



THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)



POLICIES AND TOOLS FOR HIGHER EDUCATION

Oslo, 26-27 May 2003



GATS: Structure

- Framework Agreement
- Annexes covering certain sector- or policy-related issues
- Schedules of Specific Commitments
(one Schedule for each WTO Member)



GATS: Scope and definitions

- MEASURES AFFECTING TRADE IN SERVICES
AT ALL GOVERNMENT LEVELS

- ALL SERVICES
(except governmental services)

- FOUR MODES OF SUPPLY
 - ☐ Cross-border supply
 - ☐ Consumption abroad
 - ☐ Commercial presence
 - ☐ Movement of natural persons



GATS: 4 modes of supply

MODE

EXAMPLE (Education)

Cross-border Trade

Distance-learning programme from country A relayed in B

Consumption Abroad

B's resident attends a post-graduate course in A

Commercial Presence

University from A operates a training center in B

Movement of Natural Persons

Teacher from A gives courses in B



Governmental Services

Excluded from coverage are “**services provided in the exercise of governmental authority**” which, in turn, are defined as services that are supplied “neither on a commercial basis, nor in competition with one or more service suppliers”. (Article I:3)



There is formal “liberalization”...

... only in sectors in which a country undertakes **specific commitments** on **market access** and **national treatment**.

- MA: Absence of quota-type and similar restrictions
- NT: Non-discrimination with regard to *all* measures affecting the supply of a service

But, limitations can be scheduled!



Some general obligations apply...

- Most-Favoured-Nation (MFN) Treatment
- Transparency obligations
- Some other “good governance” provisions (availability of legal remedies, etc.)

Note: There is no obligation to open markets
across all sectors!



Measures/policies not affected by commitments

- Non-discriminatory domestic regulation (standards, licensing requirements, etc.)
 - Government procurement
 - Private commercial actions*
- * Beyond the scope of GATS



Education Services: 5 sub-sectors

- Primary Education
- Secondary Education
- Higher Education
- Adult Education
- Other Education Services



Education services - Pattern of commitments

Primary Education	32	(25)*
Secondary Education	36	(28)*
Higher Education	35	(28)*
Adult Education	34	(27)*
Other Education Services	19	(16)*

* Developing and transition economies

How Schedules of Commitments are structured:



A. Mali / Education

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
5. EDUCATION SERVICES			
Adult education services in the craft sector (CPC 924)	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	



B. Croatia/Education

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
5. EDUCATIONAL SERVICES B. <u>Secondary Education Services</u> (CPC 922) C. <u>Higher Education Services</u> (CPC 923) <i>[Same commitments for Adult Education; CPC 924]</i> E. <u>Other Education Services</u>	1) Unbound 2) None 3) None for legal persons 4) Unbound, except as indicated in the horizontal section 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section 1) None for correspondence education or education via telecommunications 2) None 3) None 4) Unbound, except as indicated in the horizontal section	1) Unbound 2) None 3) None for legal persons 4) Unbound, except as indicated in the horizontal section 1) None 2) None 3) None 4) Unbound, except as indicated in the horizontal section 1) None for correspondence education or education via telecommunications 2) None 3) None 4) Unbound, except as indicated in the horizontal section	



C. United States/Education

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
5. EDUCATIONAL SERVICES D. <u>Adult Education</u> (except flying instruction) E. <u>Other Education Services</u>	1) None 2) None 3) The number of licences for cosmetology schools in Kentucky is limited to 48 total licences , with a total of 8 licences allowed for operation of such schools per congressional district 4) Unbound, except as indicated in the horizontal section	1),2),3),4) Scholarships and grants may be limited to US citizens and/or residents of particular states and may, in some cases, only be used at certain states institutions or within certain US jurisdictions 1),2),3),4) Scholarships and grants may be limited to US citizens and/or residents of particular states and may, in some cases, only be used at certain states institutions or within certain US jurisdictions	



Summary assessment: What has been achieved in services to date?

- The GATS provides a reliable and predictable framework for world services trade
- The focus of the Uruguay Round was on rule-making rather than on actual liberalization
- Many commitments have been “overtaken” since by (autonomous) liberalization measures



The new services round

■ Key dates

- started in January 2000
- initial requests as of 30 June 2002
- initial offers as of 31 March 2003
- end of the negotiations: 1st January 2005



Education in the new services round

- Proposals by Australia, Japan, New Zealand and the United States
 - acknowledge the central role played by governments in providing and regulating education
 - private education complements, but does not replace public systems
 - circumscribed focus (adult and higher education)



Against this background, they propose to ...

- Promote liberalization through specific commitments
- Work on definition and classification of education activities (New Zealand + US)
- Focus on barriers to trade (Australia)
- Ensure that the quality of the service is maintained and improved, and that national differences are recognized (Japan)



Next steps

- The request / offer process is continuing
 - 25 initial offers received so far
 - 6 of them propose commitments on education
- September 2003: Cancún Ministerial Meeting