



Working Paper

Trade in Educational Services: Trends and Emerging Issues

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Revised Version

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TABLE OF CONTENTS

1. INTRODUCTION.....	3
2. LEVELS AND TRENDS IN TRADE IN EDUCATIONAL SERVICES.....	3
a Methods of Compiling the Statistics.....	3
b Trends in Trade in Educational Services.....	5
c A Rough Estimate of OECD Trade in Educational Services.....	10
3. THE IMPLICATIONS OF GATS FOR TRADE IN EDUCATIONAL SERVICES.....	11
a Current Commitments under the GATS.....	11
b Issues in the on-going GATS negotiations.....	12
4. POLICY ISSUES ARISING FROM TRADE IN EDUCATIONAL SERVICES.....	15
5. CONCLUSIONS.....	16
REFERENCES.....	18

1. INTRODUCTION

Until recently, education has been largely absent from the debate on globalisation because it was thought to be essentially a non-traded service. But this is not the case. Traded educational services are already a major business in some countries, e.g. in Australia, Canada, New Zealand, the United Kingdom and the United States. The largest component of international trade in educational services is accounted for by students travelling to study abroad. This trade has been established over many years, but a newer prospect is the widespread provision of courses and qualifications by providers originating from, and in some cases operating, outside the country of a student who stays at home. New communication possibilities such as the Internet are creating rapidly the conditions that could allow such trade to flourish in the future.

In recognition of these facts, educational services are already covered under the present GATS commitments undertaken both during the Uruguay Round and afterwards by 42 WTO Members (counting as one the 1994 schedule of 12 EU member states), and represent one sector for which four negotiating proposals have been received (at the time of writing).

This paper seeks to further the international debate on trade in educational services by summarising what is known about it and what are some of the main policy issues arising from such trade. It addresses the following issues:

- What is known about the size of, and trends in, the international market in educational services (Section 2)?
- What are the implications of the on-going GATS negotiations for further trade liberalisation in this sector (Section 3)?
- What are the major policy challenges posed by trade in educational services (Section 4)?

2. LEVELS AND TRENDS IN TRADE IN EDUCATIONAL SERVICES

Existing data about the level and content of trade in educational services are scarce and difficult to evaluate. This paper uses existing data from the OECD database on International Trade in Services and from the OECD Indicators for Education Systems (INES) database on foreign students in tertiary education to give an overview of the approximate scale of this trade. It also highlights the problems with existing data sources, which hinder efforts to get a reliable picture of the size of international trade in educational services. This section is divided into three parts: (a) methods of compiling the statistics; (b) main trends in trade in educational services; and (c) a rough estimate of the size of trade in educational services in OECD countries.

a Methods of Compiling the Statistics

(i) Trade in Services Statistics¹

Statistics on trade in educational services are classified under several headings and are often lumped together with other activities. It is therefore not easy, and sometimes impossible, to identify “trade in educational services” using standard statistics on services trade. The trade data used in this paper were

¹ See OECD (2001 c) for further details.

collected according to the OECD/Eurostat classification. In this classification, “trade in educational services” is counted under the following headings:

1. 242 Personal travel, Education-related expenditure;
2. 936 Miscellaneous business, professional, and technical services. Other.

The first category mentioned above consists of educational services where individual students pay a tuition fee to education institutions and/or living costs when studying abroad. This corresponds to mode 2 (consumption abroad) in the WTO classification of different modes of supplying goods and services across borders (see Box 1). Estimates of foreign students’ expenditures in the country are made by multiplying the number of such students (which is known with some precision) by an estimate of average expenditures per student. Receipts consist largely of expenditures for tuition and living expenses for foreign students enrolled in a country’s universities and colleges -- these are treated as service “exports” from the perspective of the country in which the student is studying. Payments consist of tuition and living expenses of students who study abroad -- these are treated as service “imports” from the perspective of the country of origin of the student in question.

The second category mentioned above includes trade in educational and training services when the services are provided on a contract or fee. It corresponds to mode 1 (cross-border supply) in the WTO classification. This category includes, for example, employee training or educational testing services provided by a foreign company or institution. It also contains the service provided by a manufacturer where the foreign customer buys training services as part of the delivery, maintenance or installation of a good or service. And finally, it contains cross-border e-learning activities provided by companies and educational institutions. Unfortunately, it is not possible in the OECD data base to separate trade in educational services from a number of other services included in “936 Miscellaneous business, professional, and technical services. Other”.

With current international trade statistics it is not possible to identify separately the earnings from universities, other educational institutions and companies engaged in providing training services which are all present in another country (offshore activities). Data on sales by these “foreign affiliates” are not included in international trade statistics in line with current international rules for collecting trade data. Only their earnings are recorded in the accounts as international transactions, and here they appear as “income” rather than “services”. This category corresponds to mode 3 (commercial presence) in the WTO classification.

It should also be noted that trade according to mode 4 (Presence of natural persons - an individual entering another country to provide an educational service) in the WTO classification is not accounted for in services trade statistics unless the earnings from this activity are transmitted to another country. These earnings are covered in trade statistics under “compensation of employees”, e.g. the earnings of teachers and other education professionals who work abroad for less than one year.

Box 1: The different modes of services trade according to the GATS classification

Mode 1: Cross-border supply corresponds to the normal form of trade in goods: only the service itself crosses the border. Cross-border supply of educational services might grow rapidly in the future through the use of new information technologies for distance learning (cable and satellite transmissions, audio and video conferencing, PC software, and CD-Roms, and recently the Internet). A number of private companies and universities have launched recent initiatives in this area.

Mode 2: Consumption abroad refers to a situation where a service consumer moves to another country to obtain the service in question (e.g. a student who travels abroad to study). International flows of students

in higher education constitute at present by far the largest share of the global market for education services.

Mode 3: Commercial presence of educational services refers to the commercial establishment of facilities abroad by education providers, e.g. “local branch campuses” or partnerships with domestic education institutions.

Mode 4: Presence of natural persons consists of a natural person (e.g. a professor, researcher, teacher etc.) travelling to another country on a temporary basis to provide an educational service.

(ii) *Statistics on Foreign Students in Tertiary Education*

The OECD INES statistics on foreign students in tertiary education are based on data compiled by the host country, and therefore relate to incoming foreign students to a particular country, rather than to students from that country going abroad. Foreign students are usually identified on the basis of citizenship or, in some cases, by an alternative criterion (e.g. nationality, place of birth, former domicile). The application of this criterion thus generates a bias, related to the differences between host countries’ policies on obtaining nationality. Indeed, children of non-naturalised migrants may have been living in the host country for a long time (some are born there) which does not, a priori, justify attaching them to their country of origin or that of their parents to measure the proportion of students going abroad for their education (OECD, 2001a)².

Students studying in countries which did not report to the OECD are not included in the statistics. As a consequence, the INES data on students abroad underestimate the total numbers of foreign students in OECD countries. In the 1998 statistics on foreign students in tertiary education, there are no data for the following OECD countries: Belgium (French Community), Greece, Mexico, the Netherlands, and Portugal. In the 1999 statistics, only data from Greece and Portugal are missing.

b *Trends in Trade in Educational Services*

(i) *Using Trade in Services Statistics*

In the OECD and IMF data bases on international trade in services statistics, only few countries have reported data on “Personal travel, education-related activities”: Among them are Australia, Brazil, Canada, Greece, Italy, Mexico, New Zealand, Poland, United Kingdom, United States and Venezuela. These countries include five major “exporters” of trade in educational services, namely Australia, Canada, Italy, the United Kingdom and the United States. Table 1 shows data on exports of educational services in \$US million and as a percentage of total exports in services, 1970-2000, for these eleven countries, measured as the receipts or payments of foreign students studying abroad corresponding to the category.

As mentioned above, these data correspond only to mode 2 (consumption abroad). Nevertheless, the largest share of cross-border trade in educational services occurs through the travel of students to study

² To take one example, Germany is a popular destination for foreign students studying in the OECD countries, but the actual number of non-resident students (or students who attended upper secondary education in another country) registered in German higher education institutions accounts for only two-thirds of all foreign students. This is because of the presence of a significant number of “domestic foreigners”, consisting mainly of children of “guest workers” who, despite having grown up in Germany, are considered “foreign” in these statistics. A quarter of all foreign students in Germany have ethnic origins in Greece, Italy and Turkey (OECD, 2000).

at foreign institutions, and this indicator is therefore often used to estimate the overall level of trade in educational services. As noted below, this estimate is likely to become less and less accurate in the future as other forms of trade in educational services (e.g. e-learning and corporate training) are growing rapidly.

Table 1 shows that the United States is by far the biggest “exporter” of educational services among the eleven countries, followed by the United Kingdom, Australia, Italy and Canada. Australia has, over the period 1970-2000, experienced a very high growth in the trade of educational services. As a result, education has become Australia’s eight largest export industry, corresponding to 12 per cent of total Australian exports of services. In contrast, Canada has experienced a relatively lower growth in its trade in educational services than Australia, the United Kingdom and the United States. As a result, the relative importance of Canadian exports of educational services as a percentage of total services exports has fallen from 3 per cent in 1989 to 2 per cent in 2000.

Table 1: Exports of educational services in \$US million and as a percentage of total exports in services, 1970-2000 (in current prices)

	1970		1989		1997		2000	
	\$US million	% total services	\$US million	% total services	\$US million	% total services	\$US million	% total services
Australia*	6	0.6	584	6.6	2190	11.8	2155	11.8
Canada	68	2.7	530	3	595	1.9	796	2.1
Mexico	52	0.5	29	0.2
New Zealand*	280	6.6	199	4.7
Poland	16	0.2
United Kingdom	2214	4.5	4080	4.3	3758	3.2
United States	4575	4.4	8346	3.5	10280	3.5
Greece	80	0.4
Italy*	1170	2.1
Brazil	4	0.1	4	0.0
Venezuela	4	0.3	60	4.9

Note: .. not available; Data refers to foreign tertiary students, except for Australia, Italy and New Zealand, where foreign primary, secondary, post-secondary vocational training and language training students are included.

Source: OECD statistics on trade in services and IMF (+ Italy, USA : 2000; Poland: 1999); UK (1999, 2000): Office for national statistics

Most countries include only data on foreign students in higher education in their calculation of exports of educational services. However, Australia*, Italy* and New Zealand* are also including the export value of foreign students in other education sectors, such as primary, secondary, vocation and language training.

Table 2: Imports of educational services in \$US million and as a percentage of total exports in services, 1970-2000 (in current prices)

	1970		1989		1997		2000	
	\$US million	% total services	\$US million	% total services	\$US million	% total services	\$US million	% total services
Australia	24	1.5	178	1.3	410	2.2	356	2.0
Canada	37	1.1	258	1.1	532	1.4	602	1.4
Mexico	44	0.3	53	0.3
Poland	41	0.7
United Kingdom	67	0.2	182	0.2	150	0.2
United States	586	0.7	1396	0.9	2150	1.0
Greece	211	1.9
Italy	849	1.5
Brazil	22	0.1	78	0.5
Venezuela	165	3.0	113	2.7

Note: .. not available; Data refers to foreign tertiary students, Source: OECD statistics on trade in services and IMF (+ Italy, USA : 2000; Poland: 1999); UK (1999, 2000): Office for national statistics

However, these data clearly underestimate the current levels of trade in educational services. They do not include the educational services included in “936 Miscellaneous business, professional, and technical services. Other”. Nor do the tables include the earnings from affiliated companies and institutions in educational services. It is likely that the size of the underestimate has increased over time.

On the other hand, other transactions in the current account partly offset the receipts shown in Table 1. Surveys of foreign students in the United States, for example, indicate that roughly three-quarters of their education are financed from sources abroad. The remainder, however, is financed from sources within the United States – through scholarships from colleges, universities, private corporations, or other non-profit institutions. These payments to foreigners are included in private remittances and other transfers in the trade statistics (US Department for Commerce, 2000).

Table 2 shows data on “imports” of educational services, i.e. payments made for students studying abroad. Once again, the United States is the largest importer, followed by Italy, Canada and Australia (there are no import data for New Zealand). But Table 2 also expresses imports as a percentage of total services imports, and by this measure Venezuela, Australia, Greece and Italy are the largest importers. Comparing Tables 1 and 2, it is clear that Australia, Italy, Canada, the United Kingdom and the United States have a “trade surplus” in educational services. However, using Tables 1 and 2, one can compute an “indicator of countries’ revealed comparative advantage” in trading educational services as export minus imports as a proportion of total exports in services. By this measure, Australia appears to be the most competitive exporter in this market followed by New Zealand, the United Kingdom and the United States in that order.

There exist only scattered data on trade in educational services under modes 1, 3 and 4. From US trade statistics, it is, however, possible to get more information on mode 1 trade (cross-border supply) in educational services. US data on services trade include a category entitled "training services" which

includes sales of, e.g. employee training or educational testing by a US company or institution abroad. The total amount of this activity is relatively small (only \$US 408 million in exports and \$US 175 million in imports in 1999) compared with the category 242 (US Department of Commerce, 2000).³

With the development of electronic commerce and a corresponding expansion of distance learning as suppliers make use of new and enhanced information and communication technologies, the potential of pure cross-border trade in educational services (mode 1), traditionally associated with modes 2 and 3, is becoming more significant⁴.

Cross-border e-learning activities are likely growing at a faster rate than the number of students studying abroad, although from a low level. Increasingly, educational institutions, publishers, and ICT companies are teaming up to design and deliver e-learning courses on a variety of subjects. Large companies are also developing education and training courses to improve the skills of their employees and to keep these up to date. Again, there is very little information on the scale of these activities and the proportion that is traded cross-border. It is estimated that there were 6,250 foreign "distance-learning" students at Australian universities in the beginning of 2000, corresponding to 6 percent of all the foreign students enrolled at Australian universities up from three percent in 1996.

There are few statistics available on mode 3 trade. According to a study by the Australian Vice-Chancellors' Committee in May 1999, 35 Australian universities reported 750 offshore programmes with 31,850 students. The vast bulk of such programmes were concentrated in four countries: Singapore, Hong Kong, China, Malaysia and China (IDP Education Australia, 2000). Another estimate is that 75 per cent of UK universities had at least one overseas validated course in 1996/97, corresponding to around 135-140,000 students during the 1996/97 academic year (Bennell and Pearce, 1998). Investment or establishment-related trade in education (mode 3) is also likely to grow in the future, as universities and other higher education institutions increasingly seek to establish campuses and teaching facilities abroad.⁵

(ii) *Statistics on Foreign Students in Tertiary Education*

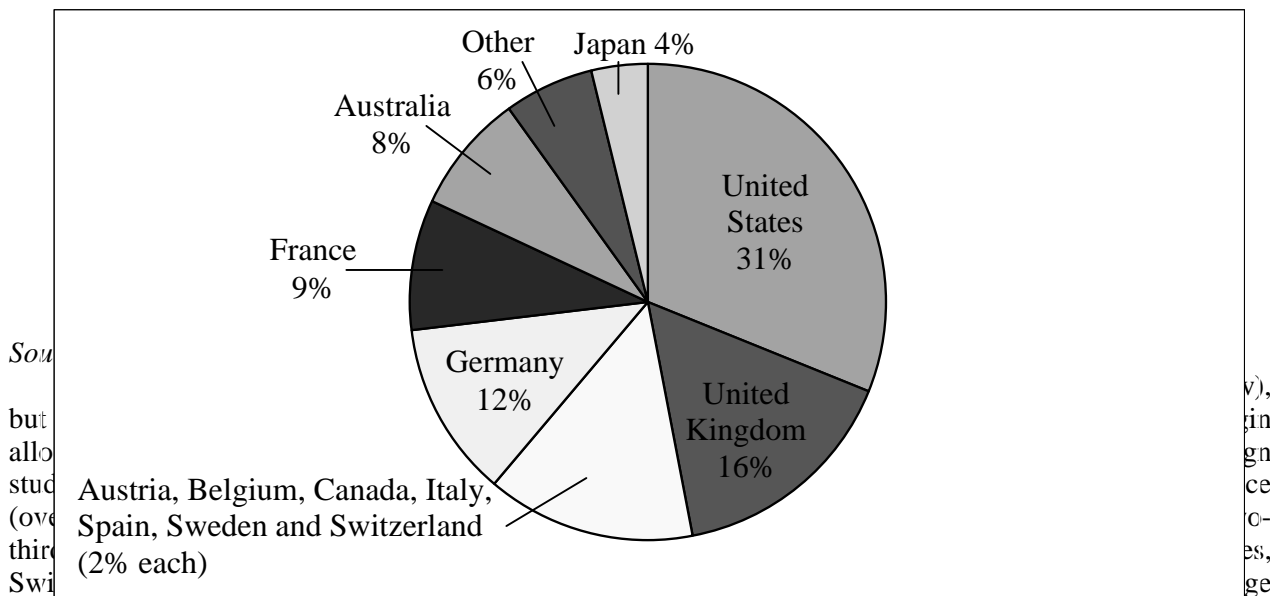
Figure 1 shows that the United States is the most popular destination for foreign students (in terms of the absolute number of foreign students) with 31 per cent of the total, followed by the United Kingdom (16 per cent), Germany and France (12 and 9 per cent, respectively) and Australia (8 per cent). Five countries (Australia, France, Germany, the United Kingdom, and the United States) thus attract more than 75 percent of all foreign students studying in the OECD area. By way of comparison, these five countries accounted for 44 and 47 per cent of the total OECD population and labour force, respectively.

Figure 1: Distribution of foreign students in OECD countries by host country, 1999

³ However, US services trade statistics do not permit one to isolate trade in educational services when it is either provided to a company or institution abroad as part of a delivery, maintenance or installation of a good or as an e-learning activity (mode 1).

⁴ E.g. Duke University in the United States offers a "Cross-Continent" MBA programme that has a large on-line tuition component, allowing enrolment and participation of foreign students without requiring them to move to the United States. "Internet-mediated learning" is combined with residential learning sessions in a number of the university's facilities established abroad.

⁵ In Australia, for example, over a third of new overseas enrolments in 1999 were accounted for by enrolments in offshore facilities (Australian Education International, *Overseas Students Statistics 1999*, 2000; see <http://www.aei.detya.gov.au> for extracts).



numbers of students from Asia and the Pacific (one-third of entries) besides a large contingent of European students.

Among all foreign students studying in OECD countries in 1999, German, Greek, Japanese and Korean students comprise the largest proportion of students from other OECD countries, each representing about 4 to 5 per cent of all foreign students, followed by Turks, French and Italians. Together, these countries account for about 25 per cent of all foreign students in OECD countries. China (including Hong Kong-China) accounts for almost 9 per cent of all foreign students studying in OECD countries, followed by India (3 per cent), Malaysia (3 per cent) and Morocco (3 per cent). Other Southeast Asian countries are also very active in sending students to OECD countries: 5 per cent of all foreign students originate from Indonesia, Singapore, and Thailand (OECD, 2000).

The OECD has also recently collected statistics on foreign students in tertiary education in 1999. There has been an increase in the number of foreign students enrolled in tertiary education in OECD countries from 1.31 million in 1998 to 1.42 million in 1999⁶.

c A Rough Estimate of OECD Trade in Educational Services

Combining the statistics on trade in services and on foreign students in tertiary education, we have relatively good information on mode 2 trade in educational services (consumption abroad) in OECD countries. Approximately 1.47 million foreign students in tertiary education were studying abroad in OECD countries in 1999. The average expenditure per year of students studying in the seven countries shown in Table 1 above is \$US 20,600 (including fee payments and living expenditures). Given that these seven countries attract over 57 per cent of all foreign students studying in OECD countries, it seems reasonable to assume that this estimate of average spending per student is a good proxy for the OECD average. This suggests that the overall market in OECD of mode 2 trade in educational services is around \$US 30 billion in 1999, corresponding roughly to 3 per cent of total trade in services in OECD countries⁷.

⁶ The 1999 figure does not include data from Belgium, Mexico and the Netherlands, for whom 1998 data were not available. If these countries are included, the total number of foreign students enrolled in tertiary education in 1999 in OECD countries is 1,47 million.

⁷ According to WTO (2000), total OECD exports of services amounted to around \$US 1,120 billions in 1999.

This figure is a rough estimate since the number of 1.47 million foreign students refers only to students in tertiary education. Students in vocational education and training or in primary and secondary education are not included in this figure. For example, across all sectors of education – higher education, vocational education and training, schools and English-language courses -- Australia was host in 1999 to 158,000 foreign students, whereas the total number of foreign students in tertiary education in the same year was 117,500. The figure of \$US 30 billions is therefore an underestimate of the total OECD market in educational services. On the other hand, the average costs for students studying in continental Europe are typically somewhat lower than \$US 20,600 as student fees are typically non-existent or low. The living expenditures of students studying abroad in Europe are, however, accounted for in services trade statistics under “242 Personal travel: education-related expenditure”.

3. THE IMPLICATIONS OF GATS FOR TRADE IN EDUCATIONAL SERVICES

The GATS is a multilateral, legally enforceable agreement governing international trade in services. It offers for services trade the same stability that arises from mutually agreed rules and binding market access and non-discriminatory commitments that the GATT has provided for goods trade for more than five decades. The GATS forms part of the Uruguay Round single undertaking “package” of multilateral agreements, so all WTO Members are bound by GATS rules. The coverage of the GATS is extremely wide: all service sectors are covered with the exception of “services supplied in the exercise of governmental authority”.

The GATS consists of three core components: the framework of rules that lays out general obligations (e.g. transparency, most-favoured-nation (MFN) treatment), annexes on specific sectors (telecommunications, financial services, etc.), and the schedules of commitments submitted by each Member country, detailing the Member’s liberalisation undertakings by sector.

a Current Commitments under the GATS

Education services are covered under chapter 5 of the GATS classification system. Its sub-division into five sub-sectors - (A) primary, (B) secondary, (C) higher, (D) adult and (E) other⁸ - reflects traditional education structures. Education, together with the energy and audio-visual sector, remains one of the sectors where WTO Members have been least inclined to schedule liberalisation commitments. To date, only 42 Members (counting as one the 1994 schedule of the then 12 EC members states) have made commitments for at least one education sub-sector.

Given that national policy objectives often involve specific service sectors, the GATS was designed to allow countries to tailor their commitments to suit those objectives. WTO Members are free, for example, to leave entire sectors out of their GATS commitments, or they may choose to grant market access in specific sectors, subject to the limitations they wish to maintain. Market access and national treatment obligations apply only to the sectors in which a country chooses to make commitments. General obligations, however, such as those relating to transparency, apply to all services covered by the GATS, regardless of whether liberalisation commitments have been scheduled or not. Through negotiating “rounds”, countries choose the sectors and modes of services trade they wish to include in their schedules, as well as the limitations on market access and national treatment they wish to maintain. It is only by reference to the individual country schedules that one can know the degree to which service sectors have actually been opened.

⁸The definition of the “other sector” is: 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.

A survey of market access commitments in education services under GATS reveals the following: 25 of the 42 Member countries have included commitments for at least 4 of the 5 education sectors⁹. Thus, the number of schedules containing commitments on the different education sectors is relatively constant: 30 on primary education, 35 on secondary education, 32 on higher education and 32 on adult education. The least frequently committed sector is “Other education”, for which commitments were made by only 20 member countries¹⁰. It should be noted that, among OECD countries, two-thirds of them have made commitments in 4 out of 5 education sectors. Only 5 OECD countries have made no commitments in educational services. For a more detailed overview of WTO members’ commitments in education services, see the Background Document, entitled “Current Commitments under the GATS in Educational Services”, Prepared for the OECD/US Forum on “Trade in Educational Services, 23-24 May 2002.

The schedules of those Members who acceded to the WTO after the Uruguay Round generally contain more ambitious market access commitments, with a wider sectoral coverage. This is perhaps due in part to the difference in negotiating contexts between an accession and a normal trade round¹¹. It should also be noted that, while many acceding Members have taken liberal market access commitments for primary and secondary education services, the majority of them (as well as some of the original GATS signatories) make it clear that their commitments apply only to privately-funded education services.

In sum, WTO Member countries have chosen to impose considerably more limitations on trade in educational services in modes 3 and 4 than in modes 1 and 2. This is also the common picture for trade in other services. Furthermore, Member countries have in general put slightly more limitations on trade in primary and secondary education (considered as “basic” schooling in many OECD countries) than on higher and adult education.

b Issues in the on-going GATS negotiations

The primary goal of the Uruguay Round in the services field was to establish the legal framework through which liberalisation would be achieved in successive negotiating rounds; little real liberalisation was secured at that time, as most Members made commitments that bound the status quo, with generally limited sectoral coverage. Negotiations under the GATS resumed formally on 1st January 2000, in accordance with the Agreement’s so-called “built-in agenda”, i.e. its provision for:

successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalisation [GATS, article XIX].

Therefore, with each round, Members are expected to negotiate to continue the process of progressive liberalisation of services trade, by both broadening and deepening their liberalisation commitments.

⁹ These members are: Albania, China, Chinese Taipei, Croatia, Czech Republic, Estonia, European Union, Georgia, Hungary, Japan, Jordan, Kyrgyz Republic, Latvia, Lesotho, Liechtenstein, Lithuania, Mexico, Moldova, Norway, Oman, Poland, Sierra Leone, Slovak Republic, Switzerland and Turkey.

¹⁰ For a more detailed overview of WTO members’ commitments in education services, see the Background Document entitled “Current Commitments under the GATS in Educational Services,” prepared for the OECD/US Forum on “Trade in Educational Services,” 23-24 May, 2002.

¹¹ See WTO (2001).

Negotiations are taking place via the WTO Council of Trade in Services, with a review of progress in the negotiations scheduled for March 2002. All service sectors, including education, may be covered by the negotiations. Over 90 negotiating proposals covering a wide range of sectors have already been submitted by more than 40 Members. The following sub-section addresses two topics: (i) criticisms relating to liberalisation of trade in education services put forward by some commentators and NGOs; and (ii) the three negotiating proposals for further multilateral liberalisation of trade in educational services put forward recently by Australia, New Zealand and the United States.

(i) *Education Services Trade and GATS Critics*

Education, along with health and other social services, is a politically sensitive sector for multilateral trade negotiations. Almost all countries view education, at least up to a certain age, as an essential social service and provide publically-funded education on a compulsory and universal basis. There are, however, significant variations between countries' education systems concerning the level of public funding and public delivery of education and the degree to which private education is available; mixed systems, allowing the choice between public and private schooling, are common.

Among the principal concerns about liberalisation of trade in education services, two are highlighted here:

- **That the co-existence of public and private services calls into question the status of public services as government services excluded from the scope of the GATS.**

GATS article I (3) (b) provides that the Agreement applies to "any service in any sector except services supplied in the exercise of governmental authority". I 3 (c) provides that "any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers" is such a service. It is often asserted that, in mixed education systems, the private sector "competes" with the public sector, thus bringing government-supplied services into the GATS arena. Co-existence of public and private providers is common in social services such as health and education. But such co-existence does not necessarily mean that they are "like services", nor that they are in competition, and therefore does not bring public services automatically into the purview of the GATS. Nor does the fact that fees might be charged for some governmental services, e.g. for school enrolments, automatically make the service one supplied "on a commercial basis".

Whatever the interpretation of this rule, some members have proposed further liberalisation of trade in education services in the present GATS negotiations. Their proposals recall that the GATS terms are consistent with governments' right to regulate in order to meet domestic objectives within the education sector (see the section on "New GATS Proposal in Education").

- **That the GATS threatens Governments' sovereign rights to regulate and pursue social policy objectives.**

This concern does not take into account the fact that the rights of Governments to regulate in order to meet national policy objectives are recognised explicitly in the preamble to the Agreement.¹² It also ignores the flexibility of the GATS, in that Members retain full freedom to choose not only the sectors

¹² The GATS preamble recognises, *inter alia*, "the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right".

and modes of supply for which they want to make market-access commitments, but also to determine the content of those commitments and the scope of retained restrictions.

(ii) *New GATS Negotiating Proposals in Education*

To date, only Australia, Japan, New Zealand and the US Governments have submitted proposals setting out their negotiating objectives for education services in the new GATS Round of talks¹³.

The main thrusts of the U.S proposal are as follows:

- It focuses on private education services, in the higher (tertiary) education and adult education and training sectors, envisaging that “private education and training will continue to supplement, not displace, public education systems”;
- It recommends clarification of the classification issue, proposing that the classification of education services should clearly cover and distinguish two types of services: training and educational testing services¹⁴;
- It identifies a list of obstacles hindering trade in education services- e.g. prohibition of education services offered by foreign entities, the lack of possibilities for authorisation to establish in a Member's territory and to be recognised as a degree-conferring institution, economic needs tests – and suggests that Members take these into account when making market-access commitments, as well as taking additional commitments relating to domestic regulation in the sector.

The Australian proposal recognises that governments play a significant role in the financing, delivery and regulation of education. However, it supports further liberalisation in educational services as a means of providing individuals in all countries with access to a wide range of educational options. It proposes, furthermore, that given that there are significant linkages between the regulatory framework governing international trade in education services and other services sectors (for example, the telecommunication/audio-visual sector and movement of persons), there is a need for the education services negotiation to be viewed within the context of a comprehensive services round.

The New Zealand negotiating proposal recognises explicitly that the reduction of barriers to trade in education does not equate to an erosion of core public education systems and standards. It states that international trade in education services can provide a means of supplementing and supporting national education policy objectives. It goes on to recommend a more elaborated definition of the “Other education” category as follows:

All other education services not defined by level. These include short-term training courses, language training and practical/vocational courses in a range of subjects, for example computing, hospitality, resource management and primary production, together with education services offered by non-traditional providers, such as driver education programmes and corporate training services.

¹³ WTO, *Communication from the United States, Higher (Tertiary) Education, Adult Education and Training*, 18 December 2000, (S/CSS/W/23); WTO, *Communication from New Zealand, Negotiating Proposal for Education Services*, 26 June 2001, (S/CSS/W/93); WTO, *Communication from Australia, Negotiating Proposal for Education Services*, 1st October 2001, (S/CSS/W/110); WTO, *Communication from Japan, Negotiating Proposal for Education Services*, 15th March, 2002 (S/CSS/W137).

¹⁴ The former is relevant to higher, adult and other education services while the latter are related to all types of education, see *op.cit.*

The fourth negotiating proposal, from Japan, also encourages WTO members “to promote liberalisation in the education services sector through better market access, further assurance of national treatment, and deregulation of related domestic regulations.” However, the Japanese proposal also stresses the need to establish measures to maintain and improve the quality of the services through protection of consumers from low quality education providers operating across borders, and insuring the international equivalence of qualifications.

4. POLICY ISSUES ARISING FROM TRADE IN EDUCATIONAL SERVICES

This section highlights four major policy issues arising from trade in educational services:

a Absence of an International Framework of Quality Assurance and Accreditation in Higher Education

There is no agreed international quality framework for higher education. Without such a framework in place, foreign students cannot be confident that they are getting a quality higher education, and also, whether the qualifications that result will be valued on the labour market. Several attempts have been made to establish such a framework but so far only some regional agreements rather limited in scope are in place in order to define international standards for providers of higher education and at the same time guarantee some consumer (learner) protection.

Very different quality assurance and accreditation mechanisms for post-secondary education are in place in OECD countries. Almost all current quality assurance models are confined to educational activities of institutions within national boundaries. With new types of education providers, new delivery modes such as e-learning, new opportunities for cross-border education initiatives, and increasing international student mobility, there is a growing awareness that national approaches to quality assurance may need to be supplemented with international initiatives to secure better consumer protection against low quality programs and to enhance transparency in the international post-secondary education market. The recent Japanese proposal on education services in the framework of the GATS negotiations raises this issue.

What are the prospects of creating an agreed international quality framework for higher education? It seems very unlikely that significant progress will be made on this goal soon. Indeed, it may be a chimera. The Bologna declaration is clearly a small step in this direction, but it covers only the enlarged Europe. In the United States, there are few signs of a “harmonisation” of accreditation procedures and criteria across the country.

b Impact of E-learning Providers on the Established Higher Education Market

Much has been said and written about the huge market potential of e-learning, but in reality it has proven to be much more difficult and costly to produce high-quality e-learning courses which can attract a significant number of students and make a profit for their providers. Nevertheless, the potential for a rapidly expanding cross-border e-learning market is there.

E-learning highlights an issue facing higher education institutions more generally – the pressure to provide “just-in-time delivery” to its clientele, rather than to set its own rules, timetables and content criteria. Many higher education institutions can no longer take their “clients” for granted, and in many cases have to compete with private organisations and/or foreign universities/organisations. However, e-learning is still far from challenging campus education seriously.

E-learning is likely, nonetheless, to have a major influence on the future development of trade in educational services. First, it will most likely increase the number of students taking foreign courses while

staying at least partly in their home country. Second, it will certainly accentuate the need for quality assurance, given that new multinational e-learning-based institutions with no physical presence in countries where they have students may be harder to subject to local systems of recognition and quality assurance. Third, it could give additional advantage to higher education institutions with strong brandnames and high reputations in the labour market if they decided to invest heavily in the e-learning market. Finally, it might reduce the rate of growth in international student mobility.

c The Regulation of Foreign Providers of Post-secondary Education

Many governments wish to use education to meet certain national objectives, and take the view that there is a risk that competition from a foreign supplier might compromise their ability to do so. As long as there is no agreed international quality framework for trade in post-secondary education and training services, there will be national concerns to regulate providers of post-secondary education from other countries. The growing cross-border e-learning activities will most likely accentuate national concerns to regulate these activities. However, any regulation of foreign providers of services raises issues of equal treatment with domestic providers of these services. It is important to note in this context that the GATS explicitly recognises the sovereign rights of governments to regulate in order to meet national policy objectives. In addition, the flexibility inherent in the way the Agreement is structured allows Members to not only choose the sectors and modes of supply for which they want to grant market access, but equally the conditions of market access, or in the case of unequal treatment post-establishment, conditions on national treatment.

d Intellectual Property Rights of Learning Material

With growing trade in higher education services goes increased international competition between universities and other institutions of higher education across borders. In this situation, universities may be tempted to seek to protect their knowledge and learning materials and reputation through intellectual property rights. But there are counter-examples: the Massachusetts Institute of Technology (MIT) recently announced that it would in the next ten years make all its course material available free on the Internet. Free knowledge, however, is not the same thing as free learning. Putting course material on the Internet would not enable computer users everywhere to learn what students do who enrol at the university in question – a course of study consists of much more than just the supply of a set of materials.

5. CONCLUSIONS

Contrary to popular belief, there is significant trade in higher educational services: a rough estimate puts the value of this trade for OECD countries at about \$US 30 billions in 1999, equivalent to 3 percent of their total export services trade. This figure takes only into account students studying abroad in higher education and is undoubtedly an underestimate of the current level of trade in education services. The forces of comparative advantage have already identified some OECD countries that are leading net exporters of such services. Based on the limited available data, Australia appears to be the most competitive exporter in the market for educational services followed by New Zealand, the United Kingdom and the United States in that order.

Education is one of the sectors covered by the GATS for which WTO Members were the least inclined to schedule liberalisation commitments during the Uruguay Round. To date, only 42 Members have made commitments for at least one education sub-sector. WTO member countries have chosen to maintain considerably more limitations on trade in educational services in modes 3 and 4 (“commercial presence” and “presence of natural persons”) than in modes 1 and 2 (“cross-border supply” and “consumption abroad”). Furthermore, Member countries have, in general, put slightly more limitations on trade in primary and secondary education (considered as “basic” schooling in many OECD countries) than on higher and adult education and training.

Technological innovation, symbolised by e-learning, is likely to have a major impact on this trade in the future. At the same time, there are in many countries very real concerns about the potential threats posed to cultural values and national traditions by growing trade liberalisation in education services. At the time of writing, only four countries – Australia, Japan, New Zealand and the United States -- have submitted negotiating proposals on trade in mainly education services in the on-going GATS negotiations. For this reason, any further multilateral liberalisation of trade in educational services is unlikely to involve public primary and secondary education; and further multilateral liberalisation of trade in higher education services, adult education and training, if it does occur, is probably still some way off. But this does not prevent exporting countries taking unilateral or bilateral initiatives to expand their market shares which involve liberalisation, e.g. by reducing barriers to the temporary stay of students, still the principal means of trade in the education sector.

Two inter-linked issues have to be addressed if further significant progress is to be made on liberalising trade in educational services. First, the importance of internationally-supplied educational services meeting certain quality standards is crucial. But the possibility of creating an international quality framework for higher education seems a long way off, even within the EU member states, let alone among the wider OECD or global community. This is despite the fact that both sides to the debate -- those countries calling for more open trade in higher education services and those who wish no further liberalisation -- agree on the need to develop new and more appropriate quality assurance frameworks world-wide. Second, many governments desire to use education to meet certain national objectives, and take the view that there is a real risk that competition from foreign suppliers might compromise their ability to do so. Ways have to be found to alleviate this concern which might include, for example, placing certain conditions upon market access for foreign suppliers.

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