



To: Toronto Public Library Board – September 23, 2002

From: City Librarian

Subject: **General Agreement on Trade in Services (GATS) and Public Libraries**

Purpose:

To provide an overview of GATS, identify the potential impact on public libraries, and recommend an appropriate response by the Toronto Public Library Board.

Funding Implications and Impact Statement:

Not applicable.

Recommendation:

It is recommended that the Toronto Public Library Board:

- (1) endorse the Canadian Library Association's (CLA) statement on the World Trade Organization's General Agreement on Trade in Services (GATS) as contained in Resolution 3, passed at the CLA Annual General Meeting held June 22, 2002;
- (2) continue to monitor and support the work of the International Federation of Library Associations and Institutions (IFLA) and CLA with respect to GATS; and
- (3) communicate the Toronto Public Library Board's endorsement of the CLA resolution to Toronto federal Members of Parliament and to the CLA.

Background:

At the Canadian Library Association's Annual General Meeting held June 22, 2002, CLA passed a resolution concerning the potential impact of GATS on public libraries and called upon its members to communicate the concerns about WTO policies to their library boards. This report on GATS has been prepared for the Library Board's consideration.

Comments:

Background to GATS:

Subsequent to the establishment of the World Trade Organisation in 1995, member states decided to formulate a comprehensive set of rules to govern trade in services. The GATS framework is the result. In many respects, GATS is similar to the General Agreement on Tariffs and Trade (GATT), which covers trade in goods. The Canadian federal government has identified the goals of GATS as:

- 1) to ensure that all member states are treated fairly and equitably when trying to access foreign markets; and
- 2) to promote increasing liberalisation of any rules of trade in services which may exist in member states.

Member states sovereign autonomy with regard to the regulation of services is respected by GATS. There are two levels of trade obligations in GATS. The first are General Obligations that apply to all sectors, namely transparency and most-favoured nation (MFN) treatment (i.e. equal treatment, including equally restrictive treatment, of comparable foreign firms). The second are Specific Commitments in individual sectors, namely market access and national treatment (i.e. equal treatment of comparable foreign and domestic firms). As a "bottom-up" agreement, the GATS leaves each country free to choose the sectors in which it will undertake this second level of obligations. To date the Canadian Government has made public the market openings that it is asking member states to make in negotiations. Canada will make public the initial offer it will present to its trading partners in GATS negotiations by April 2003.

The provisions contained within GATS are applicable to all levels of government (federal, provincial and municipal) as well as to other bodies or organisations that have delegated authority. GATS does, however, contain an exclusion clause for services that are "supplied in the exercise of government authority". Such services can be defined as those that are not supplied on a commercial basis or are not in any form of competition with one or more service providers. Any service that meets this definition is exempt from GATS obligations.

The Potential Impact on Libraries:

It would appear that public libraries fall into the category of services that are supplied in the exercise of government authority. It does not necessarily follow that public libraries will not be impacted by GATS. The Canadian Library Association has solicited a legal opinion on the potential impact of GATS on public libraries. The legal opinion is that with the exception of the National Library (which has a unique mandate that falls within the definition of '... exercise of government authority'), other public sector libraries should not be assumed to have the same protection and suggests that public libraries should seek specific exempt status. To date, the Canadian Government has not made any commitments with regard to public libraries. It may be expected that some member states will make Specific Commitments for libraries and that other member states may be pressured to do likewise.

There is a concern that certain functions that public libraries in Canada fulfil, could be regarded as either being supplied on a commercial basis or in competition with service providers that offer the same service. This could potentially place these services under threat. A CLA working group, formed to address the issue of GATS, has identified many functions as areas of possible conflict. Several of these are ones that Toronto Public Library offers:

- fee-based research;
- Internet access for the public;
- computer training for the public;
- ordering and processing of materials;
- professional training;
- circulation of videos;
- document delivery; and
- on-line reference service.

It is with these potential impacts in mind that a number of organisations have passed resolutions on the issue. On June 22, 2002, the Canadian Library Association passed a resolution (Attachment 1) with regard to GATS and public libraries. Their resolution referenced the IFLA Position on the World Trade Organisation approved by the Governing Board on August 25, 2001(Attachment 2). Similarly, ALA at their mid-winter meeting in 2000 passed resolutions regarding GATS and public libraries (Attachment 3).

To support the desire to ensure protection for the broad range of modern public library service, it is recommended that the Toronto Public Library Board endorse the Canadian Library Association's resolution on the World Trade Organisation's General Agreement on Trade in Services as contained in Resolution 3, passed at the Annual General Meeting held June 22, 2002, and that this endorsement be communicated to both the Canadian Library Association and Toronto federal members of Parliament. It is further recommended that the Library continue to monitor and support the work of the International Federation of Library Associations and Institutions (IFLA) and CLA with respect to GATS.

Conclusion:

The potential exists for public libraries to be impacted by GATS agreements especially in those areas which may not be covered by the "... exercise of government authority" clause. The Toronto Public Library Board needs to be aware of these potential impacts and to take steps to ensure that the current level and variety of service it provides to the public continues. The recommendations contained in this document will serve to further strengthen the initiative to protect public libraries.

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City Librarian

List of Attachments:

Attachment 1: CLA Resolution #3 Passed at Annual General Meeting held 22 June 2002

Attachment 2: The IFLA Position on the World Trade Organization (2001)

Attachment 3: ALA Resolution on World Trade Organization Policies Affecting Libraries
Passed at the ALA Mid-Winter Meeting 2000