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## Cross-Border Education as Trade: Issues for Consultation, Policy Review and Research\*

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### Abstract

This paper provides background information and an analytical framework to study the implications of cross-border provision of higher education in Africa—especially in the context of an increased emphasis on commercial provision and the existence of the General Agreement on Trade in Services (GATS). The major principles related to GATS rules for trade in education services are addressed and a summary of GATS commitments made by African countries to higher education is provided. A discussion of rationales and risks associated to the commercial import and export of education leads to an examination of potential policy implications related to increased cross-border mobility of higher education institutions/providers, programmes and student/scholars. Finally, key questions and issues are identified upon which education leaders and stakeholders may reflect for their relevance to the African context and the need for further research, policy review and consultation.

### Résumé

Cette communication présente des éléments de références, ainsi qu'un cadre analytique permettant d'étudier les effets du phénomène de l'enseignement supérieur transfrontalier en Afrique, particulièrement dans le cadre d'un renforcement du caractère commercial de ce phénomène et de la mise en place du GATS (AGCS : Accord général sur le commerce des services). Les principes majeurs concernant les règles du GATS relatives au commerce en matière de services d'éducation sont mentionnés, ainsi qu'un résumé des engagements relatifs à cet accord, manifestés

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\* This paper is abridged from a report prepared for the African Association of Universities Workshop on GATS and Higher Education (May 2004) and includes information from papers written by the author for the Observatory of Borderless Higher Education and for UNESCO.

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par les pays africains par rapport à l'enseignement supérieur. Une présentation des arguments et risques associés à l'import/export commercial de services d'éducation nous amène à examiner les éventuelles implications en matière de politique publique, liées à l'accroissement de la mobilité transfrontalière des institutions / spécialistes de l'enseignement supérieur, des programmes, et des étudiants / universitaires. Enfin, des questions clés sont identifiées. Les dirigeants du secteur de l'éducation, ainsi que les parties prenantes dans ce domaine pourraient mener une réflexion pour déterminer si ces questions sont vraiment adaptées au contexte africain, mais également pour déterminer les éventuels besoins en recherche approfondie, en réforme de politique publique et en consultation.

### Introduction

While academic mobility and education exchange across borders has long been a central feature of higher education, it is only during that last ten to fifteen years that education has been thought of as a commodity or service to be traded on a commercial basis across borders. And it is only in the last several years that trade agreements have clearly identified education provision as a lucrative trade sector. Thus, at the beginning of the 21st century, international educators need to become more aware of the new opportunities, as well as potential risks, that trade liberalisation can bring to higher education and, in particular, the international dimension.

The education sector has become increasingly aware and involved in thinking about GATS. Stakeholder groups are talking about risks, benefits and potential new opportunities, actively speculating on different countries' negotiating positions for increased liberalisation of trade in education services. In short, GATS is beginning to appear on the education agenda. Further evidence of this presence is that the commercialisation and trade of higher education is identified as a critical issue by the Association of African Universities (Sawyer 2002) and that it was the theme of a pan-African workshop on the implications of the World Trade Organisation (WTO) and General Agreement on Trade in Services for higher education convened by the African Association of Universities (AAU) in April 2004 (see <http://www.aau.org/wto-gats/>).

At the same time, many trade experts and educators note that the international mobility of students, teachers, education, and training programmes has been happening for a very long time. They therefore question why there is such a current interest in the prospect of expanding the import/export of education services. The answer partially lies in the fact that, while cross-border education is an important aspect of the internationalisation of higher education, it has not been subject to international trade rules and, until recently, has not really been described as commercial trade. GATS, which clearly identifies

education as a service sector to be liberalised, is relatively new territory for the education sector. This is why the debate within national and international education communities is necessary and welcomed. However, the discussions need to move from speculation towards informed analysis. The introduction of GATS serves as the catalyst for the education sector, first, to examine how trade rules may or may not influence higher education policy; and second, to determine whether the necessary national, regional and international education frameworks are in place to deal with the implications of increased cross-border education, including commercial trade.

### Terminology

A few comments about the use and meaning of terms used in this paper may help to provide some context. When terms from the trade sector migrate to the education sector and vice versa, there is fertile ground for confusion and misunderstanding. This is to be expected. Therefore, it is important to lay out how the principal concepts are interpreted and used by these two sectors. Three common terms used by the education sector to describe the international nature of education are ‘internationalisation,’ ‘cross-border education’ and, more recently, ‘trade in education.’ There is a hierarchy to these terms, with ‘internationalisation of education’ being the most comprehensive, ‘cross-border education’ being one component of internationalisation and then ‘trade in education’ being used to characterise some, but not all, cross-border activities (Knight 2004b).

‘Cross-border education’ is a term that educators are using to capture a wide range of education activities that are part of international academic linkages and agreements, international development/aid projects and international commercial trade initiatives. Therefore, educators usually interpret ‘trade in education services’ as a subset of cross-border education; for the most part, it is described as those activities which have a commercial or for-profit nature or purpose to them (Knight 2003a). This interpretation is much narrower than that used by economists or the trade sector. From their perspective, even if a cross-border education activity is seen to be non-commercial in purpose—for instance the exchange of students or professors for a semester—there is still export value in a country’s balance of payments from accommodation, living expenses, and travel; therefore, there are commercial implications (Larsen and Vincent-Lancrin 2002).

It is not an easy task to have a clear and shared interpretation of what ‘trade in education services’ really means across the two sectors. It may be dangerous to oversimplify how the different sectors perceive and use the term ‘trade in education services’, but the clear message is that more effort is needed to

help the two sectors understand the different approaches to using and defining the term. It is equally important to have clarity and assurance as to which international cross-border education activities would fall under the purview of international/regional trade agreements and be labelled as trade. As will be noted later, there is ambiguity in GATS on this point.

### **Assumptions**

This article is based on a number of assumptions. First, this paper is written from an educator's point of view, not from an economic or trade perspective. Second, it emphasises an international approach, meaning that implications for the higher education sector in both developed and developing countries are noted. It does not focus exclusively on the situation in Africa. Instead it raises questions for African education leaders, experts and policy makers to address.

Third, it recognises that trade issues are closely related to the larger issues of commercialisation and commodification of cross-border education. More attention is given to the delivery of education/training courses and programmes across borders than to the movement of students to study in foreign countries. The intention is to take a balanced approach in discussing the risks, benefits, opportunities, and challenges involved in cross-border education and, in particular, increased commercial trade in education services.

### **Overview of GATS**

#### ***Structure and Purpose of GATS***

The General Agreement on Trade and Services is the first-ever set of multilateral rules covering international trade in services. Previous international trade agreements covered trade in products, but never services. The GATS was negotiated in the Uruguay round of World Trade Organisation meetings and came into effect in 1995. It is administered by the World Trade Organisation (WTO) which is made up of 146 member countries (WTO 1999a).

#### ***Modes of Trade in Services***

GATS defines four ways in which a service can be traded. These four modes of trade (also called 'modes of supply') apply to all service sectors in GATS. Table 1 defines these modes, applies them to the education sector and comments on the relative size of the market supply and demand.

GATS covers 12 service sectors, including, for example, transportation, communication, finance, tourism, health and education. These 12 sectors are sub-divided into 160 subsectors. The four modes of supply described above apply to all 160 subsectors.

**Table 1: Four Modes of Supply**

| GATS Mode of Supply            | Explanation                                                                                             | Examples in Higher Education                                                                                 | Size/Potential of Market                                                                                                                     |
|--------------------------------|---------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Cross Border Supply         | Providing a service which crosses a border. Does not require the consumer's physical movement.          | Distance education.<br>E-learning.                                                                           | Currently a relatively small market. Seen as having great potential through the use of new ICTs, especially the Internet.                    |
| 2. Consumption Abroad          | Providing a service involving the consumer's movement to the supplier's country.                        | Students who go to another country to study.                                                                 | Currently represents the largest share of the global market for education services.                                                          |
| 3. Commercial Presence         | The service provider establishes or has commercial facilities in another country to render the service. | Local branch or satellite campuses. Twinning partnerships. Franchising arrangements with local institutions. | Growing interest and strong potential for future growth. Most controversial, as it appears to set international rules on foreign investment. |
| 4. Presence of Natural Persons | Persons travelling to another country temporarily to provide service.                                   | Professors, teachers, researchers working abroad.                                                            | Potentially a strong market, given the emphasis on mobility of professionals.                                                                |

Source: Knight (2002).

Trade in education is organised into five categories or sub-sectors of service. These categories are based on the United Nations Provisional Central Product Classification (CPC) and are Primary, Secondary, Higher, Adult, and Other (WTO 1998).

### ***Key Elements and Rules of GATS***

The overall framework contains a number of general obligations applicable to all trade in services regardless of whether a country has made a specific commitment to sectors or not. These are called unconditional obligations. Each WTO member lists in its national schedules those services for which it wishes to provide access to foreign providers. In addition to choosing which service sector(s) will be committed, each country determines the extent of commitment by specifying the level of market access and the degree of national treatment it is prepared to guarantee. Market access refers to the degree to which a country grants market access to foreign providers in specified sectors. Each country determines the limitations on market access for each committed sector. National treatment is an extremely important element of GATS. It requires equal treatment for foreign providers and domestic providers. Once a foreign supplier has been allowed to supply a service in a country, there should be no discrimination in treatment between the foreign and domestic providers. This provision applies only where a country has made a specific commitment and where exemptions are allowed; however, GATS critics believe that this provision can put education as a 'public good' at risk.

Another principle of GATS is the most favoured nation (MFN) treatment, which means treating one's foreign trading partners equally and consistently. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all WTO members. This equality extends also to mutual exclusion treatment. For instance, if a foreign provider establishes a branch campus in Country A, then Country A must permit all WTO members the same opportunity/treatment. Or if Country A chooses to exclude Country B from providing a specific service, then all WTO members are excluded. MFN has implications for those countries which are already engaged in trade in educational services and/or which provide access to foreign education providers.

GATS is described as a voluntary agreement because countries can decide which sectors they will agree to cover under GATS rules (EI/PSI 1999). This agreement is reached through the preparation of their national schedules of commitments and through the 'request-offer' negotiation rounds. However, there are aspects of the agreement that question its voluntary nature, notably the built-in progressive liberalisation agenda. The process of progressive

liberalisation involves two aspects: (a) extending GATS coverage to more service sectors and (b) decreasing the number and extent of measures that serve as impediments to increased trade. Therefore, in spite of each country's right to determine the extent of its commitments, with each new round of negotiations, countries are expected to add sectors or sub-sectors to their national schedules of commitments and to negotiate the further removal of limitations on market access and national treatment.

### **GATS Commitments for Trade in Education Services**

#### ***Status of Existing Commitments and New Offers***

Table 2 summarises the education commitments that were made during the 1994 Uruguay round when GATS was established. Only forty-four countries made a commitment to education; thirty-five involved higher education. It is interesting to note that there is a great deal of speculation about the level of knowledge and 'rationality' behind these commitments. During the early 1990s, few trade teams were well informed about trade and education services. Furthermore, during this round, there was little consultation with education experts on the commitments. Only three African countries have made a commitment to higher education.

The second set of negotiations, known as the Doha round, started in 2000 and will continue to 2005, at least. It is expected that, during this round, additional offers will be made to further liberalise trade in education services. Offers are conditional and become commitments only at the end of a round. The new offers can include additional countries making an offer or countries further liberalizing existing commitments. As of April 2004, five countries have put on the table an offer for higher education, two of which have strengthened their existing commitment (Japan and Turkey) and three of which are new ones, none from Africa. Four new countries, none from Africa, have made offers involving adult education. Therefore, there has been little action in terms of offers in the higher or adult education sectors during the Doha round. In all, education is one of the least active and committed sectors of GATS.

It is important to remember that negotiations involve both offers and requests. An offer is usually responsive to another country's request for access to the domestic market through the removal of a barrier or through the application of a 'most favoured nation' exemption. However, it is very difficult to obtain solid information on which countries are making requests and the content of their requests. This is because the requests are made bilaterally and because it is not necessary to make them public.

**Table 2:** Existing Commitments for Foreign Access to Domestic Education Markets

| Country         | Primary | Secondary | Higher | Adult | Other |
|-----------------|---------|-----------|--------|-------|-------|
| Congo           |         |           | X      |       |       |
| Gambia          | X       |           |        | X     | X     |
| Ghana           |         | X         |        |       | X     |
| Lesotho         | X       | X         | X      | X     | X     |
| Mali            |         |           |        | X     |       |
| Rwanda          |         |           |        | X     |       |
| Sierra Leone    | X       | X         | X      | X     | X     |
| Africa Total    | 3       | 3         | 3      | 5     | 4     |
| Other Countries | 29      | 33        | 32     | 29    | 15    |
| Total           | 32      | 36        | 35     | 34    | 19    |

Source: Constructed from information in Latrille (2003).

That said, information on a number of requests, especially from large countries, leaks out. It is understood, but not confirmed, that several African countries have put requests on the table, including Mauritius, Morocco, Tunisia, Egypt and Kenya. Kenya's involves education. However, detailed or reliable information is not available on the other offers.

In sum, Table 2 shows that education has not been a priority sector for GATS trade negotiations. Only a handful of countries have made requests or offers to date. There is also very little concrete information on access to education markets. The targeted date to end this round of negotiations is January 1, 2005; given the slow rate of offers reaching the table, this deadline will likely be extended. An extension will allow time needed by the education sector to become better informed and better prepared for the potential implications of increased trade. In some cases, it will mean that countries can take whatever steps are necessary to ensure that trade in higher, adult and other educational services is carried out within the parameters of necessary national, regional or international education regulatory frameworks.

While the low and slow response rate is providing time to become better informed and better prepared, it can also be troublesome. Very few developing countries have submitted either requests or offers. There are several possible

reasons for this situation. First, there is the question of capacity. Because GATS covers 160 subsectors, it takes both time and extensive knowledge to be informed on all subsectors. Some technical assistance is available to developing countries through multi-lateral agencies and bilateral donors, but the level of expertise and the time commitment should not be underestimated. Second, many countries use an element of 'wait and see' in their trade negotiating strategies. Given that commitments on market access made for one country are automatically applied to all WTO members (due to the 'most favoured nation' obligation), it is not necessary for all countries to make official requests. It is clear that the majority of WTO members are not ready to put their offers on the table. As a result, the four most influential countries (the United States, Japan, European Union (EU) and Canada, collectively known as 'the quad') plus several other OECD member countries, are taking the lead and shaping the substance of the negotiation process. This may not be a surprise, but it may have some unintended consequences.

At the recent WTO Ministerial meeting in Cancun, Mexico, the group of twenty-two developing countries led by Brazil, Argentina, China and India took a firm stand on the issue of the agricultural subsidies which is part of the GATT (products) negotiations but which has important ripple effects for the GATS (services) round. The issues at play here are very complex—technical, legal and political—but the net effect is a greater awareness of the implications of (and often inequalities for) the poorer countries of the world. In general, there is a significant slow-down on the pace and number of requests and offers being made during the Doha round (Kwasi 2002).

### ***The Removal of Barriers***

The purpose of GATS, as stated by the WTO, is to reduce or eliminate barriers to promote further trade. It is important to note that the national policies and regulations established by some countries to control the importing of education and training services into their country are, in fact, seen by exporting countries as trade barriers that need to be removed. One of GATS' principles is that countries can determine the degree of market access they will give to foreign providers. This principle is seen as a certain kind of safeguard. However, safeguards can be interpreted as barriers. Therefore, when one considers GATS principle of progressive liberalisation, one questions whether these so called safeguards will, in fact, be able to withstand the pressure of liberalisation in future rounds of negotiations. It should also be noted that barriers to trade seen from the exporting country's point of view, may be seen by the importing country as fundamental aspects of domestic higher education policy.

### **Risks and Opportunities: Views from Africa**

Much more has been written on why countries are cautious and guarded about the impact of trade than on the benefits of trade, especially for developing countries. For instance, the Minister of Education in South Africa, has stated very clearly:

It is important that we remain vigilant to ensure that increased trade in education does not undermine our national efforts to transform higher education and in particular to strengthen the public sector so that it can effectively participate in an increasingly globalizing environment. Trade considerations cannot be allowed to erode the public good agenda for higher education. (Ensor 2003)

At the same time, he warned against parochialism and narrow chauvinism and stressed the need for genuine international collaboration in education.

Professor Goolam Mohamedbhai, Vice Chancellor of the University of Mauritius, commented on the WTO proposal to liberalise trade in education services through GATS. He noted that globalisation might have some positive effects from the point of view of increasing access in higher education and reducing the knowledge gap in developing countries, but it also has negative aspects which could seriously threaten universities in those countries (Mohamedbhai 2003). He believes that foreign providers have helped to provide courses locally and at a significantly lower cost than would have been required for students to travel abroad to take the programme; however, foreign providers do not share the same national values and priorities. Their purpose is to provide education in the most cost-effective way. He also expressed concern that developing countries might be flooded with foreign and private providers, whose focus on immediately marketable skills would make them serious competitors to local universities, leaving the latter to provide degrees in the arts, humanities, science and technology, which, though less profitable, are still vital for a country's development.

Kenya is another country that recognises that education is a major foreign exchange earner and that trade has economic advantages:

Government policy favours trade in higher education. The government has underscored the earnings it made from higher education and the fact that the government supports the parallel degree programmes and the establishment of more private universities is an indication of this. The government's emphasis is on reducing the flow of revenues from

Kenyan students to foreign universities and attracting more foreign students to enrol in Kenyan higher education, especially from the region. (Jowi 2003:47)

These observations are a good illustration of the type of analysis being done to assess new opportunities and potential risks associated with increased international trade in higher education.

### **Implications and Issues: For Consultation, Policy Review and Further Research**

The primary purpose of this section is to summarise the key issues that require further investigation and consultation with regards to cross-border education in general and trade in education services in particular. The implications and issues are divided into three groups: (a) those that are especially relevant to education policy, (b) those that relate to the GATS agreement per se, and finally (c) those that raise implications for other policy domains.

#### ***Issues for Education Policy***

There is much discussion and debate over four rather controversial trends or “-isations” of higher education. They are: commercialisation (buying and selling including commodification), privatisation (private ownership and/or funding), marketisation (allowing the market to determine supply and demand) and liberalisation (the removal of trade barriers). Some would even add a fifth, globalisation, and point to it as an underpinning cause for the others. These trends can be found in both the domestic and cross-border provision of higher education; however, this section deals only with cross-border transactions. These trends or ‘-isations’ are closely related to each other; and at times, it is difficult to single out and treat each one individually.

#### ***The Role of Government***

In most, if not all countries of the world, the government plays a critical role in regulating, funding and monitoring the provision of higher education. This applies where education is more or less publicly funded and also where there is a mixed public/private higher education system which is the case in many African countries. One has to ask whether trade liberalisation will affect a mixed system differently than a public system and whether the role of government will change measurably. Inherent in these questions is the issue of just what services are covered by or exempted from GATS.

There is an implicit understanding that public services will be exempted, but close scrutiny of Article 1.3 raises several related questions and concerns.

Legal opinion (Gottlieb and Pearson 2001) and the general consensus in the higher education sector is that there is so much 'wobble room' in the definition that one should not count on government-funded and -mandated institutions being exempted from GATS rules unless a country stipulates to this provision in its commitments.

The second point relates to GATS Article 6.4 that addresses domestic regulations and a country's ability to set qualifications, quality standards and licences. The article provides that 'qualifications, requirements and procedures, technical standards and licensing are not more burdensome than necessary to ensure the quality of the service' (WTO 1999b). The language is purposely vague and there are no definitions for terms such as 'more burdensome than necessary' or for 'quality of services'. This vagueness leaves the higher education sector troubled about the potential impact of this statement on quality assurance and accreditation procedures. There is also concern about the implications of this article for the regulation of the professions, given the increasing mobility of skilled and professional workers across borders.

Direct questions to trade specialists about Article 6.4 do not yield any answers more concrete than 'it is still being developed'. It is a wait-and-see situation. However, trade specialists state strongly that it is certainly not the intention of GATS to limit government's role in the regulation of quality assurance of education or the professions (WTO 2001). Clearly this article, part of which is often referred to as the 'necessity test', merits close monitoring by the education sector, given that a country's ability to establish quality assurance and accreditation policy for domestic and foreign providers is central to the question of the role of government.

### ***Student Access***

Demographic changes, lifelong learning, changing human resource needs created by the knowledge economy, as well as growing number of graduates from secondary level education, are increasing the unmet demand for post-secondary education and training. GATS supporters maintain that increased international trade will help countries satisfy this growing demand. Public and private higher education institutions also recognise this need and are increasingly involved in cross-border education through development projects, exchanges and commercial ventures. Private commercial providers, who are primarily concerned with teaching (meaning that they give limited attention to research and service), are targeting niche markets of these learners and responding to a clearly identified need.

Therefore, GATS supporters believe that increased student access to education and training is one of the strong rationales and articulated benefits linked

to trade liberalisation. GATS critics question why there need to be trade rules to regulate education when, to a certain extent, this movement is already occurring outside of a trade regime and can be regulated through education conventions and national education regulatory frameworks. So while there is general agreement on the need for greater student access, there remains the question of whether access will be available only to those who can afford it. This issue is especially relevant for developing countries.

### ***Financing***

The fact that the growth rate in public funding is not keeping pace with the accelerated levels of private investment in higher education is a discernible trend in many developed and developing countries (Levy 2003). This trend, plus the pervasive climate of stricter accountability for public support, is creating a more receptive environment for private and commercial providers of post-secondary education. As already noted, private provision of education in niche markets is increasing. When forces for increased liberalisation of trade are added to this scenario, there is an expectation that private and commercial providers will be very active in the international education markets. According to the Global Education Index, recently developed by the Observatory on Borderless Higher Education (Garrett 2003) more than fifty companies currently listed on the stock exchange provide education and training programmes or services to support education, and many are doing so on an international scale. This number is a conservative one and does not include companies which are not publicly listed.

The greatest fear among many education leaders is that, while private investment in education rises, public support will fall even more steeply (EI/PSI 2000). For now, such a fear is only speculation, but it could become a discernible trend before long. The role that trade plays in this scenario is that countries without the capacity or political will to invest in the physical and soft infrastructure for higher education will begin to rely more and more on foreign investors and providers, whether they be conventional universities or commercial companies. Trade rules may have a heavy influence on the terms and use of the private investment, and thereby policy, for education. A review of the barriers to trade in education services show that measures relating to commercial presence/foreign investment (mode 3) are in fact being targeted for removal (NCITE 2001). Of course, a huge proviso in this scenario is that the foreign providers will be able to make it economically worthwhile to deliver educational services internationally; and if this is not the case, then new questions will arise.

### ***The Registration and Licensing of Foreign Providers***

Many educators believe that one of the negative consequences of market driven for-profit education is that the number of 'diploma mills', 'canned degrees' and 'accreditation mills' will increase. This worry applies to both domestic and cross-border provision and can potentially be exacerbated with the promise of increased trade. New types of commercial providers such as private education, media and information technology companies and new forms of programme delivery such as branch campuses, franchises and distance education introduce new challenges in terms of how domestic government regulate new providers and new delivery methods. There are solutions to this situation if a country has the capacity to establish regulations for registering and licensing foreign providers as has been done in several African countries. But the reality is that not all countries have established these procedures or may not have the ability to implement the policies that have been created. There is also apprehension that some of the requirements established for licensing will be perceived as potential barriers to trade and will therefore be targeted for liberalisation during future rounds of GATS negotiations.

While these scenarios may still be 'what ifs', it is important to discuss the role and capacity of national governments, especially from the developing world, to establish and monitor systems for registering new private international providers. It should be noted that the term 'private provider' is being used because, in most cases, it appears that public institutions/providers are being classified as private providers/companies as soon as they cross the border and deliver in a foreign country. This is happening for both domestic and foreign reasons. There are, of course, exceptions to this trend. Some public institutions setting up branch campuses are trying to get classified as non-governmental organisations (NGOs) or foundations instead of private commercial enterprises because of the tax benefits. All and all, the issue of regulating and licensing providers delivering cross-border education needs further attention. Consideration of what national policies and frameworks are necessary and feasible in light of new trade regulations merits study by the education sector at both national and international levels. This issue is becoming complex and more urgent to address (Van Damme 2002).

### ***Accreditation and Quality Assurance***

If we thought the questions related to registration and licensing were complex, the situation becomes even more complicated when we look at accreditation and quality assurance of providers and imported/exported education programmes. The terms 'accreditation' and 'quality assurance' have different meaning and significance depending on the country, actor or stakeholder us-

ing the term. Terminology related to quality is a real minefield, the cause of much debate and confusion at the international level. In this paper, 'quality recognition and assurance' is used in a general sense and includes quality audit, evaluation, accreditation and other review processes and elements. This generic approach is not meant to diminish the differences in meaning and approach used by various countries. However, a macro interpretation of quality recognition and assurance of cross-border education is needed to attract the attention that this issue deserves.

It must be noted that increased importance has certainly been given to quality assurance at the institutional level and at the national level in the past decade. New quality assurance mechanisms and national organisations have been developed in over sixty countries in the last decade including Mauritius, Nigeria and South Africa. New regional quality networks have also been established. The primary task of these groups has been quality recognition and the assurance of domestic higher education provision by primarily public and private higher education institutions.

However, the increase in cross-border education by institutions and new private commercial providers has introduced a new challenge (and gap) in the field of quality assurance. Historically, national quality assurance agencies have generally not focussed their efforts on assessing the quality of imported and exported programmes, with some notable exceptions such as the United Kingdom. The question now facing the sector is how to deal with the increase in cross-border education by public and private institutions and, in particular, by the new private commercial companies and providers who are often not part of nationally based quality assurance schemes.

The credibility of higher education programmes and qualifications is extremely important for students, their employers, the public at large and, of course, for the academic community itself. Thus, the question of quality for all forms of cross-border education needs to be taken very seriously. Of current interest and debate is whether national level accreditation and quality assurance systems (where they exist) are able to attend to the complicating factors of education mobility across countries, cultures and jurisdictional systems. Is it advisable and feasible to develop mutual recognition systems between and among countries? Would an International Code of Good Practice be appropriate or strong enough to monitor quality? These are key questions for the education sector to address; and of course, in the exploration of these issues, it is imperative that trade rules are now given due consideration.

It is also important to acknowledge that there is a great deal of cross-border mobility of students, teachers and programmes through non-commercial initiatives. Education activities that are part of development aid projects and in-

ternational academic linkages and networks are good examples. Therefore, international trade of education services is not the only factor driving the urgency of addressing international quality recognition and assurance (Knight 2003b). At this point, it must be clarified that GATS or other bi-lateral trade agreements do not claim to be establishing rules for quality assurance and recognition of education, but they are important catalysts for more urgent attention being given to the issues at hand.

### ***Recognition of Qualifications***

The need to have mechanisms that recognise academic and professional qualifications gained through domestic or international delivery of education is another important consequence of increased cross-border activity. Even if the education programme does not move, the student or the prospective employee can move; and therefore, credentials need to be recognised if further study or employment is desired. Once again, this issue is relevant to all forms of cross-border education, not just commercial trade initiatives; but it appears that the existence of international/bilateral trade agreements is pushing the education sector to give more priority to this issue.

UNESCO has long acknowledged the requirement of an international system to facilitate and ensure recognition of academic and professional qualifications. Regional UNESCO conventions on the Recognition of Qualifications were established more than twenty-five years ago and have been ratified by over 100 member states in Africa, Asia and the Pacific, the Arab States, Europe and Latin America. They are unique, legally binding instruments, dealing with cross-border mutual recognition of qualifications. There is limited general awareness of these instruments except for the European regional convention, which in 1997 was updated jointly by UNESCO and the Council of Europe (2001) as the Lisbon Convention. In 2001, the same two organisations established a Code of Good Practice for Transnational Education which is now a recognised part of the Lisbon Convention.

At present, there is discussion on how these UNESCO conventions can be used as instruments to complement trade agreements and to assure students, employers and the public of systems in place to recognise academic and professional qualifications. Given the growth in academic mobility, the increased mobility of the labour force and the fact that GATS is encouraging greater professional mobility, there is a clear and urgent need that this issue be addressed. Questions are also being raised as to whether these UNESCO conventions could also be used to help address the quality assurance and accreditation issues. This idea will be certain to stir up increased interest in the subject and, it is hoped, to give the issues the attention they deserve.

***Diversification of the Higher Education Sector***

The issue of commercialisation has important implications for the diversification and differentiation of higher education institutions and providers and, more critically, the selection of academic programmes and courses being offered. There are two key aspects to this issue: which courses are offered and by what type of providers. A market approach to higher education can lead to a situation in which commercial or for-profit providers offer those courses that are in high market demand such as business, information technology and communication programmes. This makes sense as the driving rationale is economic. While this situation does not prevent public or private non-profit institutions from providing these same high-demand programmes, it does mean that some of the less popular and often more costly but equally important subjects are the responsibility of public/non-profit institutions. This division can lead to a differentiated menu of courses between profit and non-profit providers based on discipline and profitability.

Research is also linked to this issue. There is some indication that commercial providers, and especially foreign ones, are often not investing in the human, technical or physical infrastructure necessary to support research efforts. There are of course, important exceptions to this trend, but it is worth monitoring. Developing countries have expressed a particular concern about this potential system diversification with respect to the roles and programme priorities of domestic and foreign commercial/for-profit providers. Therefore, the potential diversification of the higher education system based on increased commercial cross-border education introduces important policy implications for funding, staffing, quality assurance, research, curriculum and programmes and is worthy of further investigation and analysis.

***The Internationalisation of Academic Relations***

Higher education institutions are actively expanding the international dimension of their research, teaching and service functions. This expansion is necessary given the increasing interdependency among nations in addressing global issues such as climate change, crime, terrorism and health through collaborative research and scholarly activity. The international and intercultural aspects of curriculum and the teaching/learning process are important for their contribution to the quality and relevancy of higher education.

One of the leading rationales at the institutional level for internationalisation is the preparation of graduates to be internationally knowledgeable and interculturally skilled so that they can live and work in more culturally diverse communities at home and abroad (Knight 2004a). An important question to ask is how an increased emphasis on international trade in education and new

trade regulations will affect the nature and priority given to academic, social, cultural and political rationales of non-commercial international education activities.

### ***Cultural Diversity and Acculturation***

The increase in cross-border education and the influence of trade and new trade regulations on the recognition and promotion of indigenous and diverse cultures is a subject that evokes strong positions and sentiments. Many believe that new ICT technologies and movement of people, ideas and culture across borders are presenting new opportunities to promote one's culture in other countries and are furthering chances for the fusion and hybridisation of culture. Their position rests on the assumption that this flow of culture across borders is not new at all; only the speed with which it occurs has accelerated. Others contend that these same forces are eroding national cultural identities and, instead of creating new forms of cultures through hybridisation, cultures are being homogenised (in most cases interpreted to mean 'Westernised').

Given that education has traditionally been seen as a vehicle of acculturation, these arguments are played out in terms of curriculum content, the language of instruction (the use of English has increased) and the teaching/learning process of exported/imported programmes. Both perspectives have strengths to their arguments. However, because commercial exports are often based on surplus capacity and the bottom line, it is important to ask whether efforts are made to customise programmes to local needs and to make programmes culturally appropriate and useful. Will commercially traded education programmes be any more or less culturally imperialistic or diversified than programmes or curriculum which cross borders as part of development projects or academic exchange programmes?

There are no clear answers yet. Many would want to argue that for-profit private providers will not be willing to invest the time and resources to ensure that courses respect cultural traditions and include relevant local content. Given that private providers are market driven, there may be a demand from the students and employers for what is perceived to be modern (read Western) types of education. The question of the impact of commercial trade (as well as the non-commercial cross-border delivery) of education on cultural diversity requires significant study.

### ***Higher Education's Role and Values***

At the heart of the debate for many educators is the impact that increased commercial cross-border education and new trade policies will have on the purpose, role and values of higher education. The discussion about GATS has,

up to now, focused more on the technical, legal and economic aspects of the movement of students, programmes and providers/institutions across borders. But the growth in new commercial and private providers, the commodification of education and the prospect of new trade policy frameworks are catalysts for stimulating serious reflection on the role and funding of public higher education institutions in society.

The trinity of teaching/learning, research and service to society has traditionally guided the evolution of universities and their contribution to the social, cultural, human, scientific and economic development of a nation. Is the combination of these roles still valid or can they be desegregated and rendered by different providers? Values that have traditionally underpinned public education, such as academic freedom, collegiality and institutional autonomy, are being closely examined. Is education still considered to be a public good in the sense of contributing to the development of society or is it being perceived as more of a private good for consumption by individuals? (Singh 2001). Some believe that these traditional values and roles are even more relevant and important in today's environment; others suggest that there is a need for a shift away from these traditional values in light of globalisation. And still others argue that, if higher education is to fulfil its role as a 'public good', then it will need to move away from its traditional public funding sources in favour of more market-based approaches.

### ***Human Capacity and Brain Drain/Gain***

Brain power is an increasingly important issue for many countries, due to the growing mobility of professional/skilled workers and the increased pressure for trade liberalisation—especially for GATS Mode 4 (movement of persons). The increase in cross-border movement of scholars, experts and teachers/professors is due in part to the increasing competitiveness for human capital in the knowledge economy. Not only is there a trend for higher education personnel to move from country to country, they are also attracted to the corporate sector where benefits can be more attractive than in the education sector. The higher education sector is affected by this trend both positively and negatively, depending on whether a country is experiencing a net drain or gain effect and the level of brain circulation.

It is important to be aware of the long-term implications in terms of human resource capacity in specific fields at both the national and institutional levels (Teferra 2004). There are implications for education policies but also for immigration, science and technology, trade, employment and foreign relations. There are also direct links between foreign student recruitment/mobility (Mode 2) and the immigration needs for skilled labour of the recruiting country. Thus,

the complex and increasingly interrelated dynamics between national policies for trade in education, migration policies and nation building/human capacity building efforts are areas worthy of serious investigation.

### ***Issues Related to GATS and Trade Policy***

*Technical Issues.* GATS is still an untested and evolving agreement. Not all of the articles and rulings have been developed, and clarification is needed on several key issues. Close monitoring is important for interpretations about subsidies, dispute settlements, interpretations of Article 1.3 (what services are covered) and Article 6.4 (the right of domestic regulation).

*Negotiations and Consultation.* Requests and offers are still being placed on the table. To date, there is little activity in the higher education sub-sector, but current and future negotiations may involve education services as part of cross-sector trading, meaning that education may be 'traded off' to permit market access in another sector. Also, because progressive liberalisation is the ultimate goal, the education sector needs to be working in close consultation with trade negotiators to monitor future negotiations that include trade in education services. It is important that the education sector be vigilant about domestic regulations that are seen as safeguards for the importing country but barriers for the exporting country wanting access to the market.

Dealing with the issues and implications of trade agreements and national trade policy is a relatively new policy area for the higher education sector. The same can be said for trade negotiators as they have not had extensive experience with education services. This situation requires closer collaboration between trade and education experts. It also requires serious consideration of the role that universities can play in providing research and in undertaking the capacity building of experts who can undertake the necessary interdisciplinary analysis to guide further action.

*Benefits and Barriers.* There has been more speculation than hard research on the benefits of increased trade in education and the necessity of trade regulations. It would be useful to have further analysis on the potential contribution of more liberalised trade in higher education to national goals and development in general and in providing post-secondary education in particular.

Furthermore, there is little discussion about whether the anticipated economic and supply benefits to education are reasonable and probable. One reason is the lack of hard data on forecasted growth in each of the four supply modes (OECD 2002a, 2002b). The movement of students to study in other countries (Mode 2: consumption abroad) is the only mode where good information is available (OECD 2002a, 2002b).

The rationales driving trade in education are complex. They differ according to whether a country is an importing/receiving versus an exporting/sending one. Rationales for commercial cross-border education different from those involving cross-border exchange partnerships or international development initiatives. More attention needs to be given to studying rationales and to linking expected outcomes to the different motivations of the various types of cross-border education.

Further investigation into the types of barriers to trade in education services is necessary as the removal/reduction of barriers is at the core of trade liberalisation. What may be seen as barriers by a country wishing to access a foreign market can be fundamental aspects of the regulatory system in the receiving country.

### ***Other Education Service Sub-sectors and Agreements***

The primary and secondary education sectors have been almost silent on the implications of GATS. There seems to be an implicit understanding or assumption that GATS will not cover public basic education (Sauvé 2002), but this may or may not be the case. Time will tell, especially for countries that have liberalised access to basic education. It is the university sector within the post-secondary education category that has been most involved in discussing GATS. The professional, technical and vocational providers have not been very vocal. It would be useful to have more information and discussion with the non-university sector. The impact of trade rules on the regulations of the professions also merits further attention, especially given that higher education is often directly involved in the education, training and, possibly, certification of the professions.

Trade Related Aspects of Intellectual Property Rights (TRIPS) is another WTO agreement. Of particular interest to the higher education community are issues of whether intellectual property rights will encourage or inhibit innovation and research, who owns the copyright of materials used in e-education and the protection of indigenous knowledge.

Finally, there is much to be learned from how other social service sectors, such as health and culture, have approached the issues related to the inclusion of their services within GATS regulations.

### **Research and Development**

The focus thus far, has been almost entirely on the teaching side of education and has not addressed implications for research. Research is an integral part of a university's role, and further investigation is needed into the potential impact on applied research and especially privately contracted or privately funded

research. Do public education institutions who are undertaking research and development activities have an unfair advantage over private organisations who do not usually receive public support for their activities? Could public subsidies be construed as a barrier to fair trade or under the national treatment condition be applicable to private providers?

### ***Issues Related to Other Policy Domains***

*Regional Development and Integration.* Higher education is increasingly being recognised as an important actor in increasing the connectivity, collaboration and integration at the sub-regional intra-regional and inter-regional levels (Pillay 2003). The number, diversity and influence of national, regional, and international higher education actors in Africa are increasing. Regional higher education actors include intergovernmental and governmental agencies, non-government and civil society groups/networks, public and private foundations, treaties and conventions, in addition, of course, to higher education institutions and providers. Their role in the promotion, provision and regulation of higher education across borders and for regional integration merits further attention.

The role of higher education in regional education, scientific, economic, trade and cultural agreements warrants investigation as to the consequences (intended and unintended) for knowledge and technology transfer, professional mobility and regional integration. Examples are Southern African Development Community (SADC) and Inter-University Council for East Africa (IUCEA) agreements on student mobility and the New Partnership for Africa's Development (NEPAD) initiatives (SAUVCA 2002).

*Immigration.* GATS and other regional/bilateral trade agreements are trying to facilitate the increased mobility of professional and skilled workers on a temporary basis. Cross-border education, especially the movement of students, scholars and professors will introduce new issues to immigration policies in terms of visas, working permits, residency status and even dual citizenship. What are the long-term implications for migration patterns and immigration status?

*Foreign Relations.* Cross-border education, including science and technology research and development, are seen as tools for strategic alliances between countries and institutions. In the past, there has been more emphasis on cultural, scientific and political alliances; but given the increasing importance of the commercial trade of education services, higher education is perceived as a more important player for economic alliances as well. What is the emerging role of higher education in bilateral and regional foreign policy development?

*International Development and Cooperation.* In the past, nation-building by investing in higher education through human resource development, insti-

tutional strengthening and scholarship programmes has been an important part of international development and technical assistance programmes. In the last decade, these aid-oriented initiatives have given way to projects that have been based on principles of partnership, exchange and mutual benefits. Is the inclusion of education as a tradable service under the purview of trade agreements like GATS an indication of a shift away from aid and partnership towards commercial trade as a primary tool for developing higher education in developing and transition countries? (Schoole 2004). What are the implications and consequences of this development? Will the 'aid to trade' shift and the increasing role of the market place put more emphasis on international competition rather than on international cooperation in terms of international higher education collaboration?

Clearly there are more questions than answers. Individually, the issues outlined above merit further investigation and rigorous analysis. Collectively, they demonstrate the breadth of interest and concern. They also point to the need for information/data gathering, policy analysis and consultation within the higher education sector and with other policy sectors especially the trade sector.

### **Concluding Remarks**

It is probably fair to say that we are just starting to identify the key issues related to the commercialisation of cross-border education within the context of new trade policies and agreements. It is important that we approach the implications of trade agreements and increased trade with an open mind to ensure that we take advantage of the opportunities that increased cross-border education and trade may offer; but we must also be aware of any potential risks. It is equally important to recognise that perspectives and concerns will vary depending on the method of cross-border education (people, programmes, providers or projects), the rationales, whether one is interested in sending/exporting or receiving/importing, or whether one is from a developed or developing country. The Accra Declaration on GATS and the Internationalisation of Higher Education in Africa is one of several statements from non-governmental groups in different countries expressing concern and caution about the inclusion of education and culture within a multilateral trade framework.

The Accra Declaration was developed and approved by participants at African Association of Universities workshop held in April 2004 to explore the impact of GATS on higher education. The declaration expresses

continued support for multiple forms of internationalisation in higher education which bring identifiable mutual benefits to African countries as much as to their co-operating partners in other countries and regions. We therefore re-affirm our commitment to reducing obstacles to international co-operation in respect of knowledge creation, exchange and application, to the enhancement of access to higher education and to increasing academic mobility within Africa itself (Accra Declaration 2004:3).

The Accra Declaration also emphasises, quoting the *AAU Declaration on the African University in the Third Millennium*:

a renewed commitment to the development of higher education in Africa as a 'public mandate' whose mission and objectives must serve the social, economic and intellectual needs and priorities of the peoples of the African continent while contributing to the 'global creation, exchange and application of knowledge.'

The Accra Declaration then continues:

We therefore caution against the reduction of higher education, under the GATS regime, to a tradable commodity subject primarily to international trade rules and negotiations, and the loss of authority of national governments to regulate higher education according to national needs and priorities.

We therefore call on African governments and other African role players to exercise caution on further GATS commitments in higher education until a deeper understanding of GATS and the surrounding issues is developed and a more informed position is arrived at on how trade related cross-border provision in higher education can best serve national and regional development needs and priorities on the African continent.

As has been repeated many times, GATS is a new, untested and evolving agreement. The interpretations of existing articles and obligations can change and new disciplines can be developed. Working in a trade policy environment is relatively new territory for the education sector. It will take further work and analysis for the education sector to be confident and credible actors in shaping and reacting to new trade policy developments. However, the education sector has considerable experience in other policy arenas—immigration, foreign

relations, culture, science and technology, to name a few. The higher education community at the national level must be vigilant in monitoring new developments and working collaboratively with the government and non-government representatives from education, trade, industry and commerce and foreign affairs. There are implications for doing so at the institutional level as well.

It is important that the wider international higher education community continue to work together on these issues so that (a) educators' views and expertise come to bear on the developments in trade in education services, (b) the higher education sector continues to work towards national/regional and international education frameworks which address the quality assurance, accreditation and recognition of qualifications for all types of cross-border education, (c) further work is done on investigating the implications of trade agreements on scholarly pursuits, research and intellectual property, (d) trade is seen as only one subset of the larger phenomenon of cross-border education and internationalisation, and (e) the impact of trade and commercial providing of educational services on the larger, more philosophical questions related to the purpose, values and role of higher education can continue to be explored.

It is clear that the growth and changes in cross-border education are staggering. There are new types of providers, new methods of delivery, new learners, new partnerships, new financial arrangements, new types of awards, new policies and new regulatory frameworks. All of these changes present new challenges for how cross-border education is conceptualised and regulated. Using a trade framework to categorise cross-border activity is one approach; but given these new developments, it is argued that a trade framework is too limited. Cross-border education occurs for a variety of reasons and under a diversity of arrangements—for example, through academic linkages and partnership programmes, through development/aid types of projects and through commercial trade. The GATS trade mode framework covers only commercial-trade types of activities. Therefore, it is proposed that the education sector begin to develop its own classification system and language to categorise cross-border education in a manner which includes all forms of mobility and all types of activities, not just the commercial ventures.

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