



REPORT TO COUNCIL

TO: Richmond City Council **DATE:** January 18th, 2001
FROM: Mayor Greg Halsey-Brandt, Chair **FILE:** 4150-01
General Purposes Committee
**RE: COUNCIL RESOLUTION ON THE WORLD TRADE ORGANIZATION'S
GENERAL AGREEMENT IN TRADE AND SERVICES**

The General Purposes Committee, at its meeting held on Monday, January 15th, 2001, considered the attached report, and recommends as follows:

COMMITTEE RECOMMENDATION

- (1) ***That the position of the City of Vancouver regarding the General Agreement on Trade in Services (GATS), be endorsed, on the understanding that the matters of public health care, education, social services and government procurement would be included in the negotiations.***
- (2) ***That the Mayor on behalf of Council write to:***
 - (a) ***the FCM and the Minister of International Trade, outlining Richmond's position on the G.A.T.S.;***
 - (b) ***The two Richmond MP's, to request them to pursue the exclusion of local government services and procurement from the W.T.O. negotiations on the G.A.T.S.;***
 - (c) ***The Director of the Services Trade Policy Division to request clarification of Canada's position regarding the procurement and delivery of local government services.***
- (3) ***That a copy of this report be forwarded to the Council of Canadians Richmond Chapter, the Richmond Ten Days to Global Justice Committee, Cities of Vancouver and Burnaby and the U.B.C.M.***

Mayor Greg Halsey-Brandt, Chair
General Purposes Committee

Attach.

VARIANCE

Please note that staff recommended the following for Part 1:

That the position of the City of Vancouver regarding the General Agreement on Trade in Services (GATS), be endorsed.

STAFF REPORT

ORIGIN

At a meeting held on May 23rd 2000, City Council received a resolution from a delegation which consisted of Stan Robertshaw of the Council of Canadians, Richmond Chapter and Orval Chapman of the Richmond Ten Days to Global Justice Committee. Their proposed resolution and covering letter is attached (Attachment "A").

ANALYSIS

In undertaking a review of the request it has become apparent that municipalities throughout the province and across the country are dealing with similar issues. The concerns raised by local governments in general center around two key issues.

1. The lack of consultation by the federal government with Canadian municipalities during the negotiating process with the World Trade Organization (W.T.O.); and
2. The inclusions of public health care, education, social services and government procurement in the negotiations.

Council may recall a similar initiative to the present General Agreement on Trade in Services (G.A.T.S.) entitled the "Multilateral Agreement on Investment" (M.A.I.) that was addressed by Council in 1998. A copy of the resolution of May 25, 1998 dealing with the M.A.I. is attached. (Attachment "B"). Several participants in the negotiations, and in particular France, refused to sign the M.A.I. and therefore it never came to fruition. The G.A.T.S., put forward by the World Trade Organization, is a very similar initiative.

In September of 2000 the Mayor attended a symposium on Trade in Services sponsored by the B.C. Ministry of Employment and Investment. It was evident from the remarks of Mr. Hamid Mamdouh, Senior Counsellor, WTO Secretariat, that the G.A.T.S. covers all government levels and if the Federal Government commits to an open market sector, then the provinces and municipalities are likewise committed. If the provinces or municipalities do not agree and have constitutional authority over this sector, then the Federal Government may have to compensate the foreign investor for not being able to enter the marketplace.

At the symposium, representatives of the Canadian Government, Susan Harper, Director, and David Usher, Deputy Director, Services Trade Policy Division, Federal Department of Foreign Affairs and International Trade, briefed the delegates on the process and Canadian position. Public health and public education are to be protected. An initial Canadian negotiating proposal is expected by March 2001. It was again made clear that local governments must fulfil obligations entered into by the Federal Government or compensation should be expected to W.T.O. members if violations occurred. The Federal Government must clearly exempt local government services from the provisions of the G.A.T.S.

At the Union of British Columbia Municipalities convention in Victoria in October 2000 a resolution addressing the World Trade Organization – Agreement on Trade in Services and Agreement of Government Procurement was debated. The endorsed resolution (Attachment "C"), was referred to the Province and to the F.C.M.

On May 2, 2000, the City of Vancouver approved the following motion regarding the World Trade Organization. It is a comprehensive position that captures the spirit of the resolution proposed by the Council of Canadians Richmond Chapter and the Richmond Ten Days to Global Justice Committee. In fact, the City of Burnaby endorsed the Vancouver resolution at their meeting of July 10, 2000. The resolution was endorsed as follows:

WHEREAS, THE RECENT World Trade Organization (WTO) meetings in Seattle to initiate "The Millennium Round" brought public attention to the importance of trade issues to the quality of life people experience in their local community. While the meetings did not reach agreement on an agenda for the next round of WTO trade talks, discussions on the General Agreement on Trade in Services (GATS) will take place over the next three years as part of the "Built-in agenda" agreed to at the founding of the WTO in 1995. Discussions on this Agreement may result in the inclusion of many of the features of the now defunct "Multilateral Agreement on Investment (MAI), opposed by Vancouver City Council by resolution on April 28, 1998;

AND WHEREAS, the proposed changes to GATS are of concern to local governments as they could affect existing jurisdiction and authorities, and also could result in significant administrative burdens and costs;

AND WHEREAS, the current GATS is a "bottom-up" agreement (each affected sector, such as Construction services, is identified), but proposed changes to the agreement's structure (to a possible "top-down" or "horizontal" structure) would expand the Agreement's application;

AND WHEREAS, the Federal Government has neither alerted nor consulted local governments regarding these issues, and as a result, citizens and taxpayers of Canadian municipalities have had little access to information and informed debate on proposed changes to GATS;

THEREFORE BE IT RESOLVED

- 1) *That City Council urge the Government of Canada to consult widely and in depth with the people of Canada, especially and including municipal councils, before taking any further action on the GATS;*
- 2) *THAT the City of Vancouver, while recognizing trade can have beneficial impacts on our region, urge the Prime Minister to have Canada file a permanent and explicit exemption in the GATS limiting application to areas of Federal jurisdiction to ensure sub-national jurisdictions maintain local flexibility and control over delivery of public services;*
- 3) *THAT the Government of British Columbia convene the Legislative Committee to hold public hearings on the impact of the WTO/GATS agenda on British Columbia municipalities, including an invitation to the Federal WTO/GATS negotiator, to provide background information and answer pertinent questions;*
- 4) *THAT the Government of British Columbia establish a Trade Advisory Committee for stakeholders for ongoing consultation on international trade issues;*

- 5) *THAT the Federation of Canadian Municipalities (FCM) be urged to dedicate staff to monitoring WTO discussions and alert Canadian municipalities of any encroachment on their jurisdictions;*
- 6) *THAT the City of Vancouver Council state their support for the UBCM letter to the Honourable Minister Pettigrew, Dated December 16, 999 ("Trade Negotiations and the Impacts on Local Governments in Canada" – attached);*

AND BE IT FURTHER RESOLVED THAT a copy of this motion be:

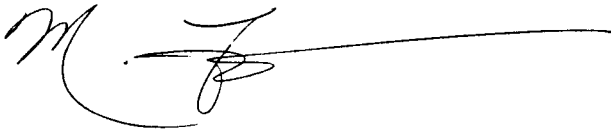
- i) circulated to Members of Parliament representing areas within the Greater Vancouver Regional District, with the request that they endorse the City's action;*
- ii) forwarded to Lower Mainland municipalities for their support;*
- iii) made available to the public;*
- iv) forwarded to the Federation of Canadian Municipalities Executive for endorsement; and*
- v) forwarded to the UBCM Executive for their information*

FINANCIAL IMPACT

No additional financial implications.

CONCLUSION

It is recommended that Council endorse the above noted City of Vancouver resolution to further urge the federal government to consult widely and in depth with the people of Canada, especially and including municipal councils, before taking any further action on the WTO General Agreement for Trade in Services (G.A.T.S.).



Marcia Freeman
Manager, Business Liaison & Development

MF:mf

To:
His Worship Mr. Greg Halsey-Brandt
Mayor of the City of Richmond

COC RICHMOND CHAPTER
18-8640 BENNETT RD.
RICHMOND, B.C. V6Y 3T9
TEL. 278-2215
MAYOR

From: Stan Robertshaw and Orval Chapman
Council of Canadians Richmond Ten Days
Richmond Chapter for Global Justice Committee

Dear Mr. Halsey-Brandt,

For most Canadians the World Trade Organization remains an obscure institution shrouded in the mystique of international economic diplomacy. Yet since its creation in the Uruguay Round of negotiations of the General Agreement on Tariffs and Trade in 1995 the WTO has emerged as an enormous impediment to the goals of environmental protection, resource conservation, food safety and many other non-commercial societal goals. European and Japanese food safety measures, US clean air regulations and marine mammal conservation laws, aid and development treaties between Europe and impoverished former colonies, and Canadian cultural programmes are only a few examples of the massive power of the WTO to destroy domestic legislation, policies and programmes created by governments of nation states.

The WTO itself has identified many areas under the jurisdiction of municipal government such as zoning of land, building permits, municipal licensing, building safety codes and fire regulations and operating hours of retail businesses, to name just a few, that have the potential to be "barriers to trade". Local government regulations could be challenged and struck down at the World Trade Organization even if they only "incidentally" (in the WTO's own terminology) negatively affect trade. Less than a year ago a senior economist with the WTO Services Division, Rolf Adlung, delivered a paper on trade in services in which he stated that commitments made by federal governments through agreements at the WTO can "be considered an instrument of federal policy surveillance and enforcement over sub-national entities" (meaning municipal and provincial governments).

The greatest level of democratic accountability and control is at the municipal and provincial levels. The public is better able to interact with local government to ensure that their needs are better served and more immediately responded to than at the federal level which in many cases is hundreds and even thousands of miles away. One of the fundamental purposes of the agreements of the WTO is to "move" power, democratic power, away from the local level and concentrate it into the hands of the very powerful at the international level where a level of democracy does not exist that enables ordinary citizens or even elected members of sub-national governments to exercise any effective level of control or accountability.

Two existing agreements of the WTO in particular that are presently being reviewed and negotiated are the Agreement on Government Procurement (the AGP)

and the General Agreement on Trade in Services (the GATS) that have the potential to restrict the power and decision making ability of municipal councils. Initially when the AGP was created at the WTO conformity to it by sub-national governments was on a volunteer basis, the federal government is taking that option away from sub-national governments through the current review of the agreement. It is negotiating to stop municipal governments from giving preferences to local contractors or local businesses. Even if a local government does not give preference to local businesses it none the less could be found in violation because its interpretation of the agreement is different from a WTO international arbitration panel set up to decide whether a violation has occurred. The local government is not permitted to represent itself at such a hearing, only the federal government is permitted to be represented. Municipal governments would be forced to retain legal representation in the area of international agreements in order to be confident whether its procurement practices and procedures were not in violation of the conditions of the AGP and other agreements at the WTO.

Yet another aspect of the AGP would be that municipal governments would be required to publish all notices of proposed procurement along with its procurement procedures and practices and report and explain their decisions to WTO headquarters in Geneva, Switzerland. By its actions to initiate these agreements at the WTO the federal government is exposing decisions made by municipal councils to come under the scrutiny and control of an international organization that wields enormous power that is unconcerned about the well being of the constituents of those municipal councils. This process places even more of a financial burden on a municipality to cover the cost of legal representation in the arena of international agreements and trade. When belt tightening and cost saving is called for by a municipality this legal representation would be one of the first items dropped and the municipality would instead simply take direction entirely from Geneva. The very principle of representative and responsive local government would be grossly diminished.

The General Agreement on Trade and Services (GATS) sets rules for trade and investment in all services such as construction, retail, sewer and water, recreation and culture, architecture and engineering, advertising and many other sectors that fall either partly or wholly under local government jurisdiction. WTO officials have described this agreement as having "an extremely wide scope of application". WTO staff have identified specific areas to be dealt with through negotiation to conform to the rules of the WTO agreements, areas such as municipal controls on land uses and zoning, urban planning, building regulations and technical requirements, building permits and inspection, registrations and licensing, environmental regulations, municipal restrictions on large-scale retail outlets such as operating hours and what products it can and can not sell, planning laws that affect retail malls, urban planning restrictions on locations of waste disposal sites.

The GATS agreement also covers subsidies, so in areas where sub-national governments seek performance requirements such as local residency, ownership or management of a service as a condition of receiving a contract, grant or subsidy the local government could not make such stipulations. Very onerous indeed in this area is the prospect that national treatment rules of these agreements apply to a municipality, meaning that any support given to local service providers by the City of Richmond

could be challenged by a foreign based service provider merely because the local service providers are local. A private foreign based service provider could challenge these local providers in order to completely privatize that service. Services such as CHIMO, Richmond Womens Resource Centre, Richmond Family Place and other volunteer organizations that provide services could see their funding in jeopardy because the City of Richmond would have to create a level playing field for private providers of the same type of service and the volunteer organization. It would be compelled to provide the same level of funding from municipal coffers to the private for profit provider as it gives to the volunteer organization providing the same type of service.

In light of the concerns that we have briefly outlined above the Council of Canadians Richmond Chapter and the Ten Days for Global Justice Committee of Richmond would like to appear at the meeting of Richmond City Council on Tuesday May 23 to ask council members to consider passing the following resolutions regarding the World Trade Organization:

Whereas the federal government is reviewing and arcanelly negotiating through the World Trade Organization to sign a General Agreement on Trade in Services and an Agreement on Government Procurement; and

Whereas these agreements have the potential to limit the ability and autonomy of municipal and provincial governments to develop and implement social and economic policies, programmes and legislation; and

Whereas municipal and provincial governments would be bound by the terms of any new WTO agreement covering services and government procurement, yet neither they nor their constituents have been party to the negotiations; and

Whereas the World Trade Organization is undemocratic, non-transparent and unaccountable and is moving to restrict the abilities and rights of municipal and provincial governments to govern;

Therefore be it resolved:

- (1) That the City of Richmond request that the federal government confine the application of future international agreements and treaties it negotiates at the World Trade Organization to federal jurisdiction thereby having no application to provincial jurisdiction, including municipal government matters; and*
- (2) That the City of Richmond endorse the position of the Federation of Canadian Municipalities and immediately request that the federal government refuse to participate in any World Trade Organization negotiations that include public health care, education, social services, and government procurement; and*
- (3) That the City of Richmond forward its concerns regarding the potential impact on its decision making ability of these WTO agreements to the Government of British Columbia requesting that the Government of BC assess the potential implications of the General Agreement on Trade in Services and the Government Agreement on Procurement and other agreements of the WTO that could affect the ability of municipalities to make decisions on behalf of their constituents; and*
- (4) That the City of Richmond urge the Government of Canada to consult widely and in depth with the people of Canada, especially and including the soliciting of detailed responses from municipal councils, before taking further action on the General Agreement on Trade in Services and Agreement on Government Procurement at the WTO; and*

(5)

That a copy of this motion be circulated to the Members of Parliament representing the City of Richmond with the request that they endorse the City's action and that their responses as to whether or not they endorse Council's action be:

- (i) forwarded to the Federation of Canadian Municipalities' annual meeting; and*
- (ii) be made available to the public.*

Yours truly,

Stan Robertshaw
Orval Chapman



MINUTES
REGULAR COUNCIL MEETING

MONDAY, MAY 25TH, 1998

RES. NO. ITEM

16.

R98/10-35 32. It was MOVED and SECONDED
 That Committee rise and report (9:18 p.m.).

CARRIED

RATIFICATION OF COMMITTEE ACTION

R98/10-36 It was MOVED and SECONDED
 *That Council ratify the action of the Committee of the Whole
in directing that:*

- (1) *Whereas the Government of Canada is in the process of negotiating the Multilateral Agreement on Investment (MAI) with the 29 countries of the Organization for Economic Cooperation and Development (OECD) with the intention of completing a signed agreement by September, 1998;*

- (2) *And Whereas the citizens of the City of Richmond have had little access to information and informed debate on the Multilateral Agreement on Investment, and its implications at the Federal, Provincial, and local levels;*

- (3) *And Whereas there are potential negative impacts of a Multilateral Agreement on Investment on the lives and livelihoods of the residents of the City of Richmond, especially small businesses;*

- (4) *And Whereas the MAI treaty, as drafted, would stop municipalities from limiting the use of property by international investors, which could have the effect of restricting Council's right to set planning bylaws;*

- (5) *And Whereas the MAI treaty, as drafted, restricts the ability of Council to enact bylaws and make decisions in the public interest inasmuch as it subjects Council's decisions and actions to a wider definition of expropriation which exposes the City of Richmond to the potential claim for compensation from international investors that would not be available under Canadian law at present.*



MINUTES
REGULAR COUNCIL MEETING

MONDAY, MAY 25TH, 1998

RES. NO. ITEM

17.

Therefore, Be It Resolved:

- (1) *That the City of Richmond urge the Government of Canada to consult widely and in depth with the people of Canada, especially and including the soliciting of detailed responses from municipal councils, before taking further action on the Multilateral Agreement on Investment;*
- (2) *That the Government of Canada be advised that the City of Richmond is opposed to the Multilateral Agreement on Investment and requests that further negotiations cease and desist immediately;*
- (3) *That the City of Richmond endorse the position taken by the Federation of Canadian Municipalities that the Prime Minister of Canada be petitioned to have the chief negotiator of the Multilateral Agreement on Investment file a permanent and explicit exemption of the agreement limiting the application of the agreement to areas of Federal jurisdiction; and*
- (4) *That a copy of this motion be circulated to the Members of Parliament representing the City of Richmond with the request that they endorse the City's action and that their responses as to whether or not they endorse Council's action be:*
 - (i) *forwarded to the Federation of Canadian Municipalities' annual meeting, and*
 - (ii) *be made available to the public.*

CARRIED

BYLAWS FOR ADOPTION

R98/10-37

It was MOVED and SECONDED
That the following Bylaws be adopted:

Approved resolution from 2000 UBCM Convention

A14 WORLD TRADE ORGANIZATION - AGREEMENT ON TRADE IN SERVICES (GATS) AND AGREEMENT ON GOVERNMENT PROCUREMENT (AGP)

WHEREAS Article I of the GATS agreement includes local governments under the scope of the Agreement, which contrasts with the provisions of the NAFTA agreement which explicitly exclude local governments from coverage;

AND WHEREAS the federal government is currently formulating its negotiating strategy for making commitments in certain economic sectors under the GATS which could affect local governments' jurisdiction in decision making with respect to its services and which could result in significant administrative burdens and costs;

AND WHEREAS the federal government has also been discussing including sub-national governments, including provincial and local governments, under the provisions of the Agreement on Government Procurement;

THEREFORE BE IT RESOLVED THAT UBCM:

1. urge the federal government to consult with all Canadians, and especially local government jurisdictions, much more widely and comprehensively than it has in the past, and to do so much earlier in the process prior to contemplating any Canadian negotiating positions with respect to international trade agreements of all kinds;
2. while recognizing that trade can have beneficial impacts on local economies, recommends strongly to the federal government that it bring forward a proposal to the WTO to exclude "local governments and authorities" from the definition of a "measure" under Article I of the GATS agreement, and further that Canada work actively to seek support for this amendment from the other WTO members;
3. request the federal government to not include sub-national governments in Canada under the requirements of the Agreement on Government Procurement; and
4. urge the Federation of Canadian Municipalities to continue to dedicate staff to closely monitoring WTO discussions and the activities of the federal government in this regard, and also to alert Canadian local governments of any potential encroachments on their jurisdiction and authority resulting from trade agreements.