1. Purpose

The purpose of this paper is to

- Provide an overview of the history of the General Agreement on Trade in Services (GATS);
- Consider the theory and practice of GATS;
- Provide an overview on the current status of GATS; and,
- Consider issues relating to policy decisions on GATS.

2. Background

GATS is a multinational trade agreement whose origins lie in the 'Uruguay Round' of General Agreement on Trade and Tariffs (GATT) trade talks. The Uruguay Round took place between 1986 to 1994 and concluded that while GATT, founded in 1948, aimed to liberalise international trade in primary and secondary industries, liberalisation of international trade in the new tertiary (service) sector of the economy required a new agreement. The conclusion of the Uruguay Round in 1994 therefore established GATS to regulate liberalisation of trade in services. Current GATS negotiations are continuing via the Doha Round which commenced in 2001 and covers the farm products, manufactured goods and services sectors.
The World Trade Organisation (WTO) Secretariat has prepared a paper which provides a detailed summary of GATS as well as background information on the agreement\(^1\).

It should also be noted that neither GATT nor GATS are comprehensive: rather, they both consist of one-off agreements on particular industries which contribute to the broader goal of progressive trade liberalisation.

3. **Key aspects of GATS**

The twelve services sectors covered by GATS are: business; communication; construction and engineering; distribution; education; environment; financial; health; recreational, cultural and sporting; tourism and travel; transport; and a residual "other" category. Services supplied in the 'exercise of government authority' are excluded: these are services which are "delivered neither on a commercial basis nor in competition with other service suppliers are excluded (e.g., public sector health and education services, social security)".

The four modes of supply of services GATS recognizes are also important. These four modes of supply are:

1. **Cross-border** supply covers services flows from the territory of one Member into the territory of another (e.g., financial services offered via the Internet);

2. **Consumption abroad** refers to situations where a consumer travels to another Member's territory to obtain a service (e.g., tourism);

3. **Commercial presence** entails a service seller of one Member establishing an office in the territory of another (e.g., hotel chains or banks); and,

4. **Presence of natural persons** involves the temporary movement of people (e.g., accountants, visiting lecturers).

The four modes of supply are particularly important for the liberalisation of the education sector, not least because of the growth of distance learning type teaching (mode 1) as well as the growth in overseas campuses leading to lecturers working overseas (mode 4).

4. **Theory and practice of GATS**

The rationale for both GATT and GATS rests on the well-established macroeconomic principle that liberalised international trade is more efficient than protected domestic markets. This means that total output is higher and total costs are lower when countries trade freely rather than when countries protect their domestic markets against imports.

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While many industrialised countries are nominal proponents of free trade for ideological reasons, free trade is often slow to be adopted in practice because of the risk to domestic companies from overseas competitors. Free trade (tariff and/or quota reduction) negotiations are therefore typically conducted on a "tit for tat" basis: liberalising a sector where a country is likely to "lose" to overseas competition has to be balanced by an equivalent liberalisation in a sector where the country is likely to "win".

Examples of current protectionist policies which prevent free trade include: the Australian automotive sector (higher cost domestic car manufacturers are protected against lower cost overseas manufacturers via a 15% tariff on imported cars); and, the American agricultural sector (higher cost domestic producers are protected against lower cost overseas producers by import quotas).

While the macroeconomic benefits of GATS-type trade liberalisation for low-cost countries are clear, the microeconomic consequences for high-costs countries are equally predictable, though less palatable. Typically, these consequences follow the following pattern:

1. The sector is liberalised and a flood of new companies enter the marketplace;
2. The new companies in the marketplace offer similar products at lower prices than the pre-existing domestic companies;
3. Prices fall and the demand for the product increases (ie the market grows);
4. The pre-existing domestic companies - often, a State-run monopoly such as Telstra - finds that their productivity levels are uncompetitive and they are consequently forced to make large numbers of staff redundant;
5. Productivity (real sales per employee) rises, both in the sector as a whole and in individual companies;
6. Employment in the sector falls, particularly sharply in pre-existing domestic companies; and,
7. Subsequently, a large number of the new market entrants fail and the market enters a period of consolidation where the survivors buy out the companies which are failing (the "market consolidation" phase which, if left unregulated, ultimately leads to the return of a monopoly under private instead of government ownership).

This pattern of events can be seen in data relating to the liberalisation of the Australian telecommunications sector in 1997. Table 1 below shows the data which demonstrate the progression outlined in bullet points one to seven above.
The initial increase in the number of companies from 411 to 868 was subsequently followed by a reduction to 814 as a large number of the new entrants fail. Similarly, productivity rose from $231k per employee to $513k per employee, fuelled to a large extent by the reduced levels of overall employment as well as reduced levelsof employment per company.

5. Current status of GATS

As Cohen (2000) observes, GATS agreements have so far produced sector-specific agreements on: the information technology sector (1996); the telecommunications sector (1997); and, the financial services sector (1997).

Currently, trade liberalisation talks in Australia focus primarily on international trade with the United States. Whether Australia is likely to be a winner or a loser of a GATS agreement with America is a moot point: the Australian Financial Review (03 Mar. 03) reports that modelling commissioned by the government and carried out by the Centre for International Economics estimates an annual benefit of 0.33% to GDP arising from an across-the-board free trade agreement with the United States, while modelling commissioned by the government's Rural Industries Research and Development Corporation and carried out by ACIL Consulting predicted an annual loss of 0.02% to GDP arising from an across-the-board free trade agreement with the United States.

As mentioned in the 'Background' section, current negotiations are proceeding via the Doha round which began in 2001 and cover the farm products, manufactured goods and services sectors. However, progress at those talks remains slow, if not static, and the Australian Financial Review (11 Apr. 03) has summarized the situation in the following headline: "All talk and no action and Doha deadlines slip away". The

Table 1: The Australian IT&T sector

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<tbody>
<tr>
<td>IT&amp;T industry</td>
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<tr>
<td>Businesses</td>
<td>411</td>
<td>n.a.</td>
<td>868 n.a.</td>
<td>814</td>
<td>98%</td>
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<td>Income (Sbn)</td>
<td>19.8</td>
<td>n.a.</td>
<td>25.4 n.a.</td>
<td>29.8</td>
<td>51%</td>
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<td>Real income (2001$bn)</td>
<td>22.0</td>
<td>n.a.</td>
<td>27.8 n.a.</td>
<td>29.8</td>
<td>35%</td>
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<td>Employment</td>
<td>79,654</td>
<td>n.a.</td>
<td>74,471 n.a.</td>
<td>77,275</td>
<td>-3%</td>
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<td>Real income per business (2001$)</td>
<td>53.6</td>
<td>n.a.</td>
<td>32.0 n.a.</td>
<td>36.6</td>
<td>-32%</td>
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<td>Real income per employee (2001$)</td>
<td>$277,000</td>
<td>n.a.</td>
<td>$373,000 n.a.</td>
<td>$386,000</td>
<td>39%</td>
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<td>Employees per business</td>
<td>194</td>
<td>n.a.</td>
<td>86 n.a.</td>
<td>95</td>
<td>-51%</td>
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Telstra

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<tr>
<td>Income (Sbn)</td>
<td>16.0</td>
<td>17.3</td>
<td>18.2</td>
<td>20.6</td>
<td>23.1</td>
<td>44%</td>
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<tr>
<td>Real income (2001$bn)</td>
<td>17.8</td>
<td>19.1</td>
<td>19.9</td>
<td>21.8</td>
<td>23.1</td>
<td>30%</td>
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<tr>
<td>Employees</td>
<td>76,900</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>44,977</td>
<td>-42%</td>
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<tr>
<td>Real income per employee (2001$)</td>
<td>$231,000</td>
<td>n.a.</td>
<td>n.a. n.a.</td>
<td>$513,000</td>
<td>122%</td>
<td></td>
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<tr>
<td>Market share</td>
<td>81%</td>
<td>n.a.</td>
<td>72% n.a.</td>
<td>n.a.</td>
<td>77%</td>
<td>-3%</td>
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Reference data

| CPI (June Qtr.)      | 120.2   | 121.0   | 122.3   | 126.2   | 133.8   | 11%           |

Sources: ABS (8126.0); ABS (6401.0); Telstra (); The Age (31 Aug 2002)
current sticking point is the unwillingness of participants to agree the structure of future agreements which aim to liberalise the agriculture sector. It is unlikely that the Doha Round will provide any tangible outputs or discussion points in the near term.

6. **GATS and the tertiary education sector**

Since 2000, GATS negotiations have specifically sought to provide private sector organisations with greater access to public sector markets. However, three major issues stand in the way of this latter proposal.

Firstly, the tertiary education sector has traditionally been not-for-profit public good, and this independence may be endangered if education is traded as a commodity for profit.

Secondly, GATS agreements cannot regulate the public sector (although tertiary education is increasingly moving from a public sector industry to a public-private sector partnership which makes it unclear just which parts of tertiary education remain protected, and which are to be liberalised).

Thirdly, the definition of which parts of the education sector might be liberalised (government funded/subsidised places; fee-for-service; or, international fee paying students) has not been addressed.

Notwithstanding the debate around profit- and not-for-profit industries, the Australian Senate is currently considering applying GATS liberalisation to the tertiary education market, presumably not least because the market for overseas student education was estimated at US$30 billion in 1999 (*The Australian*, 16 Oct. 2002). As discussed in Section 4, the country which provides the product at a lower cost wins and the country which provides a similar product at a higher cost loses. The question is - is Australia a low-cost provider relative to its competitors?

7. **Barriers to trade by mode of supply**

The Observatory (2002) paper *Trade in higher education services: the implications of GATS* identifies a number of barriers to trade which currently exist in the market. A number of these are reproduced below:

- **Cross-border supply** Barriers include: restrictions on electronic transmission of documents; needs tests on suppliers; authorization to work with local suppliers; excessive fees and taxes; and, document import restrictions.

- **Consumption abroad** Barriers include: visa requirements; currency exchange requirements; recognition of qualifications; students quotas; and, restrictions on employment while studying.

- **Commercial presence** Barriers include: national licenses to grant qualifications; equity ceilings on investments; nationality requirements; subsidies to local providers; and, excessive fees and taxes.
• **Presence of natural persons** Barriers include: nationality and immigration requirements; needs tests; recognition of qualifications; staff quotas; excessive fees and taxes; and, restrictions on the use of materials.

Additionally, the issue of repatriation of currency also applies to many forms of educational delivery.

8. **Overseas universities and VET providers currently in the Australian market**

Australia currently has two overseas tertiary education providers operating in its domestic market: Bond University, based on the Gold Coast, and the University of Notre Dame, based in Broome and Fremantle. Bond University was founded in 1989 and had 32 EFTSU in 2001; Notre Dame University was founded in 1991 and had 313 EFTSU in 2001 (for comparison, RMIT University had 26,054 EFTSU in 2001). Notre Dame received access to HECS funding in 1999 (The Weekend Australian, 21 July 2001), however Bond has yet to do so.

The assessment of the number of private "Registered Training Organisations" (RTOs) providing VET training is more difficult: however, an *AAP* report (07 Feb. 03) identifies that there are 87 public training institutions; a separate search of the National Training Information Service (NTIS) database conducted on 01 May 03 shows that there are in total 4,117 RTOs in Australia. It is not practical to research the ownership structures of these organisations to identify non-Australian components. The non-government VET sector is therefore already substantially more open than the HE sector and registration as an RTO is a relatively straightforward process.

9. **Papers on GATS**

A number of papers have been written on GATS and its relationship to the borderless (or transnational) education market. Typically, these papers talk in generalities and focus on the obvious. A summary of some of these papers follows below.

*Trade in higher education services: the implications of GATS* (Observatory: Jane Knight, University of Toronto, Canada, 2002).

This paper focuses on the educational policy issues for GATS in higher education for Commonwealth countries rather than on trade issues arising from GATS. The paper says that demand for higher education is increasing in most countries and that economic rationale is increasingly driving cross-border supply of education (presumably this means providers are competing on price). The paper also identifies that the definitions of those educational services which are outside GATS (therefore not to be liberalised) are unclear: as it currently stands, the higher education streams conventionally described as the "public education system" could potentially be opened to liberalisation (ie competition from overseas providers) under GATS. The paper also discusses the various interest groups active in the debate and the rationales each group is using to advocate either adoption or rejection of liberalised higher education (these include arguments around:
consumer choice; trade revenue; and, the social development goals of education). Quality and accreditation of providers are both also key parts of this debate. The paper also touches on the capacity and role of governments in providing higher education, either by themselves, or in conjunction with private (possibly even foreign) partners. The paper also provides a number of potential implications of liberalisation in this sphere, which could include impacts on such "broad brush" areas as "internationalisation", the labour-force mobility and "culture". The paper concludes that "opinions on the risks and benefits [of liberalising higher education] are divided, if not polarised".

*The Bologna process and the GATS negotiations* (European University Association, 2002)

(The Bologna process is the process of establishing a European "higher education area" in 29 European countries in the light of the already increased political and economic integration in Europe). This paper identifies the major risk inherent in GATS negotiations including higher education, namely, that "higher education would be put in balance with [ie traded off against] other, perhaps more lucrative, service sectors". The paper states that quality and accreditation are central issues but also observes the poor definitions under GATS which make it unclear just what is public provision of higher education and just what is private provision of higher education (and therefore leaves unclear just what might be liberalised under a GATS regime). The paper further identifies that key legal terms in the GATS legislation are "vague and untested" and recommends testing those definitions in the WTO arbitration panel before proceeding any further on liberalisation of higher education under GATS.

*Canadian higher education and the GATS* (Association of Universities and Colleges of Canada, 2001)

This paper identifies the nature of GATS (trade liberalisation) and some barriers to trade in education services (including: visa requirements; foreign currency controls; recognition of credentials; difficulties obtaining licences to act as providers etc.) The paper says that these barriers seem to be stronger for organisations wishing to set up overseas units than for overseas students who wish to travel. The paper subsequently talks in generalities without drawing any specific conclusions.

*Australian negotiating proposal for education services* (WTO, 2001)

This document states that more higher education is desirable and that access to higher education is restricted by a number of factors, including foreign ownership requirements, visas, etc. The document does not appear to propose anything at all, choosing instead to "keep all its options open" by simultaneously proposing two contrary models (namely, that consumers should have access to the best education
possible, and, that countries should be allowed to maintain their own education policies).

10. Conclusion: questions to consider

Overall, the process towards liberalising the Australian education sector under the GATS legislation appears to be continuing despite: a) no statement having been made as to what parts of the industry are under consideration (government funded/subsidized places, fee-for-service or international fee-paying); and b) no clarity having been achieved on what the GATS terminology actually means (the key concepts of "public" and "private" providers of education remain entirely undefined).

An important consideration is to be made between the higher education and the vocational education and training sectors. The liberalization of the former may be somewhat different to the liberalization of the latter, not least because the latter sector already has a large number of private providers (see Section 7).

This state of affairs leads to a number of questions for further consideration.

- Are Australian HE and VET providers low cost relative to other providers who could establish campuses in Australia?
- Are Australian HE and VET providers low cost relative to other providers in overseas countries?
- Why is GATS liberalisation of education being pursued even though the key words in the legislation remain undefined?
- Will the partial liberalisation of education under GATS be the thin end of the wedge?
- Would GATS liberalisation of education lead, as might reasonably be expected, to productivity gains, employment losses and greater foreign ownership for universities?
- What is the likely timeline for actual decisions being made?
- Will GATS liberalisation be preceded or even superseded by bi-lateral agreements with countries such as the United States (as has already happened for trade sectors such as steel and agricultural products)?
- Which countries' markets would be opened for Australian universities?
- Which countries could be expected to open facilities in Australia?
- What can the HE sector learn from the relatively higher numbers of private providers in the VET sector?
References

WTO Secretariat (1999) "An introduction to the GATS"


Barber (1997) "A history of economic thought".


Jackson, McIver, McConnell and Brue (1998) "Economics".