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Notes for an Update on libraries and International trade treaties

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BROAD CONTEXT

In the fall of 2001, prior to the Doha WTO Ministerial, the world was largely united against terrorism, and there was a broad consensus on the invasion of Afghanistan. This general international unity was a significant contributor to the forward momentum emerging from the Ministerial reflected in the Doha declaration.

In the summer of 2003, with the Cancun Ministerial scheduled for September, there is little consensus or unity evident. The world is divided over the invasion of Iraq. Since Doha, stock markets have suffered severe declines. The United States is increasingly impatient with, and ambivalent towards the WTO, a situation exacerbated by recent trade panel rulings, such as the ruling that the NAFTA mandated tariff practice on steel was contrary to WTO requirements.

There is increased entrenchment over agricultural subsidies, intensified by the Bush budget's dramatic increases for US farmers.

The impasse over drug patents and the availability and affordability of life-saving drugs in development countries could be a deal breaker even before the Cancun meetings. The insistence of the US government and the large pharmaceutical companies that patent protection under TRIPS only be loosened when countries face a public health

crisis is likely to lead to significant and continuing resentment especially from African countries. It appears that concessions under consideration are limited to drugs which treat HIV-AIDS, malaria and TB.

It is conceivable that GATS, which has proceeded into the request-offer phase, offers the only realistic hope in the near term (3 years?) for WTO successes.

It is my understanding that IFLA and the major national and regional library associations will not be attending the Cancun Ministerial.

GATS

The General Agreement on Trade in Services (GATS) and Trade Related Aspects of Intellectual Property (TRIPS) are the two WTO agreements which have the greatest potential to harm public sector libraries.

Kjell Nilsson will describe the EBLIDA/IFLA delegation to the WTO in December to discuss GATS and libraries – the first formal discussion with WTO officials on GATS and libraries.

In general terms, it appears that the current round of GATS negotiations will not directly impact libraries (a possible, and significant exception, is libraries which operate in education institutions). It must be remembered that GATS is an incremental and ongoing process, and the fact that libraries are not currently a focus of discussions does not mean that this will change in the medium and long term.

Trade officials generally have little appreciation of the diversity of service offered by today's libraries, and we may well get caught up in commitments in diverse areas, such as on-line databases and education.

The treaty language cited frequently as protecting us (services offered in the exercise of government authority and not in competition with one or more service providers) was described by a Canadian trade official as undefined, ambiguous and contentious. Current assertions that libraries have little to worry about should be viewed with healthy skepticism.

A recent Canadian example, while relating to a NAFTA challenge, illustrates how libraries can get caught up in seemingly unrelated trade disputes:-

In the United Parcel Service/Canada Post NAFTA Chapter II case, UPS challenged Canadian Government postal subsidies, such as The Library Book Rate and Blind Post (preferential postal rates for inter-library loans and alternative formats) as unfair because Canada Post had to be used as the shipper.

INCREASING IMPORTANCE OF BILATERAL AND REGIONAL AGREEMENTS

The United States is aggressively pursuing bilateral agreements (recently signed with Chile and Singapore, and currently being fast-tracked with Australia), which contain very significant intellectual property language. The ongoing Free Trade of the Americas negotiations are also focusing on very significant copyright related issues.

The US is using such negotiations to aggressively push copyright term extension to life + 70, and prohibitions on by-passing technological protection measures.

Libraries vigorously debating national copyright legislation are in danger of finding domestic consensus brushed aside by trade treaty obligations.

SUMMARY

There are hopeful signs. In my update on trade treaties at last year's IFLA Conference, I talked about the International Network for Cultural Diversity (INCD), and the work it was going to advocate for the protection of culture against the single-minded focus of the WTO to eliminate trade barriers with limited concern for the public good. The INCD has now published its "Proposed Convention on Cultural Diversity", which specifically cites libraries:-

In recognition of the vital role that governments have to play in providing cultural goods and services, each Party may, in accordance with its particular conditions and capabilities, establish institutions, such as museums, theatres and libraries; language and/or heritage programs which it considers necessary to achieve the objectives and purposes of this Convention .

(The full Convention text is available at www.incd.net).

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Librarians must engage in the international debate on international trade treaties to ensure that government support for public agencies is not undermined, and that governments retain the right to establish and enact laws and regulations which further public policy objectives. Failure to do so will result in what J.K. Galbraith referred to as "private affluence existing alongside public squalor".

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