions such as education services, under the pretext that this undermined free trade.⁶

⁵ Education International, “The WTO and the Millennium Round: What is At Stake for Public Education?” Brussels, June 1999.

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The GATS Negotiations Threaten to Compound Conservative Attacks on Public Education in Australia

The operation of the GATS is an expression of neo-liberal economic policy incorporated into the international legal and financial arrangements between nations. Neo-liberal policies have already placed public provision of educational services in Australia and many other countries under great stress and open to the transfer of services to the private sphere. The further subordination of education to market forces through the processes of GATS, with global educational services corporations entering the sphere, will further undermine the accessibility of education and aggravate social inequality.

The WTO's Council for Trade in Services has mapped out the sector in its internal documents with systematic use of expressions such as "the education market" and while education services may be thought of as a right for universal public provision, during the Uruguay Round certain countries committed themselves to open up the private component of their primary and secondary education systems to foreign investment.⁷

Changes to the Education Sector: New Technologies

The development of NCITs (New Communications and Information Technologies) provides new opportunities for distance delivery on a massive scale. UCLA Extension School in co-operation with the Home Education Network caters for students in 44 US states and 8 other countries.

In Australia the public float of Worldschool Limited (worldschool) which aims to raise \$25 million by public subscription and has 250 content authors developing learning materials, is recruiting 1,000 teachers to provide online teaching services and according to its Chairman "has all the necessary technical capabilities ...to launch the service throughout Australia" illustrates how one corporation is headed. Worldschool aims to have teachers located in English-speaking countries around the globe providing on-line advice and assistance to students on a 24-hour basis and is a glimpse of the market that the corporate sector believes exists in the provision of private education services.⁸

While these plans may be ambitious, the offer has been lodged with the Australian Stock Exchange and is apparently backed by sound business advice. This development indicates a scale of commercialisation of education which could never have been envisaged when the GATS was signed in 1984, and is an example of an enterprise which is four-square in the international trade in services basket operating in competition with Australian government and non-government schools.

⁷ Education International, "The WTO and the Millennium Round: What is At Stake for Public Education?" Brussels, June 1999.

⁸ Wordschool Limited, Prospectus, ACN 084 211 423

Australian schools and colleges are participants and potential participants in all of the four kinds of trade in services covered by GATS...cross-border supply of education services, including by distance education, consumption abroad by members, commercial presence of a supplier in another member country and the presence of teachers in foreign member countries. As such, the commodification of education services in a liberalised regulatory environment poses both economic benefits and deficits to Australian educational institutions, while cultural, equitable and national sovereignty values are thrown into question, both in Australia and in the member states where Australian education services are delivered.

As such the AEU demands that the Australian Government exclude certain areas from the operation of the GATS, including public education, health and social security as well as national cultural activities and indigenous land and cultural rights. This could be achieved by the inclusion of standards in through the WTO as outlined below.

With respect to the contention that public education as a service “supplied in the exercise of governmental authority” and thus not subject to GATS, the AEU does not accept the assurances provided by previous Australian Governments that this means the GATS will have no effect on the provision of public education services. On the contrary, the aggressive promotion of privatisation by Australian Governments in favour of education services “supplied on a commercial basis where competition is involved” makes these assurances are meaningless.

It is Possible to Establish and Enforce Standards Through the WTO?

The WTO agreement on Trade-Related Aspects of Intellectual Property Standards (TRIPS) establishes restrictions on trade by imposing minimum standards of behaviours which WTO member states must enforce and which protect the rights of property holders by controlling the process of production of goods and services.

The minimum standards contained in TRIPS are derived from the Conventions of the World Intellectual Property Organisation (WIPO) which is an agency of the UN. WIPO’s incapacity to enforce its provisions was solved under the auspices of the WTO. Thus TRIPS illustrates the capacity of the WTO to enforce standards where corporate property is involved.

Consequently, and contrary to assertions that labour standards cannot be included in WTO agreements, AEU supports provisions dealing with labour standards derived from the conventions of the comparable UN Agency, the International Labour Organisation, (ILO) , being incorporated as enforceable provisions under the WTO.

Conclusion

While education unions have formerly supported calls for labour rights and standards to be included in trade agreements, and have supported unions in the physical trade sectors on issues such as unilateral removal of tariff protection, it is now apparent that the WTO GATS negotiations pose a real issue for the provision of education services in Australia. The AEU calls on the Committee to recommend opportunities to provide for non-government organisations such as the AEU to contribute to the positions adopted by the Australian Government and for NGO representation in the forums of the WTO.