Implications of Crossborder Education and GATS for the Knowledge Enterprise

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Realities of Globalization

The realities of globalization, including innovative information and communication technologies, the market economy, new trade agreements, international mobility, and in particular the knowledge society, have been powerful forces of change for many sectors—especially higher education. The overall demand for higher and professionally-related courses is increasing in most countries. This is due to a number of reasons: changing demographics, increased number of secondary school graduates, a movement to lifelong learning, and the growth of the knowledge enterprise.

While demand is growing, the capacity of the public sector to satisfy this need is being challenged. As a result, new types of providers such as international companies, for-profit institutions, corporate universities, IT and media companies are emerging. This scenario is changed further with providers - public and private, new and traditional – delivering education across national borders to meet the demand in other countries. Alternative types of crossborder program delivery such as branch campuses, franchise and twinning arrangements are being developed. As a result, a rather complex picture of higher education provision is emerging. So what?

It is important to ask ‘so what’. Many educators would point out that the demand for higher education has been steadily increasing for years and that academic mobility has been a central feature of higher education for decades, if not centuries. Yet, it is only during the last fifteen years that education has been thought of as a commodity or service to be delivered on a commercial basis across borders by both public and private providers. Furthermore, it is only in the last several years that trade agreements have clearly identified education provision as a lucrative trade sector. Therefore, the answer to ‘so what?’ lies in the fact that while crossborder education is an important aspect of the internationalization of higher education, it has not been subject to international trade rules and, until recently, has not been described as commercial trade. The fact that the General Agreement on Trade in Services (GATS) clearly identifies education as a service sector to be liberalized and regulated by trade rules is new territory for the education sector.
This paper examines the realities of increased commercial crossborder education and new trade agreements, and focuses on their implications for the higher education sector. Whether one supports or denounces GATS, it exists as an international legal agreement of the WTO endorsed by 149 countries in the world. Education is one of the 12 sectors of GATS and higher education is one of the five sub-sectors. (WTO, 1998) If trade in education services will be significantly liberalized—meaning an increase in market access by removing barriers—is yet to be seen. To date, there are 48 countries in total that have committed to open their domestic education system to foreign market access of which 39 have committed to higher education. New strategies, such as plurilateral negotiations or numerical targets, are being introduced into the GATS negotiations and this may increase the degree to which commercial crossborder education will be liberalized and regulated. This paper does not argue whether education is a public good or private commodity, it takes as a starting point that in terms of international trade law, education is already seen as a tradable service (note that it is treated as a service and not a commodity). Nor does this paper conclude whether education as a tradable commodity/service is good or bad. This depends on the goals, resources and priorities of each individual receiving or sending country. What this paper does emphasize is that commercial crossborder education and the existence of trade laws have important implications for higher education and we the education sector, and especially national policy makers, need to be prepared to deal with the implications.

GATS is often seen as the catalyst for the increased growth in commercial higher education between countries. But is it? Many educators would argue that GATS is responsible for these new developments. But, others would contend that the opposite is true by pointing out that one of the consequences of increased private for-profit education at national and international levels has actually led to education being a multi-billion dollar business and thus a profitable sector to be covered in trade agreements. (Knight, 2006b) Academic mobility (students, programs, providers) is considered by many as a huge commercial business and is expected to increase exponentially as the demand for higher and continuing education escalates. (Larsen et al, 2002)

In short, GATS has served as an important wake up call. It has forced the education sector to carefully examine two individual but related issues. The first is the significant growth in crossborder education (both commercial and non-profit) that is happening irrespective of trade agreements. The second is the reality of new multilateral trade rules such as GATS and their impact on domestic and crossborder higher education. These two issues are examined in some depth in this paper.

The Shift and Growth of Commercial Crossborder Education

Crossborder education is a term that refers to the movement of education (students, researchers, professors, learning materials, programs, providers, knowledge etc) across national/regional jurisdictional or geographic borders. It is forecasted that the demand for international/crossborder education will increase from 1.8 million international students in 2000 to 7.2 million international students in 2025 (Bohm et al, 2002). Furthermore, it is anticipated that 70% of this demand will be from the Asia Pacific region. By all accounts these are staggering figures and present enormous challenges and opportunities. It is not known what proportion of the demand will be met by student mobility but, it is clear that there will be exponential growth in the movement of programs and institutions/providers across national borders.
Figure One provides a framework to understand the nature of crossborder education and illustrates two significant trends. The first trend is the vertical shift downwards from student mobility to program and provider mobility. It is important to note that the number of students seeking education in foreign countries is still increasing; however, more emphasis is currently being placed on delivering foreign academic courses and programs to students in their home country. The second shift is from left to right signifying substantial change in orientation from development cooperation to competitive commerce, or in other words—from aid to trade.

**Figure One: Framework for Crossborder Education**

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<thead>
<tr>
<th>Category</th>
<th>Forms and Conditions of Mobility</th>
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<td>Development Cooperation</td>
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<td>People</td>
<td>Semester/year abroad</td>
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<td>Full degrees</td>
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<td>Field/research work</td>
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<td>Students</td>
<td>Twinning</td>
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<td>Professors/scholars</td>
<td>Franchised</td>
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<td>Researchers/Experts/consultants</td>
<td>Articulated/ Validated</td>
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<td>Joint/Double Award</td>
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<td>Online/Distance</td>
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<td>Programs</td>
<td>Branch Campus</td>
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<tr>
<td>Course, program</td>
<td>Virtual University</td>
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<tr>
<td>sub-degree, degree,</td>
<td>Merger/Acquisition</td>
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<td>post graduate</td>
<td>Independent Institutions</td>
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<td>Providers</td>
<td>Research</td>
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<td>Institutions</td>
<td>Curriculum</td>
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<td>Organizations</td>
<td>Capacity Building</td>
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<td>Companies</td>
<td>Educational services</td>
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Adapted from Knight 2006c

The increase in worldwide demand for higher education has resulted in a diversity of new providers delivering education across borders. (OECD, 2004a) The new providers include publicly traded companies, corporate universities, and networks of universities, professional associations and organizations. However, it is not just the new providers that have an increased interest in commercial crossborder initiatives. Traditional higher education institutions, both private and public, are also seeking opportunities for commercial delivery of education programs to other countries. The majority of these universities are bona fide institutions that comply with domestic and foreign regulations (where they exist). But, there is also an increase in rogue or...
low quality providers who are not recognized by bona fide accreditation/licensing bodies in either the sending or receiving countries.

Crossborder education providers can be classified into two categories: 1) the traditional higher education institutions (HEIs) who are normally oriented to teaching, research and service/commitment to society, and 2) the ‘new or alternative providers’ who primarily focus on teaching and the delivery of education services. (Knight, 2005)

Traditional higher education institutions include public non-profit, private non-profit and private for-profit institutions. Many countries have a mixed system of publicly and privately funded HEIs. There is a definite blurring of the boundary between public and private institutions as many public universities now find it necessary to seek private financing and to charge a tuition or service fee. On the other hand, in many countries private universities are eligible for public funds and engage in social non-profit activities.

The new providers are diverse in nature, but are typically described as a company or organization that provides education programs and/or services for profit purposes. They are more oriented to delivering education and training programs than undertaking research and scholarly activities. The new providers include publicly traded companies such as Apollo (USA), Informatics (Singapore) and Aptech (India), corporate universities such as those run by Motorola and Toyota, and networks of universities, professional associations and organizations. These new types of crossborder providers can be bricks and mortar institutions or virtual universities and can complement, compete, collaborate or simply co-exist with domestic higher providers (and other crossborder providers).

The virtual and physical movement of providers to other countries raises issues related to registration, quality assurance and recognition issues but there are additional factors to consider if a network or local/foreign partnerships are involved. Setting up a physical presence requires attention being paid to national regulations regarding status of the entity, total or joint ownership with local bodies, tax laws, for-profit or non-profit status, repatriation of earned income, boards of directors, staffing, granting of qualifications, selection of academic programs and courses etc. For some countries, it means that strict regulations are being developed to closely monitor, and in some cases restrict, new providers coming into the country. In other instances, incentives are being offered to attract high quality institutions/providers to set up a teaching site or full campus. (Verbik and Jokivirta, 2005) This is especially true where ‘knowledge parks’ or ‘technology zones’ or ‘education cities’ are being developed to attract foreign companies and education/training providers.

The Observatory for Borderless Higher Education (OBHE) has developed a Global Higher Education Index (GEI) of companies that offer education programs and services which are publicly traded on a stock exchange. The Index (Garrett, 2005) categorizes the 49 companies into five groups: bricks and motor institutions, e-learning, IT Training, publishers, and software and consultancy firms, and provides information on their revenue and net income.

These companies are involved in offering education programs and services on an international basis and fall into the category of new and alternative commercial crossborder providers. An analysis of these 41 companies reveals that 23 operate bricks and mortar institutions, 13 offer e-learning and 5 provide IT training at subdegree or degree levels. It is interesting to note that the
bricks and mortars are the most profitable with 20 of the 23 showing profit, followed by the IT training of which 4 out of 5 are profitable, while only 4 out of 13 e-learning companies show a profit in 2003. (Knight, 2006b) Unfortunately, no information is available on the size of the capital investment and how it has changed over the years. The home countries for these companies are provided but not the destination countries that are importing/receiving the education offer. A review of these companies' websites reveals that countries in every region of the world are receiving commercial crossborder education programs and services. The greatest numbers of receiving countries are located in Asia Pacific where the large demand for tertiary education cannot be met by domestic capacity and/or there is strong desire for foreign academic qualifications. Unfortunately, there is no reliable or comparable data on the number of students registered in programs offered by these companies or for that matter, most crossborder providers. Therefore few national level statistics exist on the percentage of tertiary level students that are registered in course/programs offered by non-domestic providers, but the general sense is that it is a relatively small percentage even though in very populated countries the absolute number may seem high.

The GEI information illustrates that selling education and training courses/programs can be a profitable business and that there are students, households and businesses that are able to pay the requisite fees for enrolment. An attractive profit margin is encouraging an increase in the number of traditional higher education institutions and new commercial providers to offer fee-based education programs to students in other countries using a variety of delivery modes. It points to the perception and the reality that education can be bought and sold and has benefits for individuals and subsequently for society as a whole.

Implications of GATS and Crossborder Education for Higher Education

There is much discussion and debate over four rather controversial trends or “izations” of higher education. They include: commercialization (buying and selling including commodification), privatization (private ownership and/or funding), marketization (allowing the market to determine supply and demand) and liberalization (removal of trade barriers and promotion of education as a tradable service). Some would even add a fifth - globalization and point to it as an underpinning cause for the other ‘izations’. Some scholars and policy makers would disagree and label education as an actor not a reactor to globalization and thus fully involved and responsible for these major shifts. Nevertheless, these trends or ‘izations’ are closely related to each other and are linked to the relationships between crossborder education, GATS and higher education policy and practice. This section discusses the ramifications of commercial crossborder education and GATS for the role of government, financing, student access, program offer and quality assurance and the implications for a broader set of issues including culture, values, and brain drain/gain.

Role of government
In most, if not all countries of the world, the government plays a critical role in regulating, funding, providing and monitoring higher education. This applies where education is more or less publicly funded and also where there is a mixed public/private higher education system. One has to ask whether trade liberalization will affect a mixed system differently than a public system and whether the role of government will change measurably. Inherent in these questions, is the issue of just what services are covered or exempted from GATS. One of the most controversial
and critical issues related to the agreement is the meaning of Article 1.3. This article defines which services are covered or exempted.

According to the WTO, the agreement is deemed to apply to all measures affecting services except ‘those services supplied in the exercise of governmental authority’. But what does ‘exercise of governmental authority’ mean? GATS supporters (Ascher, 2001) maintain that education provided and funded by the government is exempted. Sceptics question the broad interpretation of the clause and ask for a more detailed analysis. The agreement states that ‘in the exercise of governmental authority’ means the service is provided on a ‘non-commercial basis’ and ‘not in competition’ with other service suppliers. This begs the follow-up question - what is meant by non-commercial basis and not in competition? These are the core issues at the heart of much of the debate about which services are covered. Education critics of the GATS maintain that due to the wide-open interpretation of ‘non-commercial’ and ‘not in competition’ terms, the public sector/government service providers may not be exempt.

The situation is especially complicated in those countries where there is a mixed public/private higher education system or where a significant amount of funding for public institutions is in fact, coming from the private sector. Others ask whether charging tuition fees makes it a commercial operation. Another complication is that a public education institution in an exporting country is usually defined as private/commercial when it crosses the border and delivers in the importing country. Therefore, one needs to question what ‘non-commercial’ actually means in terms of higher education trade as it does not appear that GATS puts any qualifications or limits on the term. For instance, if non-government providers (private non-profit or commercial for-profit) are delivering services, are they deemed to be in competition with government providers? In this scenario, public providers may be defined as being ‘in competition’ by the mere existence of non-governmental providers.

Supporters of the GATS emphasize that education is to a large extent a government function and that the agreement does not seek to displace the public education systems and the right of government to regulate and meet domestic policy objectives. (Sauvé, 2002) Others express concern that the whole question of the protection of public services is very uncertain and potentially at risk by the narrow interpretation of what governmental authority means and a wide-open interpretation of what ‘not in competition’ and ‘non-commercial basis’ mean. Legal opinion (Gottleib and Pearson, 2001) and a general consensus in the higher education sector is that there is so much ‘wiggle room’ in the definition that one should not count on government funded and mandated institutions being exempted from GATS rules unless a country stipulates this in their commitments. This clearly raises further questions and speculation about the impact of GATS on both public and private crossborder education.

The second point relates to GATS Article 6.4 which addresses domestic regulations and a country’s ability to set qualifications, quality standards and licences. The article reads that ‘qualifications, requirements and procedures, technical standards and licensing are not more burdensome than necessary to ensure the quality of the service.’ The language is purposely vague and there are no definitions for terms such as ‘more burdensome than necessary’ or for ‘quality of services’. This leaves the higher education sector troubled about the potential impact of this statement on quality assurance and accreditation procedures. There is also concern about the implications of this article on the regulation of the professions given the increasing mobility of skilled and professional workers across borders. This is one of the articles which is ‘still
under development’. Direct questions to trade specialists do not yield any concrete answers other than ‘it is still being developed’ and it is a wait and see situation. However, they state strongly that it is not the intention of GATS to limit government’s role in the regulation of quality assurance of education or the professions and it is generally accepted that this must be accepted at face value. Clearly this article, part of which is often referred to as the ‘necessity test’, merits close monitoring by the education sector given that a country’s ability to establish quality assurance and accreditation policy for domestic and foreign providers is central to the question of the role of government.

**Financing of education**

The fact that the growth rate in public funding is not keeping pace with the accelerated levels of private investment in higher education is a discernible trend in many developed and developing countries. (Levy, 2003) This trend, plus the pervasive climate of stricter accountability for public support, is creating a more receptive environment for private and commercial providers of higher education. As already noted, private provision of education in niche markets is increasing. These three factors are contributing to an expectation that there will be more private investment in education and more private providers in the future. When forces for increased liberalization of trade are added to this scenario there is an expectation that private and commercial providers will be very active in the international education markets.

A fear among many education leaders is that while private investment in education rises, the public support may fall even more steeply. The role that trade plays in this scenario is that countries without the capacity or political will to invest in the physical and soft infrastructure for higher education may begin to rely more and more on foreign investors and crossborder education providers. And that this in turn, could lead to trade rules having a heavy influence on the use of the private investment and thereby policy for higher education. A review of the barriers to trade in education services show that measures relating to commercial presence/foreign investment (Mode 3) ¹ Are in fact being targeted for removal. (Knight, 2006a) Of course, a huge proviso in this scenario is that the commercial crossborder education providers (including traditional public/private institutions and new providers) will be able to make it economically worthwhile to deliver internationally, and if this is not the case then new questions will arise.

It is fair to say that there are more questions than answers about the impact of crossborder education on public financing of higher education. Key factors to consider are the social/economic conditions and the nature of the higher education system in the receiving country. What are the national policy objectives and priorities for the higher education sector and how can crossborder education contribute? What is the domestic capacity to meet the demand for higher education and what is the current coverage rate? What is the role of the government- funder, provider, regulator, monitor? How regulated or deregulated (market oriented) is the higher education sector? Are there tuition fees and if so who determines the fee? Is public funding for higher education directed to the institutions, the students (voucher system) or to the programs

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¹ Under GATS there are four ways in which a service can be traded. Mode One is ‘cross-border supply’ which entails the service crossing the border such as distance education and virtual universities. Mode Two is called ‘consumption abroad’ and means that the consumer (student) moves to the country of the provider. Mode Three involves establishment of a ‘commercial presence’ (such as a branch campus or franchise program) in another country in order to render the service and Mode Four includes people (professors, researchers, experts) traveling to another country on a temporary basis to provide the service.
based on national needs and priorities? Is the higher education sector a mixed system of for-profit and not-for-profit institutions? For publicly funded institutions what is the mix of government, student/household and private sources of income? What percentage of enrolled higher education students is paying tuition fees and service charges? What is the position of the country in terms of granting access to education through trade agreements? Is education seen as a public good/service or a private good/service? If education is a public good/service can it be privately delivered? (Knight, 2006c) These are but a few of the questions that need to be asked in order to determine what impact foreign providers, both higher education institutions and commercial companies, will have on the higher education in terms of financing the system.

**Student access – who benefits?**

Demographic changes, increasing number of graduates from secondary level education, lifelong learning, and changing human resource needs created by the knowledge enterprise, are increasing the unmet demand for post-secondary education and training. Those promoting GATS and increased commercial crossborder education maintain that international trade will help countries satisfy this growing demand for further education and increase student access. Crossborder commercial providers, who are primarily concerned with teaching (meaning limited attention is given to research and service), are targeting niche markets of these learners and responding to a clearly identified need. Therefore, GATS advocates believe that increased student access to education and training is one of the strong rationales and articulated benefits linked to trade liberalisation. GATS critics question why trade rules are necessary when crossborder education is already occurring outside of a trade regime and can be regulated through education conventions and national education regulatory frameworks. So while there is general agreement on the need for greater student access, there remains concern that increased access will only be available to those who can afford it.

The debate on who can afford access to commercial crossborder education raises the important issues of who benefits. The ‘who benefits’ question is most often framed in terms of equity of access for students inferring that only the economically elite can benefit. But with the growth in for-profit providers, it is necessary to broaden the analytical framework to include the providers themselves and the benefits that they accrue. This represents a major shift from the public approach to education provision and takes the discussion of education as a public good into a whole new sphere as it is no longer the society-individual dilemma- it now includes the education provider as well.

**Quality Assurance**

It must be noted that increased importance has certainly been given to quality assurance at both the institutional and national levels in the past decade. New quality assurance mechanisms and national organizations have been developed in over fifty countries in the last decade. New regional quality networks have also been established. The primary task of these groups has been quality recognition and assurance of domestic higher education provided by primarily public and private higher education institutions. However, the increase in crossborder education by institutions and new private commercial providers has introduced a new challenge (and gap) in the field of quality assurance. Historically, national quality assurance agencies have generally not focussed their efforts on assessing the quality of imported and exported programs, with some notable exceptions such as the United Kingdom, Hong Kong, Malaysia. The question now facing the sector is how does a national higher education system deal with the increase in crossborder
education by public and private institutions, and in particular, by the new private commercial companies and providers who are often not part of nationally-based quality assurance schemes.

It is probable that sectors, in addition to education, will be interested in developing international quality standards and procedures for education. ISO standards, or other industry-based mechanisms such as the Baldrige Awards are examples of quality systems that might be applied or modelled for crossborder education. The education sector has mixed views on the appropriateness of quality standards being established for education by those outside the sector, some see merit to this idea and others see problems. At the same time, there are divergent opinions on the desirability and value of any international standards or criteria for quality assurance as this might jeopardize the sovereignty of national level systems or contribute to standardization- not necessarily the improvement of quality standards. This issue is complex and there are many different actors and stakeholders involved with divergent opinions.

It is also important to acknowledge that a great deal of crossborder mobility of students, teachers and programs occur through non-profit internationalization initiatives. Education activities that are part of development aid projects and international academic linkages and networks are good examples. Therefore, international trade of education services is not the only factor driving the urgency of addressing international quality recognition and assurance. It is important to clarify and repeat that GATS or any other bilateral trade agreements do not claim to be establishing rules for quality assurance and recognition of education but they are important catalysts for more urgent attention being given to the issues at hand. (Neilson, 2004)

**Commercialization of Accreditation**

The increased awareness of the need for quality assurance and/or accreditation has lead to several new developments in accreditation, some of which are helping the task of domestic and international recognition of qualification, some of which are only serving to hinder and complicate matters. First, it is important to acknowledge the efforts of many countries to establish criteria and procedures for quality assurance recognition systems and the approval of bona fide accreditors. At the same time, it is necessary to recognize the increase in self-appointed and rather self-serving accreditors, as well as accreditation mills that simply sell ‘bogus’ accreditation labels.

Market forces are making the profile and reputation of an institution/provider and their courses more and more important. Major investments are being made in marketing and branding campaigns in order to get name recognition and to increase enrolments. The possession of some type of accreditation is part of the campaign and assures prospective students that the programs/awards are of high standing. The desire for accreditation status is leading to a commercialization of accreditation as programs and providers strive to gain as many ‘accreditation’ stars as possible in order to increase competitiveness and perceived international legitimacy. The challenge is how to distinguish between bona fide and rogue accreditors, especially when neither the crossborder provider nor accreditor are nationally based or recognized as part of a national higher education system.

It is interesting to note the increase in the number of bona fide national and international accreditation agencies who are now working in over 50 countries. For instance, the US national and regional accrediting bodies are providing/selling their services in over 65 countries. The same trend is discernible for accreditation bodies of the professions such as ABET (Engineering)
from the US and EQUIS (Business) from Europe. In many higher education circles, this is a welcomed development. However, there are concerns that this may be leading to a ‘standardization’ of quality assessment and the beginning of a ‘homogenization’ of higher education programs.

At the same time, there are networks of institutions and new organizations that are self-appointed and engaged in accreditation of their members. These are positive developments when seen through the lens of trying to improve the quality of the academic offer. However, there is some concern that they are not totally objective in their assessments and may be more interested in contributing to the race for more and more accreditation ‘stars’ than to improving quality. While this can apply to both crossborder and domestic provision, it is particularly worrisome for crossborder provision as attention to national policy objectives and cultural orientation is often neglected. In both cases, there is no clear understanding if the accreditor is bona fide and if the qualifications will be able to be acceptable for academic or professional purposes.

Another development that is worrisome is the growth in accreditation mills. These organizations are not recognized or legitimate bodies and they more or less ‘sell’ accreditation status without any independent assessment. They are similar to degree mills that sell certificates and degrees with little or no course work. Different education stakeholders, especially the students, employers and the public need to be aware of these accreditation (and degree) mills which are often no more than a web address and are therefore beyond the jurisdiction of national regulatory systems. (UNESCO/ OECD, 2005)

**Diversification of the Higher Education Sector and Program Offer**

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

Research is also linked to this issue, as there is an indication that commercial providers, and especially foreign ones, are often not investing in the human, technical or physical infrastructure necessary to support research efforts. There are of course, important exceptions to this trend, but it is worth monitoring. Developing countries have expressed a particular concern about this potential diversification of the system with respect to the roles and program priorities of domestic and foreign commercial/for-profit providers. (Mohemedbhai, 2003) The potential diversification of the higher education system based on increased commercial crossborder education introduces important policy implications for funding, staffing, quality assurance, research, curriculum and programs and is worthy of further investigation and analysis.

**Cultural Diversity and Acculturation**
The impact of commercial crossborder education on the recognition and promotion of indigenous and diverse cultures is a subject that evokes strong positions and sentiments. Many believe that innovative ICT technologies and movement of people, ideas and culture across borders is presenting new opportunities to promote one’s culture to other countries and furthers chances for fusion and hybridization of culture. Their position rests on the assumption that this flow of culture across borders is not new at all; it is just the accelerated speed that has changed. Others contend that these same forces are eroding national cultural identities and instead of creating new forms of cultures through hybridization, cultures are being homogenized (in most cases interpreted to mean Westernized). Given that education has traditionally been seen as a vehicle of acculturation, these arguments are played out in terms of curriculum content, language of instruction (note increase in English) and the teaching/learning process of exported/imported programs. Both perspectives have strengths to their arguments. However, because commercial exports are often based on surplus capacity and the bottom line, it is important to ask whether efforts are made to customize programs to local needs and to make programs culturally appropriate?

Will commercially traded education programs be any more or less culturally imperialistic or diversified than programs or curriculum that cross borders as part of development projects or academic exchange programs? There is no clear answer to this yet. Many would argue that for-profit private providers will not be willing to invest the time and resources to ensure that courses respect cultural traditions and include relevant local content. Given that private for-profit providers are market driven there may be a demand from the students and employers for what is perceived to be modern (read western) type of education. This rationale can send a strong message that adaptation to the receiving country is not a priority.

**Human Capacity and Brain Drain/Gain**

Brain power is an increasingly important issue for many countries due to the growing mobility of professional/skilled workers and the increased pressure for trade liberalization – especially for GATS Mode 4 (movement of persons). The increase in crossborder movement of scholars, experts and teachers/professors is due in part to the increasing competitiveness for human capital in the knowledge economy. (Vincent-Lancrin, 2005) Not only is there a trend for higher education personnel to move from country to country, they are also attracted to the corporate sector where benefits can be more attractive than in the education sector. The higher education sector is affected by this both positively and negatively depending on whether a country is experiencing a net drain or gain effect. It is important to be aware of the long term implications in terms of human resource capacity in specific professions such as medicine and engineering. There are implications for education policies but also for immigration, science and technology, trade, employment and foreign relations. There are also direct links between foreign student recruitment/mobility (Mode 2) and the immigration needs for skilled labour of the recruiting country. An additional issue, related to the ‘brain chain’ phenomenon is the ability to access and capitalize on a country’s diaspora. More developing countries are seeing the diaspora as a source of expertise, knowledge and networks rather than only a source of income.

**Trade Creep or Trade Choice**

The term trade creep refers to the quietly pervasive introduction of trade concepts, language and policy into the education sector. The nuance behind trade creep is an unconscious adoption of trade jargon and its underlying values. In some countries trade creep is shunned. In other countries trade creep is welcomed and there is a deliberate positioning of education as an export...
industry. The considerable investment of resources to promote education export is concrete proof. One would not characterize this approach as trade creep but as trade choice. For other countries and education actors, there is a less visible and perhaps unwitting tendency to frame education in trade terms. Language is often the first sign of a shift and this is evident in trade creep. For many years the education sector referred to incoming and outgoing students or programs. Now we talk about the import and export of education services and the education market. The education sector has become the education industry in some countries. The student or learner is the consumer. Students traveling abroad to study are now referred to in GATS terms as Mode two or ‘consumption abroad’. Reference to the four modes of trade is being used to describe internationalization in general and crossborder education in particular.

**Role and Values of Higher Education**

At the heart of the debate for many educators is what impact will increased commercial crossborder education and new trade policy have on the purpose and values of higher education. The growth in new commercial and private providers, the commodification of education as a tradable service, and the prospect of new trade policy frameworks are catalysts for stimulating serious reflection on the role, contributions, social commitment and funding of public higher education institutions in society. Most educators believe that trade rules are not necessary or desirable to regulate the movement of commercial education between countries. For decades, education has been moving between countries through development cooperation, academic exchanges and now commercial initiatives. In response to this crossborder mobility, the education sector has developed, and can continue to develop, the appropriate policies and regulations. Yet today, the existence of bilateral, regional trade and multilateral trade agreements are a reality that must be faced and acted upon by the higher education sector. Some governments, education institutions and educators embrace this reality; others are repelled by the notion that education is being treated as a tradable commodity/service. Both reactions exist-often within the same country or higher education institution.

The trinity of teaching/learning, research and service to society has traditionally guided the evolution of universities and their contribution to the social, cultural, human, scientific, technological and economic advancements of a nation and to the total development of individuals. Is the combination of these primary functions and diversified roles still valid or can they be disaggregated and rendered by different providers? Values that have traditionally underpinned public education such as academic freedom, collegiality and institutional autonomy are being closely examined. Is education still considered to be a public good in the sense of contributing to the development of society and/or is it being perceived as a private good for consumption and benefit by individuals? Some believe that these traditional values and roles are even more relevant and important in today’s environment; others suggest that there is a need for a shift away from these traditional values in light of globalization. And still others argue that if higher education is to fulfill its role as a ‘public good’ then it will need to move away from its traditional public funding sources in favor of more market-based approaches. (Uvalic-Trumbic, 2002) Once again, the existence of new trade rules covering education is an important catalyst demanding a rigorous review of the values fundamental to higher education and a nation’s perception of how education meets national priorities and needs. Perhaps the issues of trade and the commercialization of higher education will eventually be fundamental elements that define and contrast different countries’ values and approaches to the role and purpose of higher
education. This will be a significant indicator of the importance of commercial or private education and is probably not an imminent possibility. Yet, one can not be so sure.

**Issues and Questions for Research, Policy Development and Consultation**

The primary purpose of this section is to summarize the key issues that require further investigation and consultation with regards to crossborder education in general and commercial trade in particular. The questions and issues are divided into two groups: those that relate to trade and higher education and those that raise implications for other policy domains.

**Issues related to GATS, trade policy and the education sector**

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

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

The rationales driving trade in education are complex. They differ if one is an importing/receiving country or an exporting/sending country. Rationales differ for commercial crossborder education than for crossborder exchange partnerships or international development initiatives. More attention needs to be given to studying rationales and linking expected outcomes to the different motivations of the various types of crossborder education.

The question of applying public subsidies to both domestic and foreign providers under the GATS regulation of national treatment requires close monitoring by those countries that are making commitments for foreign providers to enter into their domestic higher education market. The question of cross-subsidization is an area needing further research.

To date there has been little discussion of issues related to the ‘other services’ subsector in GATS. Increased trade in education services such as language testing or quality assessment and evaluation services will have significant implications for higher education. In addition, perhaps there is something to be learned from how other social service sectors such as health and culture have approached the issues related to the inclusion of their services within the GATS regulations.

TRIPS is another WTO agreement. TRIPS stands for Trade Related Aspects of Intellectual Property Rights. Of particular interest to the higher education community are issues related to whether intellectual property rights will encourage or inhibit innovation and research, who owns copyright of materials used in e-education, and protection of indigenous knowledge. (Kacher, 2003)
The focus thus far, has been almost entirely on the teaching side of education and has not addressed implications for research. Research is an integral part of a university’s role and further investigation is needed into the potential impact on applied research and especially privately contracted or funded research. Do public education institutions that are undertaking research and development activities have unfair advantage over private organizations that do not usually receive public support for their activities? Could public subsidies be construed as a barrier to fair trade or under the national treatment condition have to be given to private foreign providers?

The increased demand for post-secondary education and lifelong learning opportunities has led to a recent surge in the number and type of higher education institutions and providers, including for-profit entities. The key questions are: how equitable is the increased access to higher education and also what policies are in place for loans, scholarships and bursaries to help ensure greater access to those who are not able to afford the tuition fees of domestic and foreign institutions/providers. Even though in some countries the demand for higher education surpasses the capacity of the domestic system, the introduction of foreign commercial providers and public/private institutions requires close monitoring in terms of equitable access for students.

There are important issues requiring further research relative to financing. In countries where tuition fees are not the norm, what is the feasibility and impact of charging tuition/ user fees for crossborder programs under a GATS regime?

Many educators believe that one of the negative consequences of market driven for-profit education is that the number of ‘diploma/degree mills’, ‘canned degrees’ and ‘accreditation mills will increase. This is especially worrisome if these types of providers are non-domestic. More investigation is necessary on developing national procedures to register and license all higher education providers- domestic and foreign. It is equally important to explore whether it is necessary to have regional or international systems in place to augment national ones to ensure that rogue providers delivering internationally are identified.

One of the critical issues raised by a multitude of stakeholders has been quality assurance of crossborder education. This applies to any kind of academic program or course work that is moving from one country to another; whether it is through development assistance projects; through exchange partnerships or through commercial initiatives. Very few national accreditation or quality assurance agencies are addressing crossborder education in a formal or systematic way. Furthermore, there are cases of franchised programs offered by international providers that would not normally be reviewed or accredited by national agencies. The responsibility for quality assurance by exporting institutions, providers, and countries needs to be given more serious attention. Finally, quality assurance of distance education is of particular importance especially in terms of using new technologies like the Internet and when traditional cultural, jurisdictional and disciplinary boundaries are crossed.

Given the increased mobility of students taking degrees and looking for employment in foreign countries, there is increasing urgency to develop bilateral, regional and international systems for the recognition of qualifications awarded in other jurisdictions and countries.

At the national, regional and often at the institutional level there is a serious lack of reliable and comparable data. This applies to all aspects of crossborder education- but especially the movement of education programs and providers. Without good systems for data collection and
analysis, the study of crossborder education will be based on speculation and uninformed opinion which is not a solid base for policy development and reform.

In addition to not having adequate infrastructures and systems in place for data collection, there is still a great deal of confusion about the meaning and use of new terms in the field of crossborder education. Further work is needed to develop typologies to clarify and differentiate concepts such as, new or non-traditional providers, private/public providers, for-profit/non-profit providers, study abroad, international/foreign students, double/joint degrees, franchised/twinning programs and so on.

**Issues Related to Other Policy Domains**

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

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

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

*International Development and Cooperation*
In the past, nation building by investing in higher education through human resource development, institutional strengthening and scholarship programs has been an important part of international development and technical assistance programs. In the last decade, these aid-oriented initiatives have given way to projects that have been based on principles of partnership, exchange and mutual benefits. Is the inclusion of education as a tradable service under the purview of trade agreements such as GATS, an indication of a shift away from aid and partnership initiatives towards commercial trade as a primary tool for developing higher education in developing and transition countries? Will the aid to trade shift and increasing role of
the market place put more emphasis on international competition rather than international cooperation in terms of international higher education collaboration?

These issues address a number of critical areas for further investigation, analysis, and policy reform. Clearly, the list is more illustrative than comprehensive. Further attention, policy development and research needs to be given to these and other aspects of education which are impacted by increased crossborder education and the presence of new trade regulations.

**Concluding comments**

The mobility of students, professors, knowledge, values has been part of higher education for centuries but it has only been in the last two decades that there has been a significant growth in the mobility of programs and providers through physical and virtual modes of delivery. This presents many new opportunities - for increased access to higher education; for strategic alliances between countries and regions; for the production and exchange of new knowledge; for the movement of graduates and professionals; for human resource and institutional capacity building; for income generation; for the improvement of academic quality; and for increased mutual understanding. The list of potential benefits is long and varied. But so is the list of potential risks. Risks can include: an increase in low quality or rogue providers; a decrease in public funding if foreign providers are providing increased access; non-sustainable foreign provision of higher education if profit margins are low; foreign qualifications not recognized by domestic employers or education institutions; elitism in terms of those who can afford cross-border education, overuse of English as the language of instruction; and national higher education policy objectives not being met. (Knight, 2006c)

Risks and benefits vary between sending and receiving countries, between developed and developing countries, for students, institutions, companies and employers. In light of the fast pace of cross-border growth and innovation, it is important that the higher education sector be informed and vigilant about the risks and benefits and more importantly, the need for appropriate policies and regulations to guide and monitor current and future developments.

It is important that the wider international higher education community continue to undertake research on the diverse issues and implications so that 1) educators’ views and expertise come to bear on the developments in trade in education services, 2) the higher education sector continues to work towards national/regional and international education frameworks which addresses the quality assurance, accreditation and recognition of qualifications for all types of crossborder education, 3) further work is done on investigating the implications of trade agreements on scholarly pursuits, research and intellectual property, 4) trade is seen as only one subset of the larger phenomenon of crossborder education and internationalization, and 5) that the impact of trade and commercial provision on the larger more philosophical questions related to the purpose, values and role of higher education continue to be explored.

This paper has identified and discussed issues which are impacting the knowledge enterprise as we know this today and which are likely to accelerate in the future. It is now for those directing and assuring the progress of knowledge production to respond effectively to the multiple challenges at hand.
This paper borrows from the reports prepared by the author for the UNESCO Regional Meetings on ‘GATS and Higher Education’ convened by the Forum on Higher Education, Research and Knowledge and from papers prepared for the Observatory on Borderless Higher Education and the East-West Centre Seminar on Education as a Public Good and Education as a Private Commodity.

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