



THE COMMERCIAL EDUCATION AND TRAINING SERVICES INDUSTRY

A Discussion Paper in preparation for the World Trade Organization General Agreement on Trade in Services (GATS) Negotiations

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I. INTRODUCTION

Trade in services is an important and growing contributor to the Canadian economy and the economies of most of our trading partners. Within the global economy, the significance of trade in services is hard to ignore. In 1997, world trade in commercial services, measured on a balance of payments basis, was valued at more than US\$ 1.2 trillion. In Canada, service transactions account for approximately two-thirds of the Gross Domestic Product (GDP) and service exports amounted to over \$41 billion in 1997.

The large and growing importance of trade in services has resulted in the development of new trade agreements covering services. These include the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO) General Agreement on Trade in Services (GATS). Negotiations currently underway to develop the Free Trade Area of the Americas (FTAA) will also include services. In addition, negotiations to expand liberalization under the GATS are scheduled to begin in 2000 at the WTO.

Educational services, specifically educational services supplied on a commercial basis where competition is allowed (see Annex A for a complete definition), have been identified by many countries as a priority sector for the upcoming services trade negotiations. As a result, the Canadian federal government is undertaking extensive consultations with education and training providers, associations, provincial governments, consumers, and other interested parties to define Canada's position. The messages heard during these consultations will shape Canada's negotiation strategy, specifically what commitments we want or need from other countries and what commitments we are willing to make in order to achieve our objectives while serving the industry's interests.

The Canadian government has previously excluded educational services from international trade agreements. Recently, however, the commercial education and training sector has been transformed dramatically as a result of technological advances and changes in demand. Training providers are facing increased pressure to operate internationally and consumers are beginning to look globally to meet their specific training needs. The changing nature of education and training services needs to be addressed by Canadians together with the international community and, as a result, it is likely to be a prominent topic at the upcoming trade negotiations.

This paper contains a basic background analysis of the education and training sector and attempts to outline the issues for Canadian policymakers, public education institutions, and the private sector to consider in view of the upcoming negotiations. Section II presents a brief examination of the education and training sector generally, while Section III provides a discussion of trade in these services. Section IV contains a brief overview of the commercial education and training sector, and an analysis of current GATS commitments related to educational services is presented in Section V. Section VI attempts to define and address some of the important policy issues for discussion in the development of Canada's negotiation position on education and training services.

II. THE EDUCATION AND TRAINING INDUSTRY

Defining the Industry

Education and training services are commonly defined by reference to four categories: Primary Education; Secondary Education; Higher (Tertiary) Education; and Adult Education. While these categories are based on the traditional structure of the sector, rapid changes taking place may significantly affect the scope and concept of education. This is reflected, for instance, in the recent revision of the International Standard Classification of Education (ISCED) which now identifies two types of tertiary level studies: "advanced/theoretical/professional" and "practical/occupational."

Basic education, principally primary and secondary education, is often considered a social entitlement and, as a result, it is often provided by (or with support from) public authorities. Such education services, provided by the State, are considered services "supplied in the exercise of government authority" and thus are not covered by the GATS. The GATS covers only primary, secondary, tertiary/higher, adult, and other educational services supplied on a *commercial basis where competition is allowed* (subsequently referred to as commercial education and training services).

Changes in domestic and international market structures, as discussed below, have

promoted the emergence of new educational activities. This includes activities that are closely related to education services and designed to support educational processes or systems without being "instructional activities" *per se*. Examples of these activities include curriculum design, evaluation, capacity building, educational reform and student exchange programs, although new services are constantly being developed to meet identified needs. The difficulty is that these activities are considered educational services in some countries but not in others. Incorporating new educational and education-related services into definitions of education and training is an important issue for international discussion.

Educational services are often supplied in conjunction with products such as textbooks or courseware. The current trend seems to indicate that products and services are becoming increasingly integrated. As in many other product areas, producers of educational materials are offering more services in conjunction with their products in order to increase value-added or to distinguish themselves from competitors. New technology, such as the Internet, is also accelerating the demand for fully integrated education packages and creating new markets for both goods and services.

The Economic Importance of the Sector ...

In addition to generating direct economic benefits, the education sector is recognized as playing a crucial role in fostering economic growth, and personal and social development. Education enables people to face the challenges of technological change and global commercial integration. Through its capacity to provide skills and enable effective participation in the workforce, education is crucial to economic adjustment.

A clear relationship between the level of education and vulnerability to unemployment has been identified in many countries. As a result, there are numerous government initiatives aimed at promoting education and training. Public expenditure on education as a percentage of Gross National Product (GNP) is approximately 5% in developed countries and 4% in developing countries. However, education also exists as a "private consumption" item. Private sector expenditure on education reveals significant variations among member countries of the Organization for Economic Cooperation and Development (OECD), ranging from 2% of total educational spending in Portugal, Sweden and Turkey, to over 22% in Germany, Japan, South Korea and the United States.

... and its Changing Structure

According to the OECD, education systems in many countries have been evolving since the mid-1970s. New types of training programs and alternative educational schemes, such as distance learning, have been introduced. Additional emphasis has been placed on higher education, and in particular on "adult learning" or "lifelong-learning", usually involving continuing education for persons not in the regular school or university system. Special training programs and commercial educational institutions have emerged as a result of the new demand for education and training. There is growing emphasis on the networking of institutions and programs and franchise arrangements for educational institutions.

Distance learning has been a very dynamic area, benefiting from the development of new information and communication technologies such as cable and satellite transmissions, audio and video conferencing, PC software, CD-ROMs, and the Internet. The Internet, in particular, has contributed significantly to changes in the process and organization of higher education. In Canada, for example, the University of Athabasca currently provides a selection of university courses on-line, while the Open Learning Agency of B.C. has introduced an on-line learning forum which includes several university and college courses. "Virtual universities" such as the Western Governors' University (a partnership between 17 Western U.S. states and private sector firms such as IBM, AT&T, Cisco, Microsoft and International Thomson) are appearing. The commercial education sector has also been very active in distance learning. For example, New Brunswick's Scholars.com is believed to

be one of the largest on-line Microsoft training providers.

In order to enable educational institutions to meet changing demand, several governments have reformed their financial support for education. For example, some countries have reduced support for higher education while others (i.e. European countries) are now providing lump-sum funding for universities to spend as they deem appropriate. These reforms have encouraged universities to cut costs and raise revenues. This, in turn, has increased participation of publicly-funded schools in commercial and foreign markets. Educational institutions are now developing interdisciplinary structures and programs which are relevant to new trends in business, science and society.

III. TRADE IN EDUCATION AND TRAINING SERVICES

Overview

The international education and training services sector is still developing. This sector lacks a clear definition and statistical data are often hard to come by. Measurement problems notwithstanding, there is no doubt that trade in education and training services is on the rise. Anecdotal evidence and experience suggest that cross-border flows of education and training activities are large and continue to grow. For example, the increase in foreign student enrolment demonstrates that the educational sector as a whole is becoming increasingly internationalized -- the number of persons studying abroad has doubled every decade since 1960, reaching almost 1.2 million by 1990 (UNESCO, 1992).

Over the past several decades, leading exporters of education and training services have included France, Great Britain and the United States. More recently they have been joined by Australia. The United States is easily the leading exporter of education and training services. In 1995, its total exports amounted to \$7.5 billion, generating a trade surplus of \$6.6 billion.

In the Fall of 1995, there were 72,700 individuals from over 200 countries studying or training in Canada at the elementary/secondary and post-secondary level. In addition, Statistics Canada identified over 9,000 foreign students in Canada who were enrolled in other programs such as language upgrading, skills training, and business training. This data, however, may not capture students who attend short term courses in Canada.

Supplying Educational Services Internationally

Most educational services (especially higher education such as university programs) tend to be traded predominantly through the movement of students across borders (consumption abroad). The rising competition for foreign students has been underlined by increased initiatives to market higher education programs globally and to recruit foreign students. More recently, educational institutions have set up facilities abroad (commercial presence) or have offered programs via distance-learning networks such as the Internet (cross-border supply). Foreign scholars also continue to lecture in domestic institutions (movement of natural persons) -- in 1996/97, a total of 62,350 foreign scholars lectured in the United States.

Primary and secondary institutions are increasingly becoming involved in the international education market. School boards are marketing their curriculum and specific programs in many new foreign markets. For example, several Canadian school boards have recently joined the Canadian Education Centre Network (CECN), which has offices internationally to promote Canadian education programs.

The international market for educational services is changing as the industry restructures itself, as mentioned above. Distance education has become an increasingly important medium for reaching foreign students. Programs offered internationally are targeting specific, identified needs and the focus is shifting to shorter term training programs.

International Financial Institutions (IFIs) are continuing to play an important role in supporting the development of education programs in developing countries. IFI-sponsored projects are leading the demand for sourcing abroad educational products and services. Capacity building is also important for new projects in developing countries. IFI contracts are often sourced internationally with foreign groups responsible for setting up educational systems and transferring their long-term administration to locals. This type of technology transfer is becoming increasingly important in all contracts dealing with the education sector.

Measures Affecting Trade

Given that educational services are often traded through consumption abroad, measures restricting the mobility of students may warrant particular attention. Direct restrictions generally take the form of immigration requirements and foreign currency controls. Indirect barriers include, in particular, difficulties faced by students trying to get recognition of credentials or training obtained abroad into national equivalents or to get courses translated. In this regard, the development of agreements on standards for professional training, licensing and accreditation might significantly benefit trade in education and training services.

With respect to establishing commercial presence, potential issues include the inability to obtain national licences (e.g. to be recognized as a degree/certificate-granting educational institution), measures limiting direct investment by foreign education providers (e.g. equity ceilings), nationality requirements, needs tests, restrictions on the recruitment of foreign teachers, the presence of government monopolies and heavy subsidization of local institutions. Governments need to identify what restrictions to foreign participation exist and determine whether they are legitimate.

The types of restrictions mentioned above are also relevant for educators/trainers who travel temporarily to a foreign country to provide a service (presence of natural persons). In particular, immigration requirements, nationality conditions, needs tests, and recognition of credentials can raise problems. For example, some countries limit the inflow of foreign teachers through various regulations concerning length of stay, payment of taxes and the application of needs tests.

IV. COMMERCIAL EDUCATION AND TRAINING SERVICES

Key Points about the Industry

The *commercial* education and training services sub-sector consists of establishments and organizations engaged in the delivery of education and training services mainly on a fee or contract basis, for profit. It is a heterogeneous sector comprising:

- many specialized small and medium-sized training or educational firms;
- the training arm of companies engaged in other sectors; and
- training supplied by public colleges and universities on a contractual basis.

Unfortunately, very little comparable data exist on this sector. However, the transition to a knowledge-based economy, which emphasizes human resources, appears to be escalating the demand for these educational services worldwide.

The industry generally focuses its efforts on providing job-related training and skills upgrading. Specialized educational or training firms appear to focus mainly on management and executive development, as well as language training and computer and professional/technical training. Trainees predominantly include management, professional and technical staff, along with a few clerical and office workers. Training arms of individual companies focus on the specific needs of the firm or of its clients. Such programs are often found in the mining, environmental and energy sectors. Companies are increasingly

offering integrated goods/services packages which include training.

According to a 1992 profile of private education and training firms (excluding private career colleges and the commercial activities of public education institutions) undertaken by Coopers & Lybrand for Industry, Science and Technology Canada (ISTC), this is a young industry composed mainly of small businesses. Almost two-thirds of the firms had fewer than five employees and over 55% had been established after 1984. A 1995 study of the education and training sector in British Columbia corroborates these findings. The study shows that the B.C. education and training sector also consists of young and growing firms.

Although relatively little data exist on revenues generated by education and training firms, the total number of individuals trained per year by these firms may serve as a proxy for assessing their economic importance. According to the 1992 ISTC profile, most firms (63%) trained fewer than 500 persons while only 2% of firms reported training 10,000 individuals or more. Revenue figures from the British Columbia study show that more than 40% of training firms reported revenues ranging between \$100,000 and \$500,000, while close to 12% had income of more than \$1 million and roughly 30% earned less than \$100,000. Another study, done in Atlantic Canada, has similar findings to the B.C. study although there were fewer firms at the low-end of the revenue scale.

The industry groups most commonly served by the education and training sector at the time of the 1992 ISTC profile included manufacturing (other than automotive and electronics), public administration, business and personal services, as well as educational institutions. The sector focuses on providing job-related training and skills upgrading. In Canada, few firms train workers in construction, primary industries, transportation equipment operation and materials handling because these training needs appear to be satisfied by in-house resources. However, this situation may change as a growing number of companies are looking to contract-out their training programs.

While still a relatively young industry, the Canadian commercial education and training sector is growing and expanding into the international marketplace. Many suppliers of education and training services have significant capacity to deliver on projects around the world because they maintain a roster of professionals as associates who can be assembled into teams to fit specific project requirements. At the time of the 1992 ISTC profile, almost half (46%) of commercial firms selling training services were active in international markets. Of these, 66% exported their services mainly to the United States and 44% to Europe. Asia and Africa were also popular export destinations, with 28% and 23%, respectively, of exporters selling their services to these regions. In 1997, Statistics Canada estimated that commercial education and training firms earned revenues of \$110 million from exporting their services.

V. ANALYSIS OF GATS COMMITMENTS RELATED TO EDUCATION AND TRAINING

As mentioned previously, the GATS commitments in education do not include basic education provided by the State because it is considered to fall within the domain of services supplied in the exercise of governmental authority (supplied neither on a commercial basis nor in competition). This section focuses on the commitments made during the last round of negotiations in the segments of the education and training sector where effective private participation is allowed. For complete details about GATS commitments, please contact us directly or visit our web site at <http://services2000.ic.gc.ca>.

Brief Review of the GATS Structure

The GATS, negotiated during the Uruguay Round of multilateral trade negotiations, is a multilateral, comprehensive framework of rules governing trade in services. It applies to all service sectors and all forms of trade in services, including investment and temporary entry of professionals and executives for business purposes. If a Member fails to carry out its

obligations or specific commitments under the GATS, other Members have recourse to the WTO's Dispute Settlement Mechanism.

The GATS comprises three parts:

- a general framework of rules and obligations;
- individual schedules of commitments for each WTO Member; and
- annexes and ministerial declarations.

The general framework of rules contains the basic obligations by which all WTO Members agree to abide. One of the key provisions is that of the *Most-Favoured-Nation (MFN) Treatment*, which states that there should be no discrimination between service providers from different WTO Member countries. Further, under the GATS, *domestic regulations* must be administered in a reasonable, objective and impartial manner. Qualifications, licensing requirements and technical standards must be based on objective and transparent criteria, and not be more burdensome than necessary to ensure the quality of the service. The *transparency* obligation requires Members to publish all relevant laws and regulations, to notify the WTO of any changes in regulations, and to establish enquiry points within their administration. Foreign companies and governments have access to these enquiry points to obtain information about regulations applying to any service sector.

In addition, each WTO Member has an individual schedule of commitments which specifies, on a sector-by-sector basis, the conditions under which foreigners may supply services in the country. In these schedules, countries have identified *market access* and *national treatment* limitations.

Market Access. In the sectors listed in a Member's schedule of commitments, the Member cannot take measures which are defined in the GATS as restricting market access. Examples of measures which would restrict market access include: quotas, economic needs tests, requirements for certain types of legal entities, and maximum limits on foreign shareholdings.

National Treatment. In the services industries listed in a Member's schedule of commitments, the Member cannot take measures to discriminate between domestic and foreign service providers. In other words, foreign firms must be treated as favourably as domestic firms.

Finally, there are currently over a half-dozen annexes to the GATS, including: the Annex on Article II (MFN) Exceptions, the Annex on the Movement of Natural Persons, and the Annexes on Telecommunications.

The GATS Horizontal Commitments to Consider ...

In addition to the basic framework of rules and the schedules of specific commitments, several countries have made commitments that cover all industries and sectors. These "horizontal" commitments consist of rules that apply to all sectors and cover issues such as commercial presence, investment, real estate transactions, government subsidies and taxation, and the temporary movement of natural persons.

In their horizontal commitments, several countries have specified that the acquisition and control of a domestic business by a foreigner may be subject to: investment ceilings; restrictions as to the type of assets that may be held; local incorporation and presence requirements; and government approval. For example, in Canada, approval is required for all direct acquisitions of Canadian businesses with assets equal to or higher than a monetary amount established annually and published in February of each year in the *Canada Gazette*. In 1999, the threshold was C\$184 million for WTO Members.

Many countries have also identified restrictions on the purchase of real estate and the

acquisition of land. Nationality restrictions and deposit requirements are relatively common. Often, these regulations are established by sub-federal levels of government and, as a result, tend to be extremely complicated. Rather than impose restrictions on domestic real estate regulations, the GATS rules require transparency and access to information about these rules.

To clarify issues related to domestic taxation and access to subsidies, Members provided specific comments in the horizontal section of their schedule. Foreigners may not be eligible for certain subsidies or may, under special circumstances, have to pay a different tax rate. All countries maintain sovereignty over domestic issues of taxation and subsidization.

Generally, the GATS does not prevent a Member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory. In most Members' individual schedules, the movement of natural persons is "unbound," meaning that the country has no obligation concerning access of foreigners under the GATS. However, in their horizontal commitments, many Members allow the temporary entry of intra-corporate transferees (managers, executives and specialists), personnel engaged in the establishment of a business, and service salespersons. Permanent entry is not dealt with in the GATS and remains under the purview of local immigration authorities.

... in Light of the Sector-Specific Commitments

To assess the full extent of trade liberalization, horizontal commitments have to be examined in conjunction with sector-specific commitments. Commitments related to education and training services are identified in the sector-specific section of each Member's schedule. Unless otherwise indicated, Members who listed educational services in their commitments agree to abide by the GATS obligations of national treatment and market access in this sector.

The education services sector has relatively few commitments. As a result of the Uruguay Round and subsequent accessions, 29 WTO Members' schedules contain commitments in at least one sub-sector of education and training services. However, the European Union has a consolidated schedule for its 15 member states. In addition, China (which is not yet a Member of the GATS and, therefore, not legally bound by these commitments) submitted a schedule for commercial education and training services. In total, 44 countries have made commitments under education and training services. Annex B identifies the countries with commitments in the education and training sector.

The number of schedules containing commitments for the different education sub-sectors is relatively constant: 35 for primary education, 36 for secondary education, 35 for higher education and 33 for adult education. The least frequently committed sub-sector is "other education," listed only by 12 countries. The countries that did not make commitments are not constrained by the GATS principles of national treatment and market access. They are also not required to adhere to the obligations related to domestic regulations and transparency in this sector.

Wide-ranging sectoral coverage is more prevalent in the schedules of developed countries and of countries in transition than in those of developing countries. Nevertheless, there are exceptions; two of the most comprehensive schedules are those of two least-developed countries: Sierra Leone and Lesotho.

Table 1 contains an analysis of the level of commitments, which was done by categorizing the commitments as: *full commitment* (no limitation, implying total liberalization); *partial commitment* (commitment made with certain limitations); and *no commitment* (unbound). It analyses the market access commitments for cross-border supply, consumption abroad and commercial presence. The presence of natural persons is not included in the table because it is primarily covered by horizontal commitments.

Table 1

Analysis of Market Access Commitments
for Modes 1, 2, and 3 in Educational Services

Sectors	Number of countries *	Cross-Border Supply			Consumption Abroad			Commercial Presence		
		full	partial	none	full	partial	none	full	partial	none
Primary Education	21	48%	19%	33%	81%	5%	14%	29%	57%	14%
Secondary Education	22	50%	27%	13%	82%	14%	5%	27%	64%	9%
Higher Education	21	76%	14%	10%	86%	5%	10%	33%	57%	10%
Adult Education	19	84%	11%	5%	95%	5%	-	74%	21%	55%
Other Education	12	83%	17%	-	100%	-	-	50%	33%	17%

Notes:

1. Full commitment is indicated by "none" in the market access column of the Schedule, without considering horizontal limitations.
2. Partial commitment is when there are limitations inscribed in the market access column of the Schedule.
3. No commitment is indicated by "unbound" in the market access column of the Schedule.

*EU is counted as one.

Source: WTO Secretariat.

Schedules containing *full commitments* for the first three modes of delivery are most common in relation to the "adult" and "other education" sub-sectors, in which more than half of the schedules are free of limitations. By contrast, full commitments in these modes of supply for primary, secondary and higher education sub-sectors are contained in only one-quarter of the schedules.

Regarding cross-border supply, primary and secondary education have been fully committed in approximately half of the schedules. The corresponding share for "higher education" and "other education" is over three-quarters. The few *partial commitments* for this mode result from the scheduling of sector-specific limitations such as restrictions on the granting of financial assistance for studies abroad, restricting the supply of a service to foreign students in the country, and nationality requirements.

Limitations on consumption abroad of education services are very rare in all sub-sectors. The very few *partial commitments* are due to limitations similar to those on the cross-border supply of education services. As with many other service sectors, Members saw less need - or scope - for restricting individuals from consuming services while visiting foreign countries.

Regarding commercial presence, most of the commitments are *partial*, with the exception of the "adult education" and "other education" sub-sectors. In these areas, three-quarters and half of the schedules, respectively, contain full commitments. The partial or restricted nature of commercial presence commitments is a result of sector-specific as well as horizontal limitations. Examples of measures specific to education are restrictions on financial assistance for studies at non-certified/recognized institutions; targeted foreign student populations; and access to publicly-funded institutions. The horizontal restrictions applying to this sector tend to be authorizations or licensing requirements, restrictions on the form of legal entity allowed, limits on real estate acquisitions, and ceilings on the participation of foreign capital.

Commitments regarding the presence of natural persons are generally covered in the horizontal section. The existing horizontal commitments and restrictions are extended to education services in over 80% of the schedules. The remaining schedules for Haiti, Mali, Rwanda, Trinidad and Tobago, and Turkey commit market access for natural persons with no or few limitations.

And the Implications thereof ...

While the GATS is a government-to-government agreement, it is of direct relevance to firms because it lays down the framework of international rules within which businesses operate around the globe. The GATS establishes a basic set of rules for world trade in services, a clear set of obligations for each Member country, and a legal structure for ensuring that those obligations are observed. This allows firms to identify which markets are open to foreign service providers and to be sure that these markets will remain open in the future.

All Members of the WTO must abide by the GATS. With over 130 Members, the GATS covers over 90% of the global trade in services. Most other major economies have applied to join the GATS, including Russia, Ukraine, China, Taiwan, Vietnam, and Saudi Arabia. Once these countries are admitted, virtually 100% of trade in services will be taking place between countries that have agreed to abide by the GATS rules.

Canada Specifically ...

Canada made no commitment in educational services. Since many educational services in Canada are provided by or with the support of the government, this sector was viewed as being outside the competitive domain. In addition, educational services supplied for public purposes were specifically excluded from Canada's commitments under the North American Free Trade Agreement (NAFTA).

However, in the last few years the education and training industry has undergone dramatic changes and the Canadian market is facing increased competition both internally and from abroad. Therefore, the Canadian government is currently reviewing Canada's trade interests in the commercial education and training sector in order to establish an appropriate position for the upcoming trade negotiations.

VI. PRELIMINARY EXAMINATION OF ISSUES FOR DISCUSSION

Industry Canada is consulting with the private sector, associations, provincial governments and other interested parties to determine the appropriate definition for this sector and to identify any specific sub-sectors that are deemed to be domestically sensitive and deserving of special treatment.

The Changing Nature of the Education and Training Sector ...

The education sector is evolving and changing constantly. New types of training programs and alternative educational regimes have been introduced. In addition, new means of delivering these services are being explored. Distance learning, for example, is growing exponentially as a result of technological developments in information and communication technologies (particularly the emergence of the Internet). These changes alter the nature of existing services and result in the creation of new services.

Changing technology fosters new services and often, it also results in the convergence of existing sectors (e.g. training and management consulting). This convergence makes the classification of services increasingly difficult. The resulting overlap between sectors also tends to complicate trade agreements. However, this issue can only be addressed through an international agreement on the classification of services.

Defining the Sector ...

Since most of Canada's primary and secondary education is provided by the government, these services are considered to be "supplied in the exercise of government authority." Thus, these educational services are not considered commercial education or training services and are not covered by the GATS. In the case of higher education, however, some services may be seen as provided on a commercial basis. While universities are still recognized as public institutions, career colleges (e.g. the Information Technology Institute)

are clearly operating in a commercial environment. We need to clarify what Canadian educational services are considered to be offered on a commercial basis.

- *What services do you consider to be offered solely on a commercial basis?*

The precise nature of Canadian exports and imports of education and training services is also important in determining the definitions used for trade agreements. Statistics Canada estimates that in 1997 Canadian commercial education and training firms earned revenues of \$110 million from exporting their services. However, input is required from education and training providers to develop a better understanding of the types of services transacted internationally by Canadian education and training firms. Once Canada's trade interests have been identified, the government can work to establish the appropriate education and training service sub-sectors to include in trade agreements.

- *What Canadian educational services are currently being traded?*

Market Barriers for Exporters and Importers ...

Barriers to international education and training markets do not primarily consist of regulations developed before the trend toward globalization. Such barriers to trade need to be identified by education and training service providers who are active on the international market. Restrictions may consist of nationality requirements, needs tests, lack of recognition of credentials, limits on investments, etc.

- *What barriers have Canadians encountered internationally?*

Should Commercial Education and Training Services be Included in Canada's Trade Commitments?

There are a number of issues to address when defining the education and training sector if it is to be included in Canada's international trade agreements. The main issue is the public nature of education services. Basic education, principally primary and secondary education, is considered a social entitlement and, as a result, it is provided by (or with support from) public authorities. In Canada, primary and secondary education is provided almost exclusively through provincial departments of education while many higher education institutions, including universities and colleges, receive significant government funding.

Canadian educators and trainers trying to operate on the international market may wish to consider the following questions in providing input to the government.

- *What are your current international activities and how do you reach your international clients?*
- *Have you encountered any problems, restrictions or impediments in traveling abroad to supply your services to foreign clients, in trying to establish offices abroad, in seeking licences to operate in a foreign country, etc.?*
- *Have you encountered any problems resulting from the lack of recognition of certificates or degrees granted by your organization?*
- *Do foreign clients have difficulty entering Canada for training or educational purposes? What are these difficulties (visas, medical examinations, etc.)?*
- *Are you facing increased competitive challenges as a result of internationalization?*
- *Are there certain areas in your sector that you feel should not be included in international agreements? Why?*

Services from International Suppliers

Evidence suggests that there are relatively few impediments for foreigners wishing to provide commercial education and training services in Canada. However, access to specific types of training or education may be restricted. Accreditation as a degree-granting institution and recognition of education or training by employers or professional associations are one specific area deserving consideration.

Canadians trying to obtain education and training services from foreign sources should consider the following questions in providing input to the government.

- *What education or training services have you tried to obtain from foreign providers?*
- *How are these services provided? Does the foreign service supplier have an office in Canada; does the service supplier send someone temporarily to Canada to provide the services; do you travel abroad to obtain the services, or are they provided by telephone, fax, the Internet, etc?*
- *Are there any domestic regulations or rules that make it unnecessarily difficult for you to obtain educational services from foreign suppliers? What are they?*
- *Are there any problems for Canadians who want to access educational or training services in a foreign country? What are they?*
- *Are there any difficulties to accessing training services offered by foreign suppliers via new media (e.g. the Internet)? What are they?*
- *Are there problems concerning the recognition of training obtained abroad? What are they?*

REFERENCES

Much of the information in this document was sourced from the following documents:

Education and Training Services -- Overview and Prospects: A Sector Competitiveness Framework prepared by the Service Industries and Capital Projects Branch of Industry Canada.

Education and Training Services, Part 2 -- Framework for Action: A Sector Competitiveness Framework prepared by the Service Industries and Capital Projects Branch of Industry Canada.

Canada in the Global Context: A statistical overview of the Canadian service economy prepared by the Service Industries and Capital Projects Branch of Industry Canada.

Education Services: A background note prepared by the World Trade Organization Secretariat.

ADDITIONAL INFORMATION SOURCES

About the Commercial Education and Training Industry

Additional information on the consulting commercial education and training industry, or on service industries in general, can be found on the *Strategis* website, under Business Information by Sector, Service Industries and Capital Projects:

<http://strategis.ic.gc.ca>

You can also contact:

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About the GATS

The legal text of the GATS is part of the *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, and can be purchased through any government bookstore. It is publicly available on the WTO website at:

<http://www.wto.org/wto/legal/finalact.htm>

The WTO website also provides additional background material on the structure of the GATS and on recent sectoral negotiations at:

<http://www.wto.org/wto/services/services.htm> .

The European Union also provides a practical examination of the WTO GATS commitments on its website at:

<http://gats-info.eu.int/>

You can also contact:

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More information on the GATS 2000 Agenda

Visit the Canadian government's website on Trade in services at:

<http://services2000.ic.gc.ca>

Other Useful Information Link on the Internet

The United States International Trade Commission (USITC) is an independent, quasi-judicial federal agency that provides objective trade expertise to both the legislative and executive branches of the U.S. government, determines the impact of imports on U.S. industries, and directs actions against certain unfair trade practices, such as patent, trademark, and copyright infringement. USITC analysts and economists investigate and publish reports on U.S. industries and the global trends that affect them.

Its website is <http://www.usitc.gov/>

ANNEX A

DEFINITIONS AND GLOSSARY OF GATS TERMINOLOGY

Bound Commitment -- Commitment that cannot be made more restrictive in the future;

only further liberalization is permitted (unless the agreed penalty is paid).

Commitment-- A measure, usually regarding market access and national treatment, that affects international trade in services. Commitments are listed in national schedules and identify service sectors and modes of supply that are affected.

Education Services -- Most countries use the World Trade Organization's Services Sectoral Classification list to define what is meant by educational services when making commitments in that sector. Education provided by the State is considered to be a service "supplied in the exercise of government authority" and is thus not covered by the GATS.

Educational services, as defined in the GATS, include:

- *Primary education services (CPC 921):* Preschool education services; pre-primary school education services. Such education services are usually provided by nursery schools, kindergartens, or special sections attached to primary schools, and aim primarily at introducing very young children to a school-type environment. Exclusion: Child day-care services are classified in subclass 93321.
- *Other primary education services:* Other primary school education services at the first level. These education services are intended to give students a basic education in various subject matters, and are characterized by a relatively low specialization level. Exclusion: Services related to the provision of literacy programs for adults are classified in subclass 92400 (Adult education services not elsewhere classified).
- *Secondary education services (CPC 922):* General secondary education services; general school education services at the second level, first stage. These education services continue the basic programs taught at the primary level, but usually on a more subject-oriented pattern with some specialization.
- *Higher secondary education services:* General school education services at the second level, second stage. These education services consist of general education programs covering a wide range of subjects involving greater specialization than at the first stage. The programs intend to qualify students either for technical or vocational education or for university without any special subject matter prerequisite.
- *Technical and vocational secondary education services:* Technical and vocational education services below the university level. These education services consist of programs emphasizing subject matter specialization and instruction in both theoretical and practical skills. They usually apply to specific professions.
- *Technical and vocational secondary school-type education services for handicapped students:* Technical and vocational secondary school-type education services specially designed to meet the possibilities and needs of handicapped students below the university level.
- *Higher education services (CPC 923):* Post-secondary, technical and vocational education services; post-secondary, sub-degree technical and vocational education services. These education services cover a large variety of subject matter programs. They emphasize teaching of practical skills, but also involve substantial theoretical background instruction.
- *Other higher education services:* Education services leading to a university degree or equivalent. These education services are provided by universities or specialized professional schools. The programs not only emphasize theoretical instruction, but also research training aimed at preparing students to participation in original works.
- *Adult education (CPC 924):* Adult education services not elsewhere classified; education services for adults who are not in the regular school and university system.

These education services may be provided in day or evening classes by schools or by special institutions for adult education. Included are education services provided through radio or television broadcasting or by correspondence. The programs may cover both general and vocational subjects. Services related to literacy programs for adults are also included. **Exclusion:** Higher education services provided within the regular education system are classified in subclass 92300 (Post-secondary technical and vocational education) or subclass 92390 (Other higher education services).

- *Other education services* (CPC 929): Other education services; education services at the first and second levels in specific subject matters not elsewhere classified, and all other education services that are not definable by level. **Exclusion:** Education services primarily concerned with recreational matters are classified in subclass 9641 (Sporting services). Education services provided by a governess or a tutor employed by a private household are classified in subclass 98000 (private households with employed persons).

Horizontal Commitment -- Commitment that applies to international trade in multiple service sectors. Typically, horizontal commitments constitute limitations on market access or national treatment.

Measure -- A law, regulation, rule, procedure, decision, or administrative action that affects trade in services. Measures may pertain to: (1) the purchase, payment, or use of a service; (2) a service suppliers' access to, and use of, services which are required to be available to the general public; and (3) a service supplier's ability to establish a presence, including a commercial presence, in a host country.

Member Countries -- Those countries who are signatories to the World Trade Organization and thus, the GATS.

Modes of Service Delivery:

- *Cross-border trade in services (Mode 1)* -- Trade takes place from the territory of one Member into that of another without the movement of the service provider, e.g. commercial education and training plans sent by wire or satellite.
- *Consumption Abroad (Mode 2)* -- Services consumed or purchased by nationals of a Member in the territory of another Member where the service is supplied, e.g. tourism, where the consumer travels to another country to consume a service.
- *Commercial presence (Mode 3)* -- Any type of business or professional establishment, including branches and representative offices, e.g. direct investment in the host country.
- *Temporary movement of a natural person (Mode 4)* -- Temporary presence of natural persons in a market for the purposes of supplying services, e.g. professionals, employees of service providers.

Most-favoured Nation Treatment -- A service or service supplier from a WTO Member country must be treated as favourably as a service or service supplier from any other country.

National Treatment -- Foreign services and service providers must be treated no less favourably than their domestic counterparts.

Natural Person -- An individual who is a national or citizen of a country under the law of that country, or in the case of a country which does not have nationals (e.g. territories), an individual who has the right of permanent residence under the law of that country.

Unbound -- Describes a situation where a WTO Member wishes to remain able to

introduce or maintain measures inconsistent with market access and national treatment obligations.

ANNEX B

COUNTRIES WITH GATS COMMITMENTS IN EDUCATION

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

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