

Joint Declaration on Higher Education and the General Agreement on Trade in Services

LIST OF SIGNATORIES

Association of Universities and Colleges of Canada (AUCC), representing Canada's 92 public and private not-for-profit universities and degree-level colleges; *American Council on Education* (ACE), representing 1,800 accredited degree granting colleges and universities in the United States; *European University Association* (EUA), representing 30 national Rectors' Conferences and 537 individual universities across the European continent; *Council for Higher Education Accreditation* (CHEA), representing 3,000 accredited, degree-granting colleges and universities and 60 recognized institutional and programmatic accreditors in the United States.

INTRODUCTION

The General Agreement on Trade in Services (GATS) is a multilateral, legally enforceable agreement covering international trade in services. Education services, including higher education, are one of the 12 broad sectors included in the agreement. We, the above associations, put forward the following declaration with respect to the GATS and trade in education services:

PRINCIPLES

Whereas:

Higher education exists to serve the public interest and is not a “commodity”, a fact which WTO Member States have recognized through UNESCO and other international or multilateral bodies, conventions, and declarations. The mission of higher education is to contribute to the sustainable development and improvement of society as a whole by: educating highly qualified graduates able to meet the needs of all sectors of human activity; advancing, creating and disseminating knowledge through research; interpreting, preserving, and promoting cultures in the context of cultural pluralism and diversity; providing opportunities for higher learning throughout life; contributing to the development and improvement of education at all levels; and protecting and enhancing civil society by training young people in the values which form the basis of democratic citizenship and by providing critical and detached perspectives in the discussion of strategic choices facing societies.

Given this public mandate, authority to regulate higher education must remain in the hands of competent bodies² as designated by any given country. Nothing in international trade agreements should restrict or limit this authority in any way.

¹ Taken from UNESCO's 1998 *World Declaration on Higher Education for the Twenty-First Century: Vision and Action*

² The term “competent bodies” is used in order to take into account the fact that in any given nation, authority for higher education rests with different levels of government, institutions, and organizations.

Education exports must complement, not undermine, the efforts of developing countries to develop and enhance their own domestic higher education systems . While international cooperation and trade in educational services can present opportunities for developing countries to strengthen their human resources, trade rules must not have the effect of imposing models or approaches to higher education on nations or of weakening their own national systems.

The internationalization of higher education is integral to the quality and relevance of the academic endeavour and research mission in the twenty-first century. For most institutions, international trade in higher education is an important component in attaining higher education's mission. For these institutions, education exports such as international student recruitment or the delivery of higher education programs across borders through distance education are part of a broader set of international activities which include faculty and student exchanges, research cooperation and capacity-building initiatives in developing countries.

Quality is a key objective for both domestic provision of higher education and international education exports, irrespective of the mode of delivery. Appropriate quality assurance mechanisms administered by higher education institutions under the competent bodies must exist to ensure that quality is not compromised. These mechanisms need to be transparent and widely understood.

International higher education cooperation must operate under a rules-based regime . WTO Member States have already established mechanisms to achieve this objective, in fora such as UNESCO, including international conventions on the recognition of academic credentials and a network of national information centres on foreign credentials. These mechanisms need to be further developed and their implementation better supported by our respective governments to protect learners.

Higher education differs significantly from most other service sectors , in that because of its public mandate there is typically a high degree of government involvement in higher education provision co-existing with private funding and commercial activities. This public/private mix permeates not only the sector but, indeed, the individual institutions within it.

Public and private higher education systems are intertwined and interdependent. Therefore it is impossible to effectively separate out certain sub-sectors e.g., adult education, or certain types of institutions e.g., "private providers", for the purposes of the GATS without impacting other parts of the system.

Caution must be exercised before putting the quality, integrity, accessibility and equity of our higher education institutions and systems at risk without obvious benefit.

Transparency and open consultation with affected stakeholders is imperative in the development of effective public policy.

RATIONALE

Given that:

Very little is known about the consequences of including trade in education services in the GATS such as on the quality, access, and equity of higher education, on domestic authority to regulate higher education systems, and on public subsidies for higher education. The potential risks of including higher education in the GATS, as indicated above, could be very significant.

While there are currently some barriers to trade in education services, there does not appear to be a major problem overall. Institutions continue to be able to actively develop exchange agreements, distance education programs, research collaborations, offshore partnerships etc. to meet their internationalization objectives and contribute to international development. Moreover, many of these barriers appear to be related to the lack of recognition of academic qualifications or concerns over the quality of educational providers; it is therefore unlikely that they will lend themselves to trade policy remedies through the GATS process. Conversely, there are existing mechanisms, such as the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region (Lisbon Convention), open to all states, which are dealing with these issues. There are also national information centres to foster recognition of credentials and vigorous discussions on ways to improve bilateral or multilateral recognition of each other's domestic quality assurance mechanisms.

It is extremely difficult to clearly define which education services are supplied strictly on a commercial basis due to the public-private mix in all systems and within many institutions of higher education.

GATS Article I:3 is recognized as being ambiguous and open to interpretation. 3

While we applaud senior officials in our respective governments for insisting that public service systems are exempted from the agreement based on Article I:3, we do not understand how this conclusion has been reached given the absence of clear, broadly accepted definitions and, more importantly, the fact that the component parts of the system are so inextricably linked. In addition, history shows that exemptions to international agreements such as the GATS tend to be interpreted narrowly by trade dispute tribunals. For these reasons, it seems unrealistic to assume that public education at the tertiary level is exempted from the GATS based on Article I:3.

Many of our respective countries have not undertaken an effective consultation process between trade officials and the organizations representing public and private higher education institutions.⁴

³ Article I:3 is the agreement's exemption of services Asupplied in the exercise of government authority@, where these services are defined as being supplied Aneither on a commercial basis nor in competition with one or more service suppliers. @

⁴ It should be noted, however, that in the case of Canada, there is ongoing dialogue between the federal government and the education sector with respect to the GATS.

DECLARATION

Operating under these principles, and given these circumstances, the Association of Universities and Colleges of Canada, the American Council on Education, the European University Association, and the Council for Higher Education Accreditation jointly declare that:

Our member institutions are committed to reducing obstacles to international trade in higher education using conventions and agreements outside of a trade policy regime. This commitment includes, but is not limited to improving communications, expanding information exchanges, and developing agreements concerning higher education institutions, programs, degrees or qualifications and quality review practices. Our respective countries should not make commitments in Higher Education Services or in the related categories of Adult Education and Other Education Services in the context of the GATS. Where such commitments have already been made in 1995, no further ones should be forthcoming.

AUCC, ACE, EUA , and CHEA convey this joint declaration to the Government of Canada, the office of the United States Trade Representative, the European Commission, individual European states that are members of the nascent European Higher Education Area, and all interested Member States of the WTO for their attention.

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