

What is GATS and what are the Doha trade negotiations?

The Doha Development agenda is a multi-year round of trade talks aimed at breaking down global barriers to trade, thus permitting free trade amongst countries of varying prosperity. Launched by the World Trade Organisation (WTO) in November 2001, these negotiations have been billed as an opportunity to kick-start the development of third-world countries, lifting millions of people out of poverty.

GATS, or the General Agreement in Trade Services, came into force in January 1995, and is the only set of multilateral rules governing trade in services¹. It sets the framework within which firms and individuals can operate, through an agreement containing general rules and principles backed up by a list of schedules where individual countries make specific commitments on the access to their domestic service markets by foreign suppliers.

The Doha Development Round focused on three sets of sectoral negotiations: GATT (agriculture), TRIPS (intellectual property) and GATS (services).

Why is ESIB interested in this issue?

The definition of services in GATS is extremely broad, and clearly includes educational services as a section. The very scope of the negotiations, involving 140 member countries of the WTO, means that any agreement within this framework cannot but have far-reaching effects on the Higher Education sector as a whole. Thus, a new agreement can potentially drastically alter current concepts of academic autonomy, institutional decision making and national or EU-level higher education policy. Furthermore, the very concept of including educational services as a trade sector, further develops the private Higher Education sector, and removes barriers to the provision of private education, possibly at the expense of public education systems.

What effects could GATS potentially have on education?

The agreement recognises four different modes of supply for services, each of which has a corollary in the Higher Education Sector:

- Cross-border supply: distance learning
- Consumption abroad: travelling abroad to study
- Commercial presence: university branch campuses or partnership agreements
- Presence of natural persons: teachers or professors from abroad

Furthermore, GATS allows for no protection of the public education system, specifically stating that public services are not to be supplied “in competition with one or more or more service suppliers”. Since most HEIs are usually partially funded by revenue from both public and private sectors, it becomes problematic to distinguish what constitutes competition with the private sector. Regulations governing services are also “not to be more burdensome than necessary”, raising questions about the effects the agreement might have on Quality

¹ The agreement covers all internationally traded services, e.g. banking, telecommunication, professional services etc.

Assurance Systems. The body which would decide on these issues is the WTO Dispute Settlement Panel, which, despite never having ruled on a case dealing with education, is notorious for being biased towards an extreme view of deregulation and free trade.

Does ESIB have a position with respect to the GATS negotiations?

ESIB strongly opposes an extension of commitments in the education sector into the GATS treaty, as education is first and foremost an instrument for the growth of welfare and social development of a society. We are committed to increasing possibilities for cross-border education, but stresses that a trade regime is not appropriate to address educational issues. We also stress that educational services should be excluded from the GATS and negotiations on trade in educational services under the GATS discontinued.

ESIB affirms its support for the primary role of UNESCO and UN Human Rights Bodies in the promotion of educational, social, information and cultural rights. ESIB strongly encourages UNESCO to set up a framework to enable and facilitate the provision of cross-border education, as an alternative to the GATS.

Furthermore, the ESIB Board Meeting 49 in Reims, France approved a policy paper on GATS², where we outlined six areas of concern:

- the unclear scope of the negotiations
- the lack of transparency
- the lack of inclusion of stakeholders from the educational sector
- the binding and progressive nature of GATS
- the increase of private investment in higher education
- the effects on quality assurance, recognition and registration

Is ESIB alone in this position?

No. In fact, a variety of organisations including UNESCO, Education International as well as a multitude of students' and teachers' unions throughout the globe have been involved in a campaign to get education out of GATS.

How do the GATS negotiations work?

The negotiations work on the basis of what is known as the request/offer approach. Through this system, countries make bilateral requests by letter directly to other countries. These countries may respond by making offers, usually addressed to a number of countries and including a schedule of specific commitments. Through this negotiating process, countries make offers in exchange for having their requests acknowledged. Requests (and hence offers) may be made for:

- The addition of new sectors (e.g. education) within the schedule of commitments
- The removal of existing limitations or the introduction of bindings in modes which have so far been unbound
- The undertaking of additional commitments (i.e. not related to market access and/or national treatment)
- The termination of MFN³ exemptions

² The policy-paper can be downloaded from www.esib.org/policies/ppgats.htm

By January 2006, 47 countries (the EU is counted as one country), had made a commitment in the education sector. Of these, 36 had agreed to liberalise access to their respective Higher Education sectors.

How has ESIB tried to affect the negotiations?

In its external representation, ESIB has always forwarded the concept of internationalisation of Higher Education as opposed to the concept of trade in Education. Apart from actively lobbying at such events together with our partners, ESIB also helped coordinate a day of action against GATS as well as helped various national unions of students improve their capacity to deal with the issue.

Are there any other factors affecting the negotiations?

GATS negotiations are only a part of the entire Doha Development Agenda, and hence are also dependent on progress within the GATT and TRIPS negotiations. While several countries, especially developed countries have been eager to push for an ambitious result in the GATS segment, this has been made conditional upon progress being achieved in other sectors, most notably in discussions related to agricultural subsidies, which talks have been deadlocked since the beginning of the round.

Furthermore, a number of the countries within the negotiations have been unwilling to make any concessions either due to the fact that they had made extensive allowances in previous negotiations, or that similar allowances had already been conceded within the framework of regional free trade agreements.

Have any new initiatives been launched recently?

While taking stock of the process at a ministerial conference in Hong Kong in December 2005, ministers decided that negotiations on GATS were not on track to achieve the desired “ambitious result”. For this reason, a number of new negotiating methods were proposed. The one which has seen particular implementation so far is the plurilateral negotiations method, whereby a number of countries make a joint request to a country or a number of countries, putting increased pressure on the country on the receiving end to acquiesce to the request. The first round of plurilateral requests was completed at the end of February while a second round of revised offers were scheduled to be made by the end of July.

There has also been significant progress in the negotiations on the rules on ‘domestic regulation’ with the GATS. These rules are intended to ensure that that certain types of regulatory measures taken by governments or delegated authorities are not barriers to trade. Under current proposals, these rules might apply to licensing and accreditation of institutions as well as to quality assurance standards. Several countries are proposing a ‘necessity test’ whereby domestic regulation may not be “more burdensome than necessary to ensure the quality of a service”. However, other countries are expressing strong opposition to the idea of

³ MFN or Most Favoured Nation status means that that the receiving nation will be granted all trade advantages, which a third nation might also receive. All WTO members are required to grant such status to each other, however, it is recognised that exceptions must exist with respect to certain developing countries

the decision of what regulation is 'necessary' nationally essentially becoming a WTO rather than a national competence.

Who are the players involved?

The plurilateral negotiations gave formal recognition to the so-called 'groups of friends' – groups of countries with similar interests in a particular field. New Zealand chairs the 'group of friends of export in education services' which also includes Australia, Chinese Taipei, Malaysia and the United States. This group made a plurilateral request to a group of 21 countries to make commitments under the educational sector.

What is the current state of play?

On the 24th July, Pascal Lamy, director general of the WTO announced that all talks, works and deadlines had been put on hold indefinitely due to a collapse in the talks. The reason reported was the inability of the negotiating partners to agree to cuts in agricultural subsidies, with the largest impasse existing between the European Union and the United States. Without any breakthrough in these talks, there would be no point in continuing, since all the other modalities are dependent on them.

What are the future prospects?

While the negotiations have collapsed, they are not necessarily dead. The only definite deadline on the current round of talks is 2007, when the fast-track negotiating authority granted to the US negotiators by Congress expires, thus effectively taking the US out of the negotiations. However, in the meantime informal contacts will go on between the nations concerned, and if a way to break the impasse is found, talks will resume. Furthermore, should this happen, this would lead to increased pressure for a fast and ambitious result in the other sectors including GATS, where methods such as numerical targets and indicators might be used to get countries to commit swathes of sub-sectors at once. Thus, despite the lull in talks, it is essential to remain vigilant, since should the talks be revived, the pace will be much faster than anything seen to date.

Where can I get more information?

There are several excellent sources of information on the topic available on the internet. Education International publishes a bulletin, TradEducation on the topic, available off their website www.ei-ie.org. Further information can be gleaned from the WTO and UNESCO websites.

We at ESIB are always ready to give you more information or links should you require, by e-mailing coco@esib.org.