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Rethinking Trade in Education Services: A Wake-Up Call for Trade Negotiators

Aik Hoe LIM and Raymond SANER*

The educational market has grown in size with more exporters entering the field to satisfy growing demand worldwide. The education sector today truly operates in a global context with institutions, programmes, and people supplying services across borders at an unprecedented scale. Yet, one of the anomalies of the education sector is that, despite the rapid internationalization of education services, limited progress has been achieved in trade negotiations. Education services remain one of the least committed sectors under the General Agreement on Trade in Services (GATS), as well as in Preferential Trade Agreements (PTAs). Firstly, this article reviews the factors behind the growth in trade in education services, particularly at the tertiary level.¹ These include a combination of demographic changes, technological developments, national development goals, and governmental reforms to the funding and provision of higher education. Secondly, it argues that trade policy and negotiations need to wake-up to the global nature of the education sector and address the complex international trade and regulatory challenges. That would not only better reflect the reality on the ground but, through the formulation of negotiating positions, also ensure an informed debate of efficiency and equity considerations.

1. INTRODUCTION

Education plays a crucial role in fostering personal and social development, as well as economic growth. Government policies play a dominant role in this sector. Over time, trade in education services, particularly at the tertiary level, have been growing in importance. Driving factors include a combination of demographic changes, technological developments, national development goals, and governmental reforms to the funding and provision of higher education. The educational market has grown in size with more exporters entering the field to satisfy growing demand worldwide. The education sector today truly operates in a global context with institutions, programmes, and people supplying services across borders at an unprecedented scale.

This article describes the educational service market, the key actors in this field be they importers or exporters, and discusses the market opportunities and risks for countries

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¹ It should be noted that a number of sections in this article on key trends in education services are based on an unpublished education services background note prepared by Aik Hoe Lim for the WTO.

interested in taking an active role and share of this growing market. The following points depict the growing importance of trade in education services:²

- (1) In 1999, the OECD estimated the value of annual trade in higher education services to be at USD 30 billion, reaching 50% of trade in financial services, which was estimated at USD 59.3 billion. It is likely that this figure significantly underestimates the value of education services trade today. The upward trend is likely to continue, the Global Student Mobility 2025 Report, for instance, foresees that the demand for international education will increase by 300% from 1.8 million students in 2000 to 7.2 million in 2025.
- (2) High-quality education can positively influence labour factor conditions of a country's economic development. The availability of a highly skilled labour force is a factor contributing substantially to national economic development. Most countries consider investment in education as being of strategic importance to enhance national competitiveness and to increase opportunities to attract foreign direct investment.
- (3) Trade in education services are inherently cross-sectoral, affecting trade, economics, education, and culture. This built-in multi-functionality of the sector requires cooperation between institutions mandated to deal with the different aspects of trade in education services, such as the WTO, and those involved in education standard setting, quality assurance, and recognition, such as UNESCO, as well as regional and national regulatory bodies.
- (4) While most stakeholders can agree that private sector providers can be an equal or even more efficient producer of educational services, no agreement exists so far as to the intended effectiveness or purpose of education. Is education supposed to be only about acquisition of knowledge and skills or also about ensuring students' integration into civil society, ensuring social and national cohesion and equitable access to knowledge by all strata of society independent of wealth and social class? In case of the latter, education can be seen as a public good to be provided solely by state schools or at best under strict supervision by state regulators.

The points listed above highlight why so many stakeholder groups attach so much importance to trade in education services. A full discussion of all the four points is beyond the scope of this article. What this article does is to focus on the trends and factors abetting the growth in international trade in education services, as well as the competing interests and tensions reflected in trade negotiations. The article is organized into three main parts.

² R. Saner & S. Fasel, *Negotiating Trade in Educational Services within the WTO/GATS Context* (Zurich: Aussenwirtschaft, Rüegger Publ, 2003), 85–103, 1.

The first part sets the context by defining the education sector. It also provides some general observations on the sector's economic and developmental importance and discusses the important structural changes that have taken place in the market for education services globally. Following from this, the second part reviews the key trends in the internationalization of education services from a trade perspective, the factors behind the growth, and the role played by international trade agreements. The third part examines the main barriers to trade in education services as well as the competing interests and tensions that underlie the internationalization of education services. Some thoughts are also provided on how these divergent interests and tensions could be managed through building consultative groups for trade negotiations. Finally, some concluding thoughts are provided on the implications arising from the internationalization of education services.

2. DEFINITION OF THE SECTOR WITHIN CONTEXT OF WTO/GATS

In the context of commitments taken under trade agreements, education services are usually defined by reference to the categories of primary education services, secondary education services, higher education services, adult education, and other education services. Distinctions between the first three categories are based mainly upon the level of instruction provided, while the latter two categories, adult and other education, cover education services provided largely outside the formal education system.³ The dynamic nature of the education sector with changes in the content of study programmes and qualifications has significantly affected the delineations between the various categories, especially with respect to post-secondary education (i.e., higher education, adult education, and other education).

The expansion of the sector has also given rise to a range of complementary activities in areas such as educational testing and evaluation and student recruitment and placement services (including those facilitating study abroad). There are also a multitude of training activities, which are undertaken outside formal education. These are usually of short duration and skills oriented (e.g., courses on information technology, languages, and corporate training), which do not lead to a formal qualification. From a commercial perspective, a wide range of non-traditional education service activities could potentially be covered by trade agreements. To illustrate this expansion of activities, the Table 1 below summarizes the way that changes in 'higher education', 'adult education', and 'other education services' have been incorporated into the United Nations Central Product Classification (CPC).⁴

³ The current Central Product Classification (CPC) definition of education services excludes 'education services primarily concerned with recreational matters', which are classified in CPC 9641 (sporting services).

⁴ The Provisional UN CPC was used to classify services in the WTO Services Sectoral Classification List (S/L/92). It should be noted that revisions of the CPC have not been incorporated into the document, S/L/92, and, so far, has not been used, as a basis for scheduling services commitments.

Table 1 Differences between Treatment of Post-Secondary Education Services in CPC Prov and CPC Rev.2

Provisional CPC	CPC Rev. 2
<p>5.C Higher education services (923)</p> <ul style="list-style-type: none"> - which comprises Post-Secondary Technical and Vocational Education Services (CPC 92310) and Other Higher Education Services (CPC 92390). The former refers to sub-degree technical and vocational education, while the latter refers to education leading to a university degree or equivalent. 	<p>Two new separate categories have been created:</p> <ul style="list-style-type: none"> - Post-secondary non-tertiary education services (924), comprises a general subclass (92410) and specialized one (92420), which leads to a labour market relevant qualification. - Tertiary education services (925), comprises first-stage tertiary (92510) leading to a university degree or equivalent and second-stage tertiary (92520) for advanced research qualifications, such as a doctoral degree.
<p>5.D Adult education services (924)</p> <ul style="list-style-type: none"> - which comprises education for adults outside the regular education system. 	<p>'Adult education' has been removed. Services previously classified therein have been merged into a new category on 'other education and training services and educational support services' (929).</p>
<p>5.E Other education services (929)</p> <ul style="list-style-type: none"> - which comprises education services at the first and second levels in specific subject matters not elsewhere classified, and all other education services that are not definable by level. Excluding education services regarding recreation matters, for example, those provided by sport and game schools, which fall under sporting and other recreation services (CPC 964). 	<p>The new category 'other education and training services and educational support services' (929) expands coverage to:</p> <ul style="list-style-type: none"> - Other education and training services (9291), which comprises of cultural education services (92911), sports and recreation education services (92912), other education and training services (92919). - Educational support services (9292) that are non-instructional such as educational consulting, counselling, evaluation, and testing services and organization of student exchange programmes.

3. PUBLIC AND PRIVATE SECTOR INVESTMENTS IN EDUCATION SECTOR

3.1. GENERAL OBSERVATIONS

Education is widely considered as a key factor in promoting economic growth and involves the use of significant resources. In APEC economies, for instance, total spending on education is at least USD 1,600 billion annually or 6.7% of the gross domestic product

(GDP).⁵ Economic studies have shown that the impact of education on growth varies according to an economy's level of development.⁶ Higher education has been shown to have an important impact on all economies, with primary and secondary education contributing the most to growth in low-income economies.⁷ Education raises productivity, which leads to an overall increase in the level of output, although the exact amount by which education contributes to economic growth varies.⁸ Productivity improvements have a long-lasting impact on the human capital stock, thus allowing an economy to grow at a more rapid pace than previously possible. An improvement in a population's level of education also has the effect of facilitating the innovation, transfer, and absorption of technology.⁹

Economic benefits flow not only to the individual but also to society. For the Organization for Economic Co-operation and Development (OECD) members, the net public return from an investment in tertiary education exceeds USD 50,000 on average for each student.¹⁰ In addition to economic effects, education has been shown to bring widespread societal benefits such as lower crime, better governance, and better health and interpersonal trust.¹¹ Taking into account both public and private expenditure, OECD economies spent, on average in 2009, 6.1% of their collective GDP on education.¹² In developing countries, public expenditure on education has consistently been within the range of 4.5% to 5% over the period from 2001 to 2008.¹³ However, there are important regional variations with public spending. In both Central Asia and in East Asia and the Pacific, public expenditure was reported at only 2.8% of GDP.¹⁴

In light of the importance of education and its links to national competitiveness especially in regard to the increasing trend towards value added-knowledge based economies, countries have reassessed their higher education. China¹⁵ and the Brazilian province of St Catarina¹⁶ invited OECD to study their respective educational systems particularly in regard to governance of educational institutions, quality assurance of higher education, and financing of higher education.

⁵ Centre for International Economics, *APEC and International Education*, 2008, <www.TheCIE.com.au>, 8.

⁶ See studies quoted by S. Vincent-Lancrin, 'Developing Capacity through Cross-Border Tertiary Education in OECD', *Cross-Border Tertiary Education: A Way towards Capacity Development* (Paris: OECD, 2007), 62–63.

⁷ *Ibid.*

⁸ The Centre for International Economics, 2008, using Australian data found that each unit of growth is made up of factors relating to education (44%) and factors relating to capital and productivity (56%). Within the education factors, 14% of growth is due to improvements in the quality of labour and 30% of growth is due to the provision of technical and higher education.

⁹ World Bank, *Closing the Gap in Education and Technology* (Washington, DC: World Bank, 2003).

¹⁰ OECD, *Education at a Glance 2009* (Paris: OECD, 2009a).

¹¹ See World Bank, *Closing the Gap in Education and Technology* (Washington, DC: World Bank, 2003), and OECD, 2009a.

¹² OECD, 2009a.

¹³ UNESCO database available at <www.uis.unesco.org/ev.php?ID=2867_201&ID2=DO_TOPIC>.

¹⁴ UNESCO, *Global Education Digest 2007* (Paris: OECD, 2007). The figures should be interpreted with caution as the average given by UNESCO is based on an estimate for China's expenditure in 1999.

¹⁵ OECD, *Review of Tertiary Education in China*, Michael Gallagher, Abrar Hasan, Mary Canning, Howard Newby, Lichia Saner-Yiu and Ian Whitman (Paris: OECD, 2009b), 215.

¹⁶ OECD, *Review of National Policies for Education: Santa Catarina State, Brazil*, Paris, OECD Coolahan, John; Whitman, Ian Whitma; Canning, Mary Castelo Branco, Eduarda; Crighton, Johanna; Marmolejo, Francisco; Milovano-vitch, Mihaylo; Mikhail, Sam; Park, Jhungsoo; Saner-Yiu, Lichia; Braga-Schich, Cecilia; Pazeto, Antônio; Ferreira, Issac; Schuelter, Wilson (2010).

Attempting to enhance global competitiveness of higher education, governments of Singapore and Malaysia have developed regional education hubs. Such strategies include inviting foreign universities to set up their campuses in both countries not only to provide more educational opportunities to their citizens but also to increase attractiveness for foreign investment and high-technology research and concludes that in view of the proliferation of higher education providers, coupled with the mobility of students and diversification of educational services, the conventional public-private distinction is rendered inappropriate. Mok (2010), for instance, compares Singapore and Malaysia's models and approaches in attracting and offering transnational education programmes.

3.2. PRIVATE EXPENDITURE AND RETURNS FROM EDUCATION

The share of private expenditure in education is sizeable. In all OECD members, for which comparable data are available, private funding on educational institutions represents around 15% of all expenditure.¹⁷ In Australia, Canada, and the United Kingdom, as well as in Israel, private funds are reported to constitute around 25% of all educational expenditure. The proportion exceeds 30% in Japan, Korea, the United States, and Chile.¹⁸ In Australia, Canada, Japan, the United States, and Israel, private funding for *higher education* reaches above 40%, and it was above 75% in Korea and Chile. In Australia and New Zealand, the high proportion of private expenditure is reportedly accounted for by the large number of international students enrolled on university programmes.

In more than one-half of developing countries, private spending accounts for more than 10% of total education expenditure, with important variations.¹⁹ For instance, the share rises to one-third, or more, in Chile, Colombia, and Indonesia.²⁰ In general, most private spending goes towards private institutions, although a proportion is also spent on public schools.²¹ Private returns from education are high for both developed and developing countries, which is why individuals have an incentive to invest in education. In developing countries, the wage differential between a secondary school leaver and a university graduate has been estimated at about 200%.²² The earnings premium for higher education is also substantial in most economies and reportedly exceeds 50% in seventeen out of twenty-eight OECD Members and partner countries.²³ Education is also generally a good insurance against unemployment, particularly in the context of economic downturns.²⁴ As discussed in the next section, the growing size of private expenditure has important implications for the internationalization of education services.

¹⁷ Data include economies with OECD partner status. OECD, 2009, 226.

¹⁸ OECD, 2009, 227.

¹⁹ UNESCO Global Education Digest database available at <www.uis.unesco.org/ev.php?ID=7628_201&ID2=DO_TOPIC>.

²⁰ *Ibid.*

²¹ UNESCO, 2007, 44.

²² OECD, 2009, 63.

²³ *Ibid.*, 139.

²⁴ *Ibid.*, 120.

4. CHANGES IN THE EDUCATION SERVICES MARKET

Schools, technical colleges, universities, and adult education centres are, in most countries, typically owned, financed, and operated as public facilities. Private education, especially by non-profit providers, has always existed in parallel but has generally been less extensive in terms of scope and scale. However, in recent decades, significant change has taken place in the structure, governance, and financing of public sector institutions, especially with respect to higher education.²⁵ At the same time, demand for education has grown. In that context, private education has taken a more prominent role, with growing numbers of for-profit institutions, as well as private philanthropic institutions, in the education sector.²⁶

That being said, in most economies, education at the primary and secondary levels is still predominantly publicly provided, although there are exceptions. In the OECD area, for instance, on average, 91% of primary and 85% of secondary school students are enrolled with public institutions. Similarly high percentages can also be observed in developing countries. Given its importance for human and social development, governments throughout the world tend to consider instruction up to a certain level – commonly primary and secondary education – as a basic entitlement. It is thus normally provided free of charge, or with a nominal fee, by public authorities and, in most economies, participation is mandatory.

The situation changes, however, with respect to higher education. Although students enrolled at publicly funded institutions still outnumber those in private institutions, over the last decade, private providers have made significant inroads at both the national and international levels. Today, private institutions globally account for some 30% of all students in higher education.²⁷ In some regions of the world, private higher education institutions are part of a fast growing international education market. The private sector represents slightly more than 10% of total tertiary enrolments in Spain and France and about 30% in Poland, the United States, and Mexico.²⁸ In Asian economies, such as Japan, Korea, Indonesia, and the Philippines, over 75% of enrolments are with private education providers, while in Mexico, Brazil, South Africa, and Chile, it is about 50%.²⁹ In China, private universities accounted for about 6.6%, or about 1.34 million of the 20 million students enrolled in formal higher education in 2006.³⁰ In addition, major public universities in China are reported to have set up second-tier colleges, as income-generating extensions, with about 1.47 million students enrolled.³¹

²⁵ Task Force on Higher Education and Society, *Higher Education Developing Countries: Perils and Promise* (Washington, DC: World Bank, 2000), 30.

²⁶ Private philanthropic institutions are not-for-profit institutions that rely on a combination of gifts and fees.

²⁷ P. Altbach, L. Reisberg & L.E. Rumbley, *Trends in Global Higher Education: Tracking an Academic Revolution*, a report Prepared for the UNESCO 2009 World Conference on Higher Education (Paris: UNESCO, 2009), xi–xiii.

²⁸ S. Vincent-Lancrin, 'Finance and Provision in Higher Education: A Shift from Public to Private?', *OECD Higher Education to 2030, Volume 2: Globalisation* (Paris: OECD, 2009b), 261.

²⁹ Altbach et al.

³⁰ See descriptions provided by R. Hayhoe & J. Lin, 'China's Private Universities: A Successful Case Study', *International Higher Education*, no. 51 (Spring 2008, forthcoming 2009), <www.bc.edu/bc_org/avp/soe/cihe/newsletter/Number51/p6_Hayhoe_Lin.htm> and R. Yang, 'International Organizations and Asian Higher Education: The Case of China', in *International Organizations and Higher Education Policy: Thinking Globally, Acting Locally?*, ed. R.M. Basset & A. Maldonado-Maldonado (New York and London: Routledge, 2009).

³¹ *Ibid.*

In India, private higher education accounts for more than one-third of overall enrolment in higher education.³² Although India, unlike China, has a long history of institutions entirely funded through private initiatives, private education by foreign providers is a relatively recent phenomenon characterized by the setting up of new campuses, as well as the establishment of new programmes. Reportedly, plans are currently underway to allow foreign universities to set up branches, which would potentially further expand the number of institutions offering private education.³³

Private education has also been expanding in Central and Eastern Europe, the Middle East, as well as in Africa.³⁴ In many African economies, which started from a low initial base, the growth of private institutions has been rapid. In Ethiopia, where virtually no private higher education institution existed a decade ago, over sixty are now in existence.³⁵ While data are not systematically collected, it is reported that there are eighteen such institutions in Kenya, twenty in Tanzania, and thirty-two in Nigeria.³⁶ One of the most remarkable developments in the African continent's higher education system is the mushrooming of private colleges. However, the demand for access is still far from being fulfilled, with a total enrolment of rate of about 5% of eligible school leavers in higher education.³⁷

A related trend has been the increasing involvement of public universities in revenue-generating activities.³⁸ While higher education in the OECD area continues to be heavily subsidized for domestic students, universities are increasingly expected to generate new sources of revenue. The generation of funds from private sources has given rise to a new generation of government-dependent private institutions, as distinct from the traditional model of a fully government-dependent institution.³⁹ One consequence of this trend has been greater competition for more fee-paying students, especially international students. In this respect, Australia, New Zealand, United States, and the United Kingdom are among the market leaders with public universities authorized to provide education services at non-subsidized rates to foreign students.⁴⁰

In the Asia-Pacific region, where private provision had been encouraged as early as the 1990s, institutional and policy changes have involved the restructuring of public universities and the establishment of private universities, including by foreign providers.⁴¹

³² P. Agarwal, 'A New Direction for Private Higher Education in India', *International Higher Education*, no. 58 (Winter 2010), <<http://ideas.repec.org/p/ind/icrier/180.html>>.

³³ A. Chang, 'India Gives Foreign Schools the Green Light to Expand Reach', *Wall Street Journal* (2010).

³⁴ Altbach et al.

³⁵ D. Teferra, 'African Higher Education: Projecting the Future', *International Higher Education*, no. 51 (Spring 2008), <www.bc.edu/bc_org/avp/soe/cihe/newsletter/Number51/p9_Teferra.htm>.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Besides tuition fees, universities also generate income from research funds, as well as consulting and research fees.

³⁹ For statistical purposes (see OECD, 2009a), a public education institution is defined as one controlled and managed directly by a public education authority or agency or is controlled and managed either by a government agency directly or by a governing body, most of whose members are appointed by public authority or elected by public franchise. The source of funding is another distinguishing factor. The OECD defines a government-dependent private institution as one where more than 50% of funding comes from government sources. While a fully independent private institution receives less than 50%.

⁴⁰ OECD, *Internationalisation and Trade in Higher Education. Opportunities and Challenges* (Paris: OECD, 2004), 26. Other examples in the OECD area include universities in Austria, Belgium, Canada, Ireland, Netherlands, and the Slovak Republic.

⁴¹ M. Rudner, 'International Trade in Higher Education Services in the Asia-Pacific Region', *World Competition* 21, no. 1 (1997): 88-116.

In Malaysia, for instance, legislation was enacted that gave rise to a wide variety of private institutions.⁴² In 2006, there were sixteen private universities in Malaysia, of which five were foreign-owned branch campuses.⁴³ The number of foreign students increased from about 14,500 in 2001 to just over 40,500 with 84% enrolled in private institutions.⁴⁴ Initiatives to expand the private education sector as part of national capacity building have also taken place in, for example, China (including Hong Kong), Thailand, and Singapore.⁴⁵

5. EDUCATION SERVICES: TRADE LINKAGES AND KEY TRENDS

An important feature of education services trade has been the increasing international mobility not only of students but also of programmes and institutions. Abetting that mobility has been the innovative use of information and communication technologies providing alternate ways to deliver education services. New institutional arrangements involving a greater and more diverse number of partners, ranging from educational institutions to corporations, have also created new commercial opportunities such as the franchising and twinning of academic programmes. Under the World Trade Organization (WTO) General Agreement on Trade in Services (GATS), services trade is defined as being conducted under four modes of supply.⁴⁶ These four modes capture all possible means by which services can be supplied internationally.

In terms of education services, mode 2 (consumption abroad) has traditionally been the most common way by which trade in education services occur. This mode covers the situation where a student moves abroad and consumes education services while in another territory. In recent years, mode 2 has been supplemented by mode 1 (cross-border supply of education). Under mode 1, services are supplied into a territory without the presence of the supplier. In education services, international distance education would fall under mode 1. The possibilities for such transactions have clearly expanded with the advent of the internet, as well as through the use of franchise/twinning arrangements between a foreign provider and local institution.⁴⁷ Mode 3 (commercial presence) describes the situation where the service supplier establishes commercial presence in the territory in which it supplies services. The establishment of foreign campuses, for instance, would fall under mode 3. The last mode of supply, mode 4 (movement of natural persons), reflects the

⁴² S.Y. Tham & A.K.Y. Ji, *Trade and Investment Linkages in Higher Education Services in Malaysia*, UNESCAP Asia-Pacific Research and Training Network on Trade, Working Paper Series No. 43 (September 2007), 6–8.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ OECD, 2004, 29.

⁴⁶ The four modes of supply are mode 1 (cross-border supply), mode 2 (consumption abroad), mode 3 (commercial presence), and mode 4 (movement of natural persons).

⁴⁷ In a franchise/twinning arrangement, the student is enrolled by the foreign institution but completes a substantial part of the study programme at a local institution. In most arrangements, in order to complete the programme, the student has to travel abroad and undertake the final year of study at the foreign institution. The local institution provides the physical facilities and teaches the programme of the foreign institution but does not confer any degrees or academic qualifications. The foreign institution may ensure quality through on-site supervision and/or the direct involvement of its faculty staff. Through such franchise/twinning arrangements, a local institution can dramatically increase the choice of courses available to students in their country of origin. The student has the advantage of obtaining a foreign qualification at significantly reduced cost.

situation where a natural person, as distinct from a juridical person, supplies services in a foreign territory. Situations falling under mode 4 would include the movement of teaching staff either as the direct supplier of the service or as employees of a foreign institution established in that territory.

Table 2 categorizes the various ways by which education service transactions fall under the four modes of supply. In some cases, the correspondence between forms of education delivery and modes of supply is relatively straightforward such as in the case of study abroad (mode 2) and traditional distance learning (mode 1) or academic mobility (mode 4). However, some of the newer arrangements often involve a combination of two or more modes of supply and are difficult to categorize. For instance, twinning and franchise arrangements have similarities to a branch campus in terms of the face-to-face education provided, but no commercial presence (mode 3) is established by the foreign provider. All physical facilities are owned, and staff recruited, by the local institution while teaching formats, materials, quality control, supervision, and evaluation are provided by the foreign institution. Arguably, the foreign institution remains the service supplier, and the course is taught at distance with the assistance of the local partner. This form of programme mobility, which can sometimes be combined with a pure distance online course, tends to correspond to cross-border supply (mode 1). Consumption abroad (mode 2) can also be

Table 2 Correspondence between Modes of Supply and Forms of Education Services Traded Internationally

Mode	Education Examples/Forms	Main Feature^a
1. Cross-border supply (mode 1)	Distance education Online education Commercial franchising/ twinning of a course	Programme mobility
2. Consumption abroad (mode 2)	Students abroad	People (student) mobility
3. Commercial presence (mode 3)	Establishment of an educational institution or satellite campuses Branch campus, including joint venture with local institutions	Institution mobility
4. Presence of natural persons (mode 4)	Professors, lecturers, teachers, researchers providing education services abroad	People (academic) mobility

^a The taxonomy of people, programme, and institution mobility is based on work by the OECD. See OECD, *Internationalization and Trade in Higher Education: Opportunities and Challenges* (2004), 20.

involved in such arrangements, as the student is often required to study abroad at the foreign institution to complete the programme. The movement of personnel (mode 4) may also be necessary for supervision or instruction purposes.

While statistics on international trade in education services are limited, various indicators suggest that the main trend over the past several decades has been the rapid expansion of the sector, especially at the tertiary level. This is demonstrated by the increasing international mobility of students, academics and researchers, institutions, and programmes. Factors behind the growth in international trade in education services and the main trends are discussed in the following sections.

5.1. PEOPLE (STUDENT/ACADEMIC) MOBILITY ACROSS BORDERS (MODE 2 AND MODE 4)

Between 1999 and 2007, the number of international students doubled from 1.75 million to nearly 3 million.⁴⁸ In 2007, a total of 1.2 million students from Asia were abroad, about half of whom were studying in the OECD area, twice more than in 1998.⁴⁹ Globally, East Asia and the Pacific accounted for over 33% of all students abroad in 2007 (see Table 3). Students from Central and Eastern Europe account for the second largest share of international students (13%), but this figure mainly reflects intra-European mobility. South and West Asia's share has also been growing rapidly and was third highest in the world.

While Latin America and the Caribbean account for a smaller world share of students abroad, very high growth (70%) was registered between 1999 and 2007. Sub-Saharan Africa, which had as many as 218,000 in tertiary education institutions outside of their home economies in 2007, registered an even higher rate of increase (144%).⁵⁰ This number, which represents close to 6% of those enrolled in tertiary education at home, is about three times greater than the global average.⁵¹ In quite a number of sub-Saharan countries, the outbound mobility ratio (the ratio of students studying abroad to those enrolled in tertiary institutions at home) is as high as 1:3.⁵²

China sends the greatest number of students abroad, totalling to almost 421,100.⁵³ Other major countries of origin are India (153,300), the Republic of Korea (105,300), Germany (77,500), Japan (54,500), France (54,000), the United States (50,300), Malaysia (46,500), Canada (43,900), and the Russian Federation (42,900).⁵⁴ These ten economies account for about 38% of the world's international students.⁵⁵ In terms of receiving

⁴⁸ S. Vincent-Lancrin, 'Cross-Border Higher Education: Trends and Perspectives', *OECD Higher Education to 2030, Volume 2: Globalisation* (Paris: OECD, 2009a), 65.

⁴⁹ *Ibid.*, 67.

⁵⁰ UNESCO, *Trends in Tertiary Education: Sub-Saharan Africa*, no. 1, UIS Factsheet, July 2009b, 3.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ UNESCO, *Global Education Digest 2009* (Paris: OECD, 2009a), 36.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

Table 3 *Students Abroad by Sending Region: 1999 and 2007*

	1999 (In Thousands)	2007 (In Thousands)	%Increase	%Share in 2007
North America	60	90	50.0	3.8
Latin America and the Caribbean	100	170	70.0	7.1
EU 15 ^a	100	100	0.0	4.2
Central and Eastern Europe	190	310	63.2	12.9
Arab States	120	190	58.3	7.9
Central Asia	60	100	66.7	4.2
South and West Asia	100	250	150.0	10.4
East Asia and the Pacific	440	810	84.1	33.8
Sub-Saharan Africa	90	220	144.4	9.2
Not specified ^b	60	160	166.7	6.7
Total (excluding intra EU 15)	1,320	2,400	81.8	100.0
Intra EU15 Students	270	240	(11.1)	
Total with Intra EU 15 students	1,590	2,640	66.0	

^a EU15 includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom.

^b Refers to students studying abroad without record of the host or sending country.

Source: Based on data from UIS-UNESCO (2010).

economies, North America and Western Europe still host the largest share of students, approximately 70% in 2000 and 64% in 2007. The rate of increase is, however, higher for East Asia and the Pacific, which has seen 110% growth over the last decade in the numbers of international students hosted.

The regional shares understate the fact that the bulk of international students has traditionally been concentrated in only a few locations. Collectively, the United States, United Kingdom, and Australia attract about 50% of all students abroad. Australia and New Zealand have fewer students overall but much higher proportions of international students in their universities than any other economy, including the United States, and for these economies, the income from international students constitutes a very significant export industry.⁵⁶ While the United States and the United Kingdom remain the top two

⁵⁶ C. Ziguras & G. McBurnie, 'The Impact of Trade Liberalization On Transnational Education', in *Teaching in Transnational Education: Enhancing Learning for Offshore International Students*, ed. L. Dunn & M. Wallace (London: Routledge, 2008), 4.

destinations in terms of numbers, other destinations have also experienced significant growth. Students from Asia-Pacific are increasingly choosing to study in destinations within the region.⁵⁷ Although starting from a low base, numbers of foreign students hosted by China grew by 400% between 1999 and 2008.⁵⁸ Australia, already one of the top destinations, continued to grow by more than 200% over the same period.⁵⁹

Overall, the pattern of student mobility reflects two main trends (see Figure 1). One consists of a heavy concentration of students from Asia and the Pacific studying in North America and Western Europe, as well as within the region. The other trend reflects intra-European Union (EU) student mobility where the Bologna Process of creating a European Higher Education Area has facilitated regional mobility.⁶⁰ Much of this intra-European mobility constitutes a special situation as it is driven by policies and EU sponsored programmes that are aimed at regional and economic integration.⁶¹ However, even excluding intra EU flows, the number of international students is estimated to have grown by over 80% from 1999 to 2007. While impressive, the growth in the number of students abroad has to be seen in the context of the rapid expansion of tertiary education worldwide (see Figure 2). UNESCO estimates suggest that the number of students in tertiary education grew by 53% over the period 2000 to 2007.⁶²

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Balance of Payments (BOP) data on trade in education services are often either not collected or reported separately. Available BOP data on education services significantly underestimate the international trade activity in this sector. As for any other service sector, BOP data only capture a fraction of trade in services as defined by the four modes of supply of the GATS. The top ten exporters in 2007 included the United States, Australia, United Kingdom, and Canada. The average rate of growth in total exports from 2002 to 2007 was 12%. Top ten importers included Korea, United States, Germany, and India. While just outside the top ten, developing countries such as Malaysia have emerged as significant exporters. Developing countries are also increasingly major importers of education services, with India, Malaysia, and Nigeria featuring among the top ten importers for 2007.⁶⁴ There are, however, significant gaps in the

⁵⁷ H. de Wit, 'Changing Dynamics in International Student Circulation: Meanings, Push and Pull Factors, Trends and Data', in *The Dynamics of International Student Circulation in a Global Context*, ed. H. de Wit et al. (Rotterdam: Sense Publishers, 2008), 40.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ See <www.coe.int/T/DG4/HigherEducation/EHEA2010/BolognaPedestriansEN.asp>.

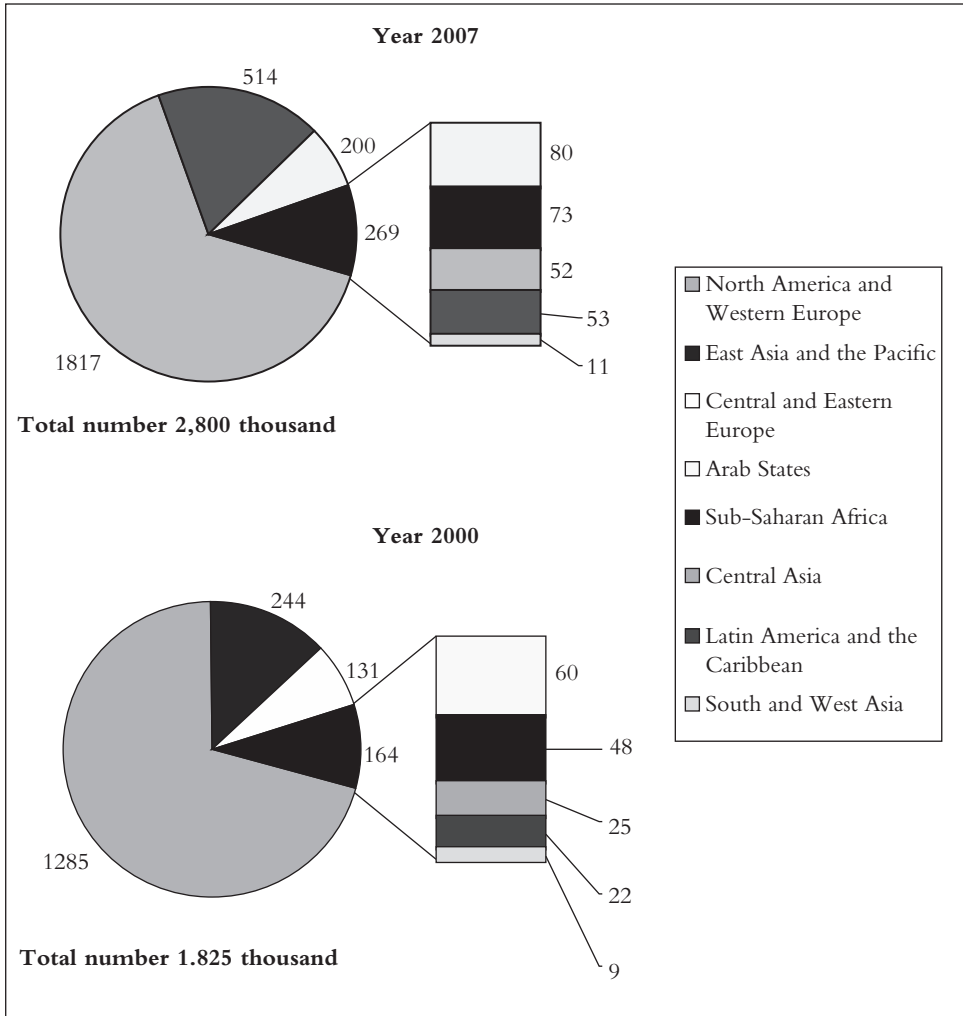
⁶¹ According to S. Bashir, *Trends in International Trade in Higher Education: Implications and Options for Developing Countries* (Washington, DC: The World Bank, 2007), 12, the European Commission, through the ERASMUS programme, has promoted and financed almost all student flows within the European Union (EU) and into the EU from the candidate countries of Central and Eastern Europe.

⁶² UNESCO, 2009a, iv.

⁶³ *Ibid.*, iv.

⁶⁴ No figure was reported for China.

Figure 1 Number of Internationally Mobile Students (Thousands) by Region of Destination, 2000 and 2007

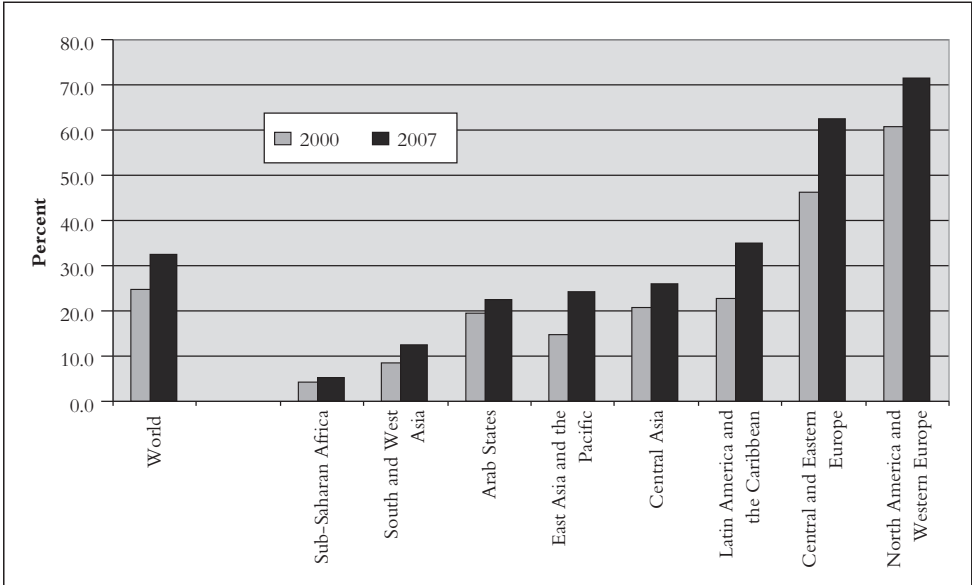


Source: OECD, *Trends in Global Higher Education: Tracking an Academic Revolution* (2009), vii.

data reported. For instance, although not listed as among the top ten importers of education services, China (including Hong Kong, China) has by far the most student nationals in higher education abroad, representing 17% of the foreign students in the OECD area in 2007.⁶⁵

⁶⁵ Vincent-Lancrin, 2009a, 69.

Figure 2 Tertiary Gross Enrolment Ratios^a by Geographical Region, 2000 and 2007



^a The gross enrolment ratio in tertiary education is the total enrolment in tertiary education regardless of age, expressed as a percentage of the population in the five-year age group after leaving secondary school.

Source: Generated from the UNESCO Institute for Statistics database.

The presence of natural persons for the supply of education services is less well documented. The expectation though is that global mobility of academic staff is increasing with greater interaction between institutions on joint teaching and research programmes. It is difficult to say to what extent such movement is represented by mode 4 since the information available is not sufficiently disaggregated for such distinctions to be made. Available BOP data, which provide mode 1 and mode 4 as a combined figure,⁶⁶ show the United States (USD 1.2 billion) and Australia (USD 304 million) to be top suppliers and the United States (USD 780 million) and Korea (USD 157 million) as leading recipients (see Table 4). Italy (USD 195 million) and Canada (USD 148 million) ranked third and fourth, respectively. However, given that only very few economies have reported such data, these rankings have to be treated with caution. Also, since it is not possible to distinguish between mode 1 and mode 4, no interpretation can be made of the amount of trade actually accounted for by mode 4 education service suppliers.

⁶⁶ BOP data provide information on education-related travel expenditure and education services, which are shown under other personal, cultural, and recreational services. Since mode 3 is not captured in BOP data and education-related travel expenditure reflects mode 2, it is assumed that the education services included in other personal, cultural, and recreational services represent modes 1 and 4 flows.

Table 4 Major Exporters and Importers of Education-Related Travel Expenditure 2007^a
(In Million US Dollars and Percentage)

Rank	Exporters	Share of			Rank	Importers	Share of		
		Value	Top 20	Annual %			Value	Top 20	Annual %
1	United States	15,960	38.2	9	1	Korea, Republic of	5,025	21.3	11
2	Australia	10,314	24.7	32	2	United States	4,760	20.2	6
3	United Kingdom	7,612	18.2	14	3	Germany	2,400	10.2	6
4	Canada	2,263	5.4	9	4	India	2,152	9.1	99
5	Italy	1,711	4.1	-4	5	France	1,844	7.8	22
6	New Zealand	1,124	2.7	9	6	Malaysia	1,345	5.7	22
7	France	479	1.1	17	7	Canada	1,154	4.9	5
8	Austria	422	1.0	19	8	Nigeria	1,076	4.6	927
9	Greece	383	0.9	25	9	Italy	1,000	4.2	17
10	Czech Rep.	318	0.8	28	10	Australia	659	2.8	12
11	Turkey	296	0.7	10	11	United Kingdom	324	1.4	15
12	Malaysia	199	0.5	33	12	Turkey	280	1.2	20
13	Ireland	186	0.4	9	13	Greece	267	1.1	6
14	Hungary	147	0.4	7	14	Morocco	220	0.9	28
15	Dominican Rep.	95	0.2	37	15	Czech Republic	210	0.9	136
16	Israel	88	0.2	-10	16	Libya	193	0.8	5

17	Costa Rica	79	0.2	15	17	Venezuela, Rep. Bol.	182	0.8	379
18	Bulgaria	61	0.1	20	18	Cyprus	172	0.7	-3
19	Korea, Rep. of	45	0.1	61	19	Luxembourg	140	0.6	13
20	Slovenia	44	0.1	25	20	Pakistan	138	0.6	12
	Above 20	41,826	100.0	-		Above 20	23,540	100.0	-

^a As certain members either do not collect or do not report data on this item, they may not appear in the list. The European Union does not report a single EU-27 figure for this item. The BOP definition for education-related travel expenditure can be found at <<http://unstats.un.org/unsd/statcom/doc10/BG-MSITS2010.pdf>> (paragraphs 3.113-3.128 and 3.258).
Source: These figures are based on information available to the WTO Secretariat.

5.2. PROGRAMME MOBILITY (INCLUDING DISTANCE LEARNING) THROUGH CROSS-BORDER SUPPLY (MODE 1)

One of the most important innovations in higher education has been the mobility of education programmes across borders either in a pure distance learning format or by way of a franchise/twinning arrangement with a local partner. It is difficult to estimate the number of such offshore programmes or the number of students enrolled on them, since data are often not systematically collected. The few studies available suggest that there are as many as 2,000 such programmes operating internationally with about 500,000 students enrolled, mostly in Asia.⁶⁷ The main providers are institutions from the United Kingdom, Australia, and the United States.

Offshore enrolments in Australian universities grew from around 20,000 in 1996 to over 66,000 in 2008, representing nearly one-third of international enrolments in Australian universities.⁶⁸ In 2003, a survey of Australian institutions found that nearly 1,600 programmes were offered abroad: 57% through offshore programmes, 17% through online learning, and 16% through a mix of online learning and partnerships with local institutions.⁶⁹ More than 85% of programmes by Australian institutions are reported to be located in China (including Hong Kong, China), Singapore, and Malaysia.⁷⁰ The total number of offshore programmes operated by universities from the United Kingdom is not available, although it has been reported that they are found in at least seventy locations with a heavy concentration in South East Asia and Eastern Europe.⁷¹ Various estimates suggest that up to 300,000 students are enrolled on British offshore programmes.⁷² It has also been estimated that there are over 200 programmes offered by US institutions worldwide.⁷³ New Zealand is reported to operate sixty-three offshore programmes, with an enrolment of some 2,200 students.⁷⁴

Students on offshore programmes are mostly from middle-income Asian economies. In 2007, China re-approved 705 programmes and 126 institutions operated in partnership with a foreign institution.⁷⁵ After twenty years of continued growth, one-third of Singapore's higher education students are now enrolled in offshore education programmes.⁷⁶ Offshore programmes also account for a growing share of the tertiary education sector in

⁶⁷ The estimate on the number of programmes and student is based on a survey by Bashir, in Annex 3.

⁶⁸ Australian universities publish the most detailed information on offshore programmes. See analysis in G. McBurnie & C. Ziguas, 'The Future of Transnational Higher Education: Contemporary Trends and Future Scenarios in Programme and Institution Mobility across Borders', in *OECD Higher Education to 2030, Volume 2: Globalisation* (Paris: OECD, 2009).

⁶⁹ S. Hatakenaka, *Internationalisation in Higher Education: A Review* (London: Higher Education Policy Institute, June 2004), <www.hepi.ac.uk>, 12.

⁷⁰ Quoted by Vincent-Lancrin, 2009a, 71, based on data from IDP Education Australia.

⁷¹ Bashir, 33.

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ X. Dong, *Development of Transnational Education in P.R. China*, presentation given at APEC Capacity Building Seminar on Transnational Education Services (2008), <http://hrd.apec.org/index.php/Capacity_Building_Seminar_On_Transnational_Education_Services>, 72.

⁷⁶ McBurnie & Ziguas, 2009, 90.

other Asian economies, as well as in the Middle East. Main providers of such programmes are the United States, United Kingdom, and Australia. Other significant providers include Japan, Singapore, Canada, France, and Germany.

It is difficult to estimate the numbers of students engaged in distance learning, although the expectation is that significant expansion has taken place with the setting up of large-scale 'open' and 'virtual' universities. The Course on the Internet: Survey, Analysis, Evaluation and Recommendation (CISAER) project estimated that, in 2000, there were over one million courses using the Internet worldwide.⁷⁷ Examples include the African Virtual University, which works across borders and language groups in over twenty-seven countries. The United Kingdom's Open University Worldwide was reported in 2002 to have 30,000 students enrolled outside the United Kingdom and a further 10,000 through partnerships with other institutions.⁷⁸

Although data have been compiled from a variety of sources and comparison is not easy, indications are that the number of students on online learning and other types of offshore programmes has been growing steadily. New information and communication technologies have created new possibilities for distance learning with the emergence of virtual education platforms. It should be noted, though, that in a survey of nineteen tertiary education institutions in thirteen countries, it was found that fully online programmes were still fewer than 5% of total enrolments.⁷⁹ Moreover, programmes are often combined with traditional face-to-face teaching involving partnerships with local institutions.

5.3. INSTITUTION MOBILITY THROUGH COMMERCIAL PRESENCE (MODE 3)

The establishment of international branch campuses is not a new phenomenon; however, in recent decades, the scale has expanded and there is now greater focus on revenue generation. Since 2006, the number of international branch campuses in the world has increased by 43%, according to a report published in 2009 by the Observatory on Borderless Higher Education (OBHE).⁸⁰ In the report, the OBHE identified 162 international branch campuses in the world, most of which were found in Asia-Pacific and the Middle East.⁸¹ The rate of growth has been high, since of all existing campuses, only thirty-five campuses (22%) were in operation before 1999.⁸²

⁷⁷ D. Keegan, *Mobile Learning: The Next Generation of Learning*, *Distance Education International*, 2005, <www.groupe-compas.net/wp-content/uploads/2009/09/book1.pdf>, 23.

⁷⁸ OBHE (2002).

⁷⁹ OECD, *E-learning in Tertiary Education*. Policy Brief (Paris: OECD, December 2005), 2.

⁸⁰ R.J. Becker, *International Branch Campuses: Markets and Strategies* (London: The Observatory on Borderless Higher Education, September 2009), 1. The OBHE is one of the few organizations that systematically collect data on international branch campuses. While there is no universally agreed definition of an international branch campus, the OBHE report refers to the offshore entity of a higher education institution operated by the institution or through a joint venture. Upon successful completion of the course programme, which is fully undertaken at the unit abroad, students are awarded a degree from the foreign institution. Some of the international branch campuses listed in the OBHE survey are small centres, rather than extensive campuses.

⁸¹ Becker, 6.

⁸² *Ibid.*

Table 5 Top Ten Source Economies of International Branch Campuses, 2009

Source	Number
United States	78
Australia	14
United Kingdom	13
France	11
India	11
Mexico	7
Netherlands	5
Malaysia	4
Canada	3
Ireland	3

Source: Based on a survey by the OBHE, 2009.

Institutions from the United States continue to account for the largest share of all existing international branch campuses with seventy-eight campuses (48%, see Table 5). The United States is followed by Australia (which has fourteen campuses, 9%), the United Kingdom (thirteen campuses, 8%), and France and India (each with eleven campuses, 7%). Branch campuses are being established not just by institutions from developed economies but also by developing country institutions. A number of Asian higher education institutions, notably those from India, China, Malaysia, and Singapore, have established joint ventures in other Asian economies as well as in Africa.⁸³ In 2006, only five such cases were recorded as compared to the twenty-six such campuses in 2009.

In terms of destinations, according to the OBHE survey, the United Arab Emirates (UAE) is the clear leader among host economies with forty international branch campuses, corresponding to 25% of all international branch campuses in the world (see Table 6).

China is in second position among the host economies, with fifteen campuses (9% of all existing campuses). Singapore is in third place with twelve campuses (7%), and Qatar, in fourth with nine ventures (6%). Some examples include the opening of campuses in China and Malaysia by the University of Nottingham (United Kingdom), in Malaysia and South Africa by Monash University (Australia), and Vietnam by the Royal Melbourne Institute of Technology (Australia).⁸⁴ While not recorded in the OBHE survey, an increasing number

⁸³ Bashir, 32.

⁸⁴ Vincent-Lancrin, 2009a, 72.

Table 6 *Host Economies for International Branch Campuses, 2009*

Host Economy	Number
United Arab Emirates	40
China	15
Singapore	12
Qatar	9
Canada	6
Malaysia	5
United Kingdom	5
Ecuador	4
Germany	4
Mexico	4
Australia	3
Bahrain	3
Puerto Rico	3
Switzerland	3

Source: Based on a survey by the OBHE, 2009.

of branch campuses are also being established in parts of Latin America, as well as in Eastern Europe.⁸⁵ International providers are also present in Africa although the number of such institutions is not well recorded.

Another important trend has been the acquisition of private education institutions by large corporate groups. In these acquisitions, universities and colleges are brought together under common ownership, but each institution maintains its own nationally accredited programmes.⁸⁶ The US Group of Laureate International University is reported in 2009 to be operating forty campuses located across South and North America (Brazil, Chile, Costa Rica, Ecuador, Honduras, Mexico, Panama, Peru, and the United States), Asia-Pacific (Australia, China, Malaysia), and Europe (Germany, Cyprus, Spain, France, Switzerland, and Turkey).⁸⁷ The Apollo Group, which owns the University of Phoenix, has campuses in India, Mexico, and a number of locations in South America, as well as in Eastern and

⁸⁵ S. Marginson & M. Van der Wende, *Globalisation and Higher Education*, OECD Education Working Paper No. 8, EDU/WKP (2007) 3 (6 Jul. 2007), 41.

⁸⁶ Based on unpublished research by Christopher Ziguras of the Royal Melbourne Institute of Technology.

⁸⁷ Vincent-Lancrin, 2009a, 72. The Laureate International group is a company listed on the National Association of Securities Dealers Automated Quotations (NASDAQ) stock exchange. In 2004, universities owned by the group enrolled 155,000 students and generated 80% of their revenue outside of the United States.

Western Europe.⁸⁸ The Manipal Education Group from India, which already had presence in Nepal, Malaysia, and Dubai, acquired the entire stake of the American University of Antigua and entered the Caribbean medical education market in 2008. It has announced plans to acquire operations in Oman, Indonesia, and Vietnam.⁸⁹ The Manipal Group's international operations contribute to more than 50% of its revenue.⁹⁰

While the establishment of branch campuses has been growing in terms of numbers and location, they have not expanded as quickly as franchise and twinning arrangements in which the education programme is offered through a local partner without requiring a 'bricks and mortar' investment by the foreign institution. In general, host economies that have provided support, funding, or infrastructure have experienced the largest growth in branch campus developments and account for the highest number of (new) establishments. The setting up of a branch campus requires heavy initial investment in land, infrastructure, and equipment, as well as the recruitment of staff. In addition, branch campuses require a clear policy and regulatory framework providing sufficient stability to encourage the provider to invest capital for long-term operations. Since branch campuses are established on a for-profit basis, there is also the risk of commercial failure. In 2009, the OBHE reported eleven international branch campus closures, with five within the past three years. That being said, research and longer term benefits rather than immediate revenue generation could play a role in establishing foreign campuses.

In terms of Foreign Direct Investment (FDI), developed economies still account for the majority of inward and outward flows in the education sector. In 2007, developed economies inward FDI stock in education was USD 7.8 billion, while the outward stock was USD 1.5 billion.⁹¹ For developing economies, the inward stock was USD 874 million, while the outward stock was USD 29 million. Thus, while international branch campuses have been expanding in developing country locations, FDI would suggest that mode 3 flows are largely between developed economies. There is clearly a strong economic motivation for establishing abroad. For instance, sales by US-owned education suppliers in foreign locations grew by 36% from 2004 and 2006 and are close to USD 2 billion.⁹² Suppliers from the United Kingdom recorded an increase of over 200% (USD 1.4 billion) in inward sales turnover over the same period.

⁸⁸ The Apollo Group owns the largest private university in the United States, the University of Phoenix, as well as the Western International University. Based on unpublished market research by Christopher Ziguas of the Royal Melbourne Institute of Technology, other examples include Kaplan Higher Education, a subsidiary of the Washington Post Company that owns Kaplan University and the Concord Law School in the United States; the Dublin Business School, Ireland; FTC Business School in the United Kingdom; Tribeca Learning in Australia; and the Singapore-based Asia Pacific Management Institute with operations in China (including Hong Kong), Singapore, and Chinese Taipei.

⁸⁹ Information on the Manipal Group is available at <www.manipalgroup.com>.

⁹⁰ See Agarwal.

⁹¹ UNCTAD, *World Investment Report: Transnational Corporations, Agricultural Production and Development* (New York and Geneva: United Nations, 2009), 218–219.

⁹² Data reported to the WTO Secretariat. Foreign Affiliate Trade Statistics (FATS) describe economic activities of foreign-owned firms in the local economy and provide an indicator mode of 3. Outward turnover represents total sales by firms of the reporting country in host economies.

6. GROWTH FACTORS DRIVING INTERNATIONAL TRADE IN EDUCATION SERVICES

Growth in trade in education services has been driven by a combination of demand and supply factors. These include advances in information and communication technologies, the emergence of new private actors in the provision of education services, government policies towards improving access to post-secondary education, new revenue-generating strategies by education providers, individual student choices, and requirements of employers for higher level qualifications and language skills.⁹³

A consistent trend over past decades has been the increasing numbers of secondary school graduates seeking entry to tertiary level education. The expansion has been particularly intense since 2000, with 51.7 million new tertiary students enrolled around the world in just seven years.⁹⁴ In OECD economies, tertiary enrolment rose by 43% between 1995 and 2003.⁹⁵ In developing countries, the expansion was even bigger. A study by UNESCO and the OECD found that for a selection of seventeen developing countries from Latin America, Asia, and Africa, the increase during the same period was 77%.⁹⁶ The Global Student Mobility 2025 Report foresees that the demand for international education will increase to 7.2 million in 2025.⁹⁷ For many economies, the demand for tertiary level education far exceeds domestic capacity.

Factors that have played an important role in fuelling the demand for international education are the returns that accrue from further education.⁹⁸ The labour market is demanding new and changing competencies such as adaptability, knowledge of latest technologies, and the ability to acquire new skills independently.⁹⁹ The number of jobs requiring high-level skills has grown faster than those requiring only basic skills, thus further stimulating demand for higher education.¹⁰⁰ In an increasingly global economy, English-language qualifications confer a certain competitive advantage, since international transactions are mainly conducted in that language.¹⁰¹ Study abroad also facilitates international migration and is sometimes supported by host governments as part of a skilled migration policy.¹⁰²

On the supply side, due to technological developments and changes in the structure of the education market, a greater number and variety of study programmes and courses are being offered internationally. Technological progress, for instance, has improved and facilitated various forms of distance education. Due to changes in the financing of higher education, institutions from major education provider economies have put increased

⁹³ See OECD, 2004, 25–31, for a discussion of the policy rationales and drivers of cross-border education.

⁹⁴ UNESCO, 2009a.

⁹⁵ P. Teixeira, Mass Higher Education and Private Institutions, in *Higher Education to 2030, Volume 2: Globalisation* (Paris: OECD, 2009), 239.

⁹⁶ *Ibid.*

⁹⁷ A. Böhm et al, *Global Student Mobility 2025: Forecasts of the Global Demand for International Higher Education* (Canberra: IDP Education Australia, 2002), assume that based on worldwide economic and demographic growth, the number of international students will rise at a compound rate of 5.8%.

⁹⁸ Bashir, 51.

⁹⁹ R. Hopper, 'Building the Capacity in Quality Assurance: The Challenge of Context', *OECD Cross-Border Tertiary Education: A Way towards Capacity Development* (Paris: OECD, 2007), 109.

¹⁰⁰ *Ibid.*

¹⁰¹ OECD, 2004, 30.

¹⁰² *Ibid.*, 27.

emphasis on revenue generation.¹⁰³ This has resulted in a drive to offer education services to international students at commercial rates through student mobility programmes and/or by opening branch campuses and offshore programmes.

Demand and supply factors have also combined with deliberate national capacity-building objectives, as demonstrated by some Southeast Asian economies.¹⁰⁴ Initially, while such capacity-building approaches were based on students moving abroad for higher education, over the last decade, the emphasis has shifted towards opening access for foreign institutions to operate in the territory either through branch campuses or offshore programmes.¹⁰⁵ The advantage of the latter strategy is both cost savings and the potential for rapid expansion since local students can obtain a foreign qualification without having to go abroad. Moreover, since face-to-face instruction is provided through collaboration with a local partner, it is hoped that there will be a positive impact on the higher education sector in general.

7. CURRENT COMMITMENTS UNDER THE GATS

Despite their economic importance and growing share of international trade, education services ranks among the sectors with the fewest number of GATS commitments. Fifty-one members have taken commitments in one or more education sub-sectors.¹⁰⁶ Of these members, twenty-three acceded after the establishment of the WTO in 1995. Only two members acceding after 1995 do not have commitments in the education sector.¹⁰⁷ As in the case of other sectors, due to accessions, the overall number and quality of commitments across all of the five education sub-sectors have increased.

In the following overview of commitments, the level of sectoral coverage will be discussed separately from the level of modal coverage. In turn, modes 1, 2, and 3 (i.e., cross-border supply, consumption abroad, and commercial presence), where access is determined mainly by sector-specific commitments, will be addressed separately from mode 4 (presence of natural persons). Reference to the horizontal sections will be made whenever relevant.

In addition, the discussion will primarily focus on the commitments regarding market access, since in a majority of schedules (thirty-one out of fifty-one with commitments in education), the entries for national treatment mirror those for market access. In the cases where the entries for a given mode under market access and national treatment differ, more than half of the members have committed in full for the latter (twelve schedules out of twenty). Current horizontal limitations mostly provide for limitations on national treatment with regard to subsidies, acquisition of real estate, investment (in state-owned enterprises for example), nationality requirements for the members of boards of directors, and taxation.

¹⁰³ *Ibid.*, 26.

¹⁰⁴ Vincent-Lancrin, 2007, 49.

¹⁰⁵ Tham & Ji; Vincent-Lancrin, 2007; and G. McBurnie & C. Ziguras, 'The Regulation of Transnational Higher Education in Southeast Asia: Case Studies of Hong Kong, Malaysia and Australia', *Higher Education* 42, 1 (2001): 85–105.

¹⁰⁶ Since the schedules of Austria, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic, and Slovenia have not yet been consolidated into that of the European Union and their Member States, they have been counted independently. Cyprus, Finland, Malta, Romania, and Sweden have not taken any commitments on education services.

¹⁰⁷ Mongolia and Ecuador.

7.1. SECTORAL COVERAGE

Overall, 183 commitments in a total of fifty-one schedules have been taken in education services. A breakdown of the commitments taken in respect of the five education sub-sectors is provided in Table 7. The number of commitments between the five sub-sectors is fairly evenly distributed, with the exception of ‘other education’, which is committed in only twenty-five schedules.¹⁰⁸ In thirty schedules, commitments are taken for at least four of the five sub-sectors.¹⁰⁹ The number of commitments by recently acceded members is particularly high: seventeen members are committed in at least four sub-sectors and seven Members in all sub-sectors (see Annex 6 for a full breakdown of commitments taken by members).¹¹⁰ Economies in transition, which represent the largest group of recently acceded members, have collectively taken the most number of commitments in education services.¹¹¹

Table 7 Breakdown of Specific Commitments in Education Services by Sub-Sector

Sub-Sector	Number of Schedules with Commitments
Primary education	34
Secondary education	41
Higher education	42
Adult education	41
Other education	25
Total number of commitments	183

Source: WTO Secretariat.

As a result of accessions since 1995, the sectoral coverage of developing countries and economies in transition is wider than that of developed members.¹¹² Commitments taken by recently acceded members are also relatively free of limitations. For instance, full commitments have been taken in higher and adult education by half of all recently acceded members.¹¹³

¹⁰⁸ ‘Other education’ is a residual category, and only five schedules give some indication as to the activity that has been committed.

¹⁰⁹ These members are Albania, Cape Verde, China, Chinese Taipei, Croatia, Czech Republic, Estonia, EU, Georgia, Hungary, Japan, Jordan, Kyrgyz Republic, Latvia, Lesotho, Liechtenstein, Lithuania, Mexico, Moldova, Norway, Oman, Poland, Saudi Arabia, Sierra Leone, Slovak Republic, Switzerland, Tonga, Turkey, Ukraine, and Vietnam.

¹¹⁰ China, Estonia, Jordan, Moldova, Saudi Arabia, Tonga, and Ukraine.

¹¹¹ Commitments on education services are taken by seventeen transition, fifteen developing, nine developed, and ten least-developed country members.

¹¹² Lim & Honeck, 138.

¹¹³ Where the sector is committed, full commitments are taken in thirteen schedules out of twenty-three in higher education, fourteen schedules out of twenty-three in primary, six out of twenty-three in secondary, and seven schedules out of twenty-three in other education.

Box 1 CARVE-OUT FOR SERVICES PROVIDED IN THE 'EXERCISE OF GOVERNMENTAL AUTHORITY'

Article I.3(b) GATS states that, for the purpose of the GATS, 'services' include 'any service in any sector except services supplied in the exercise of governmental authority'. Article I.3(c) specifies that 'a service supplied in the exercise of governmental authority' means 'any service, which is supplied neither on a commercial basis, nor in competition with one or more service suppliers'.

Education supplied in the exercise of governmental authority may thus be considered to fall outside the scope of the GATS, if it is supplied neither on a commercial basis nor in competition with other suppliers. The GATS does not, however, define 'competition' or 'commercial basis'. There is no unified model of governmental provision of education services, since national traditions and education systems differ. A similar situation exists for other service sectors, which feature an important public service aspect, such as health services.¹¹⁴ The coverage of the carve-out will thus have to be determined on a case-by-case basis.

While questions have been raised on the scope of the Article I.3(b) and (c), it should be noted that if a sector is not committed, only a limited set of GATS disciplines would apply, in any case, the most important of these obligations being that of MFN treatment. MFN does not impinge on a government's ability to restrict market access or to impose national treatment conditions. In this respect, WTO members have wide flexibility to schedule specific commitments, which restrict the scope of coverage to private education with any necessary limitations on market access and national treatment. As demonstrated by existing GATS commitments, a number of WTO members have limited the scope of specific commitments to privately provided education services by, for example, excluding educational institutions that have government equity or which receive government assistance. There are many ways by which specific commitments can be conditioned so as to suit national policy objectives. Exercising scheduling flexibility to define the scope of coverage may be particularly pertinent to higher education, since public universities are increasingly engaged in commercial revenue generation activities and may not be fully dependent on government funding.

It should be noted that, while Article 1:3(b) and (c) provides a carve-out for services provided under governmental authority, some members have specifically excluded publicly provided or funded education services from their commitments (see Box 1 for a discussion of the governmental authority carve-out).

Examples of such exclusions are provided in Table 8.

¹¹⁴ See Adlung, R. *Public Services and the GATS*. Staff Working Paper ERSD-2005-03, July 2005, <www.wto.org/english/res_e/reser_e/ersd200503_e.doc>, July 2005, for a discussion of public services and the GATS, for a discussion of public services and the GATS.

Table 8 Examples of Sectoral Exclusions^a

Types of Sectoral Exclusions	Examples
By source of funding	'Privately funded primary education services (part of CPC 921)' 'Privately funded education services (CPC 921, 922, 92310, 924, 929)' 'Higher education services privately funded only (CPC 923**)' 'The educational services listed below are limited to privately funded education services and exclude education services funded from government sources' 'All education services included in this section: Sub-sectors listed below only cover privately funded education services'
By programme of study	'B. Secondary education services (CPC 922, excluding national compulsory education in CPC 92210)' 'C. Higher Education Services (CPC 923**) Covers provision of private tertiary education services including at university level' 'Other Adult Education Services not provided by the State'

^a These limitations are cited as examples and are for illustration purposes only.

Source: Based on a review of all WTO Schedules of Specific Commitments.

7.2. MODAL COVERAGE

Regarding cross-border supply (mode 1), the highest number of *full commitments* are found in higher education followed by adult education. The number of full commitments is lower in primary, secondary, and other education. Commitments by recently acceded members account for the largest share of full commitments, with over two-thirds of all existing mode 1 commitments having been inscribed without limitations. *Partial commitments* for mode 1 typically entail sector-specific limitations such as restrictions on the granting of financial assistance for study abroad, restrictions on the supply of the service only to foreign students in the host territory, nationality requirements, and restrictions on the content of permitted programmes of study and their duration.

Consumption abroad (mode 2) consistently accounts for a higher percentage of full commitments than modes 1 and 3 (see Table 9). As in many other services sectors, it appears that members saw less need – or scope – for restricting trade under mode 2 than for any other mode of supply.

Regarding commercial presence (mode 3), the pattern of commitments is rather mixed. While full commitments are prevalent in 'higher' and 'adult' education sub-sectors, in comparison to other modes of supply, a greater number of limitations have been

Table 9 Percentage Breakdown of Full Commitments on Market Access According to Sub-sectors and Modes of Supply (Mode 1 to 3)

Sub-Sectors	Full Commitments (as a Percentage of Schedules with Commitments in the Sub-Sector)		
	Mode 1	Mode 2	Mode 3
Primary education	53	74	47
Secondary education	44	63	39
Higher education	67	71	45
Adult education	61	66	51
Other education	48	56	44

^a EC 12 is counted as one.

Source: WTO Secretariat.

scheduled (see Annex 7). Examples of limitations that are specific to education services are restrictions on: financial assistance for studies at non-certified/recognized institutions, the student population that may be targeted (e.g., foreign institutions are only to enrol foreign students), the establishment of for-profit juridical persons, the granting of state-recognized diplomas/degrees by private institutions, and access for publicly funded institutions. Other limitations relate to authorization or licensing requirements, real estate acquisition, the types of legal entity, and participation of foreign capital. It is notable that commitments taken by recently acceded members are relatively free of limitations. Where there are restrictions, these typically relate to measures on legal entity and foreign capital participation.

Commitments on the presence of natural persons (mode 4) are largely similar to those for other sectors, guaranteeing entry for certain categories of persons, subject to particular conditions on duration. As with other sectors, there are few sector-specific limitations with respect to mode 4. Where such limitations exist, they typically specify the type of qualifications that the service supplier must possess, as well as nationality and residence requirements.

7.3. EDUCATION SERVICES IN PTAS

A survey of thirty-two PTAs with services commitments found that some improvements over GATS commitments had been made in education services.¹¹⁵ The situation varied quite considerably from one PTA to another, and differences exist between commitments taken in

¹¹⁵ Roy, Marchetti & Lim.

negative and positive list PTAs. In particular, improvements were relatively more extensive in negative-list PTAs since full commitments are assumed for all services unless reservations are taken.¹¹⁶ Often as a result of the PTA, members that have no existing GATS commitments for this sector took commitments for the first time. There were also some improvements reported in positive list PTAs. These improvements were mainly in the form of wider sectoral coverage and the easing of restrictions on foreign equity limits.¹¹⁷

However, there are important carve-outs in PTAs that have a bearing on education services. In virtually all PTAs, services provided in the exercise of governmental authority are carved-out. The conditions for the carve-out are similar to those found in Article I.3(b) and (c) of the GATS. In negative-list PTAs, reservations are typically taken on the right to impose new restrictions on public education services to the extent that these are social services maintained or established for a public purpose or interest.¹¹⁸

8. BARRIERS TO TRADE AND REGULATORY ISSUES

8.1. CONVENTIONAL BARRIERS

Education services as with other service sectors face a number of conventional trade barriers. These typically include quantitative restrictions on the number of foreign service suppliers or nationals allowed to supply services and discriminatory treatment. In addition to these market access or national treatment restrictions, substantive and procedural requirements related to accreditation and the recognition of qualifications could also restrict trade in education services.

More specifically in terms of cross-border supply (mode 1), main measures that are commonly cited relate to restrictions on the electronic transmission of course material, as well as the use/import of educational materials; non-recognition of qualifications obtained through distance learning; quotas or economic needs tests restricting the number of suppliers; restrictions on payments and transfer of funds abroad; discriminatory local accreditation and recognition requirements; restrictions on the types of courses that may be offered; and measures requiring the use of a local partner or the physical presence of the foreign institution.¹¹⁹

Arguably, more important than these formal trade barriers are recognition issues. In some economies, cross-border distance education programmes cannot obtain formal approval to grant degrees or other qualifications that are locally recognized without local presence.¹²⁰ According to a survey undertaken by APEC, lack of recognition appears to be

¹¹⁶ Lim & Honeck, 147, provides some examples.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*, 148.

¹¹⁹ This is not an exhaustive list but summarizes some of the main barriers that have been cited in various studies.

¹²⁰ APEC, *Measures Affecting Cross-Border Exchange and Investment in the Asia-Pacific Region* (Singapore: APEC, 2009), and unpublished research on regulatory frameworks in education services by Christopher Zигaras of Royal Melbourne Institute of Technology (RMIT).

the main barrier affecting online and distance education.¹²¹ While cross-border supply has the advantage of being able to rapidly increase access to education services, there are particular consumer protection and quality assurance issues that need to be addressed. The problems posed by fraudulent education providers or ‘diploma mills’ are well known.¹²² For the regulator, unless there is some local presence, suppliers of fully online distance education programmes are effectively invisible and difficult to track. On the other hand, mode 1 supply by definition suggests that the service is being supplied from outside the territory in which the student is located, without local presence. Thus, there are advantages to twinning arrangements between local private colleges and foreign institutions as compared to pure cross-border supply. This may, in part, explain why such arrangements are generally more favoured by students and institutions as compared to pure distance learning.

Given that the bulk of trade in the sector still takes place through consumption abroad (mode 2), measures restricting the mobility of students have warranted particular attention. However, it is important to distinguish between measures taken by the home and host economy of the student. The obligations taken by governments in trade agreements usually only contain market access or national treatment commitments taken by the home economy in relation to the measures affecting the consumption of services abroad. Measures taken by host economies with regard to the entry of foreign students or the conditions of their stay are not covered by schedules of specific commitments.

In terms of measures taken by home economies, current patterns of commitments suggest that there are very few governments that restrict students from studying abroad.¹²³ If there are direct restrictions, these generally take the form of exit visas and foreign currency controls.¹²⁴ Other measures that may affect trade under this mode of supply may be the non-portability of subsidies for study at institutions located in another territory. There may also be indirect barriers such as difficulties faced by students in obtaining recognition for qualifications obtained abroad. In this regard, the development of agreements concerning standards for professional training, licensing, and accreditation might significantly benefit trade in this mode, as foreign-earned degrees become more portable. On the other hand, formal certification and/or recognition may not be that critical for non-licensed professions.

When establishing commercial presence (mode 3), education service suppliers face the usual limitations on the numbers of permitted suppliers, legal form (including joint venture requirements), foreign equity capital limits, and discriminatory tax/fiscal measures.¹²⁵

¹²¹ APEC, 2009, the survey was on all twenty-one APEC economies with most complete responses received from Australia, Chile, Indonesia, Japan, Mexico, New Zealand, Peru, Chinese Taipei, and Thailand.

¹²² See, for instance, ‘Diploma Mills and Fake Degrees’, <www.elearners.com/resources/diploma-mills.asp>.

¹²³ In a survey by APEC, *Measures Affecting Trade and Investment in Education Services in the Asia-Pacific Region* (Singapore: APEC, 2001), only three out of fifteen economies were found to have any such measures.

¹²⁴ It should be noted that visa requirements per se are outside the scope of the GATS, pursuant to the GATS Annex on the Movement of Natural Persons.

¹²⁵ The APEC, 2001, study found that foreign equity limits and requirements on legal form were the two most frequently reported measures affecting commercial presence.

In the case of legal form, in some economies, higher education institutions may only be constituted as non-profit organizations.¹²⁶ Other measures or practices that have a bearing on mode 3 trade include the possibility to obtain national accreditation (e.g., to be recognized as a degree/certificate granting educational institution), nationality requirements on faculty staff, numbers of student that can be enrolled, restrictions on the recruitment of foreign academic personnel, and non-recognition of qualifications awarded. In some cases, students enrolled at these institutions do not qualify for government benefits or financial assistance. In addition, foreign institutions may not be able to access government funds and/or support given to domestic institutions.¹²⁷

Branch campuses and other forms of commercial presence in education may also be subject to regulatory frameworks that apply separately to private institutions. A major influence on education services supplied through commercial presence is the regulations governing the entities that may register and be accredited as education providers.¹²⁸ In some cases, private institutions are regulated in terms of student numbers, tuition fees, accreditation and quality assurance requirements, as well as with regard to the qualifications and competence of teaching staff.¹²⁹ While consumer protection and quality assurance objectives underpin such regulation, these could nevertheless affect the ability of a supplier to establish commercial presence. In some cases, further distinctions are made between profit and non-profit providers, with fewer restrictions or regulatory requirements in the case of the latter.¹³⁰

Restrictions on the presence of natural persons (mode 4) commonly relate to immigration requirements,¹³¹ quotas on numbers of mode 4 service suppliers, nationality or residence requirements, and labour market tests. Often, these are horizontal measures that are not specific to the education sector. In education, mode 4 commitments typically apply to teachers, academics, managers, or marketing staff travelling across national borders to either set up franchise and twinning arrangements or provide instruction. The easing of restrictions for such specialized personnel would facilitate trade undertaken under cross-border supply and/or through commercial presence.

Trade in education services are facilitated by various initiatives aimed at enhancing the mobility of consumers and providers of education services. Such initiatives are usually aimed at improving scientific and technological cooperation, as well as cultural understanding. They are concluded at both the inter-governmental and non-governmental levels and take the form of student, academic, and research exchange programmes. A great number of these programmes exist, and it would be beyond the scope of this article to

¹²⁶ A common restriction found in the APEC, 2009, survey.

¹²⁷ A common restriction found in the APEC, 2009, survey.

¹²⁸ Centre for International Economics, 2008, 14–19.

¹²⁹ For example, the Malaysian Private Higher Educational Institutions Act regulates local and foreign higher education institutions separately from public institutions. In 2000, Tunisia adopted legislation for regulating the private higher education sector. Since 1997, Hong Kong, China, has regulated the provision of foreign courses in its territory through the Non-local Higher and Professional Education (Regulation). See descriptions in McBurnie & Ziguras.

¹³⁰ See APEC, 2009.

¹³¹ See, however, GATS Annex on Movement of Natural Persons Supplying Services under the Agreement.

summarize them.¹³² In any case, the majority of these programmes are non-commercial in nature. A few regional examples include the North American Student Mobility Programme,¹³³ the European SOCRATES/ERASMUS Programme,¹³⁴ and the University Mobility in Asia-Pacific Programme.¹³⁵

8.2. QUALITY ASSURANCE AND RECOGNITION

A major concern in the education sector is the need to ensure that the quality of education services meets a minimum standard so as to protect the interests of the consumer and the integrity of the education system. Quality assurance is, in turn, closely related to regimes for accreditation and recognition of qualifications. Greater trade in education services, especially at the tertiary level, have posed new challenges in this regard. In many economies, existing national systems often focus exclusively on services provided by domestic institutions. There is also great diversity in quality assurance and accreditation systems across the world.¹³⁶

With increased trade, particularly through modes 1 and 3, national authorities face the challenge of either applying existing systems to foreign services and suppliers or creating wholly new frameworks. The challenge is particularly acute for developing countries, especially in terms of building capacity in quality assurance for the education sector.¹³⁷ On the one hand, students and employers need to have confidence in the quality of the education received and be protected from fraudulent or sub-standard providers. On the other hand, international providers need to be assured that quality, accreditation, and recognition systems are based on objective criteria and that adequate verification procedures exist.

Various initiatives have been taken at the national and international levels in response to these challenges.¹³⁸ The International Network for Quality Assurance Agencies in Higher Education (INQAAHE) has published guidelines on good practice based on ten general principles.¹³⁹ In 2005, UNESCO and OECD, after consultation with their respective sets of members, prepared a set of 'Guidelines for Quality Provision in Cross-Border Higher Education'. The Guidelines published by the OECD recommend good practices for a range of stakeholders and call on governments, both sending and receiving, to establish mechanisms for the accreditation and quality assurance of all institutions in their territory.

UNESCO and the Asia-Pacific Quality Network (APQN), a regional association of quality assurance professionals, have prepared a toolkit on regulatory considerations,

¹³² The main programmes and arrangements by region are described in OECD, 2004.

¹³³ See further details at <www2.ed.gov/programs/fipsenortham/index.html>.

¹³⁴ See further details at <http://ec.europa.eu/education/lifelong-learning-programme/doc80_en.htm>.

¹³⁵ See further details at <www.umap.org/2009/en/home/index.php>.

¹³⁶ See Hopper and OECD, 2005, 2.

¹³⁷ *Ibid.*

¹³⁸ See J. Fielden & N. LaRocque, *The Evolving Regulatory Context for Private Education in Emerging Economies: Discussion Paper and Case Studies*, World Bank Working Paper No. 154 (Washington, DC: World Bank, 2009) for a discussion of the evolving regulatory context for private education in emerging economies.

¹³⁹ International Network for Quality Assurance Agencies in Higher Education was established in 1991 as a professional association in support of quality assurance agencies. See <www.inqaahe.org>.

including examples of approaches taken at the national level.¹⁴⁰ Regulatory approaches vary from licensing or registration systems, where academic standards are not set, to accreditation systems that specify academic as well as other requirements and standards. Quality assurance may also be of concern to the home government of the foreign service supplier, which is interested in upholding the reputation of its education and qualification system, especially since it could have a bearing on the status and recognition of qualifications awarded to domestic students.

Recognition of academic and professional qualifications is closely linked to the issue of quality assurance and accreditation. The UNESCO Regional Conventions on recognition of qualifications have been the main international instruments addressing the recognition of academic qualifications for academic purposes and sometimes play a role in recognizing diplomas for professional purposes.¹⁴¹ At present, there are six regional conventions on the recognition of qualifications (Africa, Arab States, Asia and Pacific, Latin America and the Caribbean, and two European conventions), as well as one interregional convention (Mediterranean Convention). The Bologna Process, although of European origin, is also a leading instrument on the issue of harmonization and comparability of programmes and degrees. The process, with the goal of permitting students, faculty, and graduates to move freely across national borders, started with twenty-nine economies and now includes over forty, with the inclusion of many developing countries.¹⁴² Other processes that can have a positive impact on trade in education services include the conclusion of mutual recognition agreements, which are relatively easier to achieve than harmonization.¹⁴³ Overall, greater cooperation between national quality assurance agencies and the development of common standards will be an important factor in the future internationalization of education.

9. COMPETING INTERESTS: WHAT IS AT STAKE?

Tensions over trade in education services, at risk of oversimplification, are typically between private suppliers and public providers, especially in non-English-speaking European countries. For most of these countries, education is a public good that should not be supplied on a commercial basis in order to guarantee equal access to education for all citizens of a country, no matter what their background or financial means are. Along with this view goes the expectation that the quality of the education provided should be comparable for all students independent of their origin and endowment. Stakeholders like teachers and student unions to a large majority reject trade in education services in general fearing that market access

¹⁴⁰ UNESCO, *Global Education Digest 2006* (Paris: OECD, 2006), in particular 51–61 and R. Hopper, Building the Capacity in Quality Assurance: The Challenge of Context, in *Cross-Border Tertiary Education: A Way towards Capacity Development*, ed. OECD (Paris: OECD, 2007).

¹⁴¹ These Conventions are available at <http://portal.unesco.org/education/en/ev.php-URL_ID=13880&URL_DO=DO_TOPIC&URL_SECTION=201.html>.

¹⁴² See Hopper, 111.

¹⁴³ M. Geloso-Grosso, 'Developing Capacity in Tertiary Education through Trade Liberalisation and the GATS', *OECD (2009) Cross-Border Tertiary Education: A Way towards Capacity Development* (Paris: OECD, 2007), 169.

commitments under a trade agreement would open the backdoor to privatization and deregulation and eventually lead to the dismantling of education as a public service

For these stakeholders, the worst case would be to see that governments lose regulatory control or flexibility to regulate and implement national policies and that the education sector once opened would be dominated by foreign and/or private suppliers. Interestingly, while this might arguably be a significant policy concern for developing countries with under-funded education systems, much of the anxiety has arisen in certain developed countries with traditionally strong public education providers. Refuting such claims, parties in favour of trade in services highlight the fact that services supplied in the exercise of governmental authority are specifically excluded from the scope of the GATS (Article I.3(b) and (c)). Thus, even if commitments had been undertaken on education services, this exclusion would still apply. Moreover, there has, so far, been no legal challenge in the WTO with respect to the scope of the carve-out for governmental services.

According to the provisions of the GATS on specific commitments, countries do have considerable freedom to choose when and how far to open their respective educational sector. Like service sectors such as health and environment, education services have both public and commercial aspects, a duality addressed under the GATS. The agreement entered into force in 1995, covering twelve main services sectors, including education. However, there is no requirement under the GATS for a WTO member to schedule commitments in any particular sector (or sub-sector), including education. Neither is there any requirement to fully liberalize committed sectors. Thus, coverage under the GATS essentially means that commitments can be taken, but it is not an obligation. That being said, any member, in the context of negotiations, might strongly request that its trading partners undertake commitments in certain sectors.

For many developing countries, the consideration of whether to undertake commitments and the level of openness to provide will often depend on the country's assessment of its own social and economic development path and the extent to which it sees trade as being critical to developing the domestic human resource and knowledge base. Market liberalization, however, also requires competence and institutional capacity in regulation and policy implementation. These crucial elements are all too often lacking in many parts of the developing world and have acted as obstacles to either engaging in trade negotiations or in fully reaping the benefits of liberalization. That being said, today, some of the most dynamic actors in the internationalization of education services are developing countries, particularly those in Asia-Pacific. There are also growing education markets in other regions, such as the Middle East and Latin America, with middle-income developing countries seeking to act as educational hubs offering internationally recognized degrees through franchise or twinning arrangements with developed country institutions.

In contrast, high-income OECD countries, such as the United States, EU, and Switzerland, are more likely to restrict their trade commitments to privately funded education especially in primary, secondary, and higher education. This stands in stark contrast to the often virulent criticism by domestic stakeholders in many of these countries,

which have accused their respective governments of jeopardizing the monopolies of their public education. It should be noted though that commitments such as those undertaken in the GATS framework date back to 1995 and that they may not necessarily reflect the situation on the ground. Even if most advanced countries appear to have a larger margin of manoeuvre than developing countries, with regard to opening or protecting their education sector, their public finances have nevertheless come under great pressure over the last decade resulting in competitive budget battles between public education and other sectors like health and social welfare.

Faced with fewer financial resources, a growing number of OECD countries are exploring possibilities of delegating or outsourcing parts of education to private providers who are more efficient service providers, not least due to the fact that their production costs are lower than for public education facilities. However, in order to ensure continued delivery of high-quality education services by private (national or foreign) education providers, governments need to increase their regulatory supervision. While it is certainly helpful to make use of legal expertise and advice, more needs to be done by governments and concerned stakeholders before deciding whether or not to make further commitments relating to the educational sector. In particular, a strategic assessment of opening or protecting their education sectors needs to be undertaken by stakeholders responsible for formulating negotiating positions on trade in education services. Before debating national negotiation positions on education services or other sectors, stakeholders need to understand the request and offer mechanism of WTO negotiations, as well as the modalities used in free trade agreements, and develop short-term and long-term solutions to key strategic challenges. These might include exporting/importing and/or aggressive/defensive liberalizing strategies.

Once sectoral stakeholders have done their homework, internal consultations with their respective national WTO negotiation team might be called for in order to reach a common view and position. An example of national strategic thinking can be found in China's coastal provinces where private schools (domestically owned) are given permission to offer secondary education to students who failed the entrance examinations to the public schools. Since education is a highly esteemed investment in their children's future, Chinese parents are willing to pay the relatively high tuition fees. The private schools are regulated by the authorities in charge of education; these institutions pay taxes and lower the pressure on the governments to provide more remedial education. Foreign schools offering higher education degrees are highly regulated and requested to include local teachers in their teaching faculty, their tuition fees are regulated, the student intake is limited, and the authorities often require that higher education degree programmes provided by foreign schools should be complemented by a one- to two-year academic programme in their respective home country. Such one to two years of academic studies offer Chinese students opportunities to become familiar with a foreign country, learn a foreign language, and potentially qualify for jobs in developed countries.

Successful strategic assessments of threats and opportunities of education services and possible opening of trade in education services to foreign providers require (1) the

formulation of adequate strategies focusing on the future development of the respective national education sector; (2) the identification of possible export opportunities of national education services and their market access opportunities in other countries; (3) the corresponding assessment of how to prepare their domestic market for foreign competition; (4) the clarification of how a country wants to define the role of government – either as a provider or as a regulator of education services; and (5) concomitantly an agreement with national stakeholders on the flexibility for the education sector, that is, in terms of activities, measures, and policies that should not be brought under the purview of the trade agreement.

10. CONCLUSION

In conclusion, the following observations appear salient. The internationalization of education, particularly of higher education and adult education, has intensified quite independently of trade in education services within the WTO GATS context. It would be a mistake to expect that the Doha Round of negotiations would either stop this trend towards internationalization or dramatically accelerate the trend. New commitments taken under the GATS framework could at best offer binding guarantees of market access and national treatment for the supply of education services via modes 1, 2, 3, and 4 supply of educational services. Such an agreement, even if it may not lead to new liberalization, could offer predictable market access conditions, which in turn would be welcomed by investors (private or public), governments, and consumers alike.

Providing education remains, to a large extent, the responsibility of governments. Faced with budget cuts and limited spending power, many governments might want to consider participation by private sector providers including foreign investors through FDI. Private sector providers could alleviate the financial pressures on governments. However, this does not mean that governments should abdicate responsibility. Regulating education at a national level also includes providing students with the highest possible, equal access to education for the benefit of social cohesion and for the most effective development of a skilled manpower with the potential to meet the economic and social challenges of the next generation. Like in other market situations, where competition policy acts to curb the build-up of monopoly positions, regulatory frameworks need to ensure balance in access. The concentration of private education service providers in the most lucrative segments of higher education and adult education could deepen divisions between wealthy and less privileged social classes, thereby leading to a two-tier society that would not be the best solution to meet the complex challenges of globalization.

Quality assurance and accreditation of education service providers remain a double-edged issue. While it is perfectly legitimate to prevent fraud and limit misleading practices (e.g., 'diploma mills without sufficient content nor adequate quality'), it would be too short-sighted to preserve existing positions. Innovation in education is equally needed as much as inventions in industry. Some of the constructive and innovative impulses might be better facilitated through competition of education service providers, be they privately or

publicly owned. In addition, some of the technical features of quality assessment, accreditation, and recognition of degrees might be better negotiated outside the context of trade negotiations.

Providing and organizing education in the most cost-efficient and learning-effective manner to ensure the largest possible participation requires strategic policies, involving the active participation of stakeholders such as employers, labour unions, parent organizations, political parties, and sector-competent NGOs. Trade negotiations, not least multilateral trade rounds under the WTO, are complex with wide-ranging impacts. The Doha Round is even more complex than the previous Uruguay Round. Trade negotiators are expected to do their best to safeguard the interest of their respective countries. However, it would be unfair to blame these negotiators for any shortcomings if the concerned sector stakeholders do not involve themselves in defining their short-term and long-term interests. It is up to the sectoral stakeholders to consolidate their some times divergent views and to communicate their strategic interests to the respective national WTO negotiators through constructive discussions, not through threats or tactical stand-off behaviour. With private and public education coexisting in most countries, it is very likely that many markets are already liberal and the question is less about whether the private sector should have a role in the provision of education but whether foreign providers should also be encouraged. Here, it is important to recall that the GATS flexibility provides wide scope for national solutions that would effectively carve-out any sensitive areas from the agreement's coverage.

Education policy cannot be limited only to the consideration of free choice and price efficiency criteria. Social cohesion and good citizen behaviour such as democracy and ethical values are as important as top-level scientific research or lucrative business degree programmes. It would be unwise to opt solely for 'free trade' positions since important private sector providers might not be willing to invest in low-revenue education services such as civics, liberal arts education, or basic professional skills training. Governments cannot opt out of such responsibilities. Education requires a multi-faceted approach in order to guarantee adequate provision of education services for various target groups and to ensure access to education for the less privileged. Such a multi-developmental perspective is even more necessary for developing countries that often lack financial resources and technical know-how in the field of education. The GATS framework should provide sufficient flexibility to safeguard the multi-functional diversity of education, as well as the fundamental different needs of developing countries without falling into the trap of 'managed trade' immobility in education services.

Government regulators have to reach a balance between legitimate requests for consumer protection and the sovereign rights of governments to pursue high-quality education without falling into the trap of closing market access to foreign education service providers. A central objective of the GATS is to progressively liberalize trade in services. It is not the intention of the agreement to regulate trade or to deregulate service sectors. The agreement's focus is on improving market access and to discipline discriminatory measures between countries, as well as between domestic and foreign service suppliers. In short, trade agreements provide the opportunity to reduce trade barriers due to a myriad

of different norms, standards, and requirements, which often result in higher transaction costs affecting particularly developing country exporters, who might have neither the technical know-how nor the necessary resources to deal with such measures. No doubt there are risks in opening markets, but there also many new opportunities. The challenge is to move from what has been a sterile debate on *private versus public* to one that seizes the potential of trade as a tool for capacity development.

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