

**International Federation of Library Associations and Institutions**

**The IFLA Position on the World Trade Organization (2001)**

**Introduction:**

1. The World Trade Organization (WTO), with a growing membership of over 140 countries, oversees a variety of treaties governing international trade. The WTO treaties with the most significant implications for libraries and the information sector are the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
2. Libraries are a public good. They are unique social organizations dedicated to providing the broadest range of information and ideas to the public, regardless of age, religion, physical and mental health, social status, race, gender or language. The long-established library traditions of intellectual freedom and equitable access to information and cultural expression form the basis for ensuring that library goals are achieved.
3. Libraries of all types form an interrelated network, which serves the citizenry, from the great national, state and research institutions to public and school libraries. The well being of libraries is essential in ensuring access to the full range of human expression and providing individuals with the skills necessary to access and use this content.
4. There is growing evidence that WTO decisions, directly or indirectly, may adversely affect the operations and future development of library services, especially in not-for-profit institutions.

**Background:**

5. It is important to recognize that the WTO, and the international trade authorities of its members, are engaged in shaping policy and applications of this policy on an ongoing basis. While the infrequent Ministerial Conferences with their attendant protests are the most visible manifestation of the negotiations, the process is continuous, with decisions often reached without public scrutiny. What makes the WTO unique is that it has a binding dispute mechanism as part of its operations with the strongest enforcement procedures of any international agreement. IFLA urges its members to inform themselves on the WTO and their national trade policy deliberations and to promote the library and related issues when possible. Awareness of international trade issues is a necessary component of effective advocacy in shaping national policy, programmes and law as they relate to library service.

Specific Concerns :

Not-for-Profit Libraries:

6. The GATS Agreement has the potential to open up all aspects of a national economy to foreign competition including public sector services such as libraries. Corporations can be set up in any Member State and compete against public services. In such instances, the foreign corporation can challenge government support for public sector service and could claim national treatment; i.e. the same level of subsidy received from the government by the public sector agency. Sub-Central governments (state/provincial, regional and municipal governments and their management boards) are included in any agreements, which cover the Member State.
7. The GATS Agreement does not apply to "services supplied in the exercise of government authority". Critics have argued that the WTO will interpret this clause very narrowly. The GATS agreement itself states "a service supplied in the exercise of government authority means any service, which is supplied neither on a commercial basis, nor in competition with one or more service providers". With the advent of for profit on-line content providers targeting individual users of education services and public libraries, the potential for GATS challenges to traditional library service is increasing. While the concept of allowing "competition" appears benign, the eventual outcome of such challenges will be the undermining of the tax-supported status of public sector libraries at the national, regional and local levels. Without tax support, the library's role as a democratic institution, making available the widest range of material reflecting the diversity of society, will be compromised.
8. In their submissions to the GATS negotiations, individual countries make commitments on service sectors which would then be subject to GATS requirements. At the commencement of the second round of GATS negotiations in 2001, thirteen members had made a commitment to open negotiations on "libraries, archives, museums and other cultural services."<sup>1</sup> Given that specific library services will fall under other GATS categories such as communications ("on-line information and data retrieval; electronic data interchange"), even if they have not listed library service, it is probable that many more countries will be entering into GATS negotiations, which will directly affect libraries.
9. IFLA encourages its members to promote awareness of library values and concerns in the context of GATS to the trade negotiators in their country. The potentially far-reaching implications of trade liberalization in services for not-for-profit libraries should be openly debated. Negotiators should be strongly encouraged to ensure that government support for traditional library service is not exposed to a GATS challenge.

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<sup>1</sup> Bolivia, Central African Republic, Ecuador, Gambia, Guinea-Bissau, Hong Kong, Iceland, Japan, New Caledonia, Sierra Leone, Singapore, USA, Venezuela

### Intellectual Property:

10. The TRIPS Agreement applies the enforcement apparatus of the WTO to the Bern and other conventions established under the World Intellectual Property Organization (WIPO). TRIPS has the potential to directly and indirectly shape national copyright policy and law. In one instance to date, a WTO dispute panel has found a permitted use in a national copyright law in violation of international trade treaty commitments. Ranging from fair use and similar fair practices to preservation copying by libraries permitted uses lay out the rights of users of copyrighted content. There is little assurance that the balance between the public interest and rights of content owners sought in national copyright policy debate will be considered by the WTO in any intellectual property disputes which come before it. WTO dispute panels are "likely to resolve competing claims to intellectual property with little regard for the non-commercial values upon which a reasonable balance of private rights and public interest depends."<sup>2</sup>
11. The regulatory weight of the WTO has the potential to have a chilling effect on the development of national copyright law by providing those advocating fewer permitted uses and extended protection a "trump card" to derail advocacy efforts on behalf of users. IFLA urges its members to work to ensure that the interests of libraries and library users are not marginalized through the application of the WTO regime to domestic copyright legislation.

### Cultural Diversity:

12. Publicly funded libraries are part of the cultural sector. They are involved in encouraging the development and promotion of cultural works, particularly literature, and the preservation and dissemination of those works. Libraries should be part of protections proposed for culture and should support and be part of any possible separate treaty which allows special consideration for cultural goods and services in international trade.
13. IFLA will work with national and international cultural groups to create alliances for achieving recognition and protection for the development of regional and domestic cultural products. The objective of such an alliance is the creation of cultural diversity and the encouragement of multiple voices rather than homogenized and globalized cultural works, which dominate by virtue of financial or corporate strength.
14. While supporting the right of WTO Member States to promote and nurture national culture, IFLA opposes any obstacles to the free flow across international borders of legally produced information and cultural content normally collected or distributed by libraries. IFLA opposes tariffs or other duties or taxes on the importation of print on paper or digital content. Such measures have the potential to stifle intellectual freedom.

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<sup>2</sup> Steven Shrybman, *Information, Commodification and the World Trade Organization*, IFLA Jerusalem Conference, Aug. 2000

Conclusion:

15. As an active international alliance of library and information associations, libraries and information services, and concerned individuals, IFLA is strategically positioned to advocate at the WTO on behalf of libraries and information services and to ensure that its members are informed in order to be able to advocate effectively at the national level.
16. In order to ensure a strong public sector, IFLA and its members will continue to build links and work with library and information, archive, museum, education and other organizations in furthering awareness of the implications of international trade treaties for the public sector.

**Approved by the Governing Board of IFLA, at its meeting in Boston, USA 25th August 2001.**

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