GATS and Tertiary Education

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GATS and Tertiary Education: Major Issues and Actors

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Key GATS principles

Compulsory commitments for all WTO members
- the *most favoured nation* principle
  - treating all other WTO member countries equally
- transparency of regulations
- legal recourse in case of dispute

Voluntary commitments by sector
- Market access
  - to allow foreign providers to enter market
- National treatment
  - to not discriminate between local and foreign providers
Modes of supply of tertiary education services

1. Cross-border supply (international distance education)
2. Consumption abroad (such as a student traveling abroad to study)
3. Commercial presence (such as foreign branch campuses, or foreigners partnering with local providers)
4. Presence of natural persons (such as lecturers traveling temporarily abroad to teach)
Student mobility and transnational/offshore education

- Consumption abroad
- Traditional student mobility
- Cross-border supply
- Commercial presence
- Presence of natural persons
- Transnational education
Tertiary education in GATS

• What we call tertiary education is referred to as ‘higher education’ in the WTO
• 32 WTO members (out of 155) have made commitments on tertiary education services, making it one of the least committed services sectors
• Australia and New Zealand have relatively open markets for tertiary education
• Early commitments received little attention in Australia, but since Seattle education has been one of the most controversial services, along with health, water and media content (audio-visual services)
• Most of the opposition has been based on perceived threats to public services and misplaced concerns about forced privatisation
Australia’s existing Market Access commitments for tertiary education

- Australia made Market Access undertakings for three modes of supply—Cross-Border Delivery, Consumption Abroad and Commercial Presence.
- These commitments bind Australian governments to allow foreign providers to operate in Australia through distance education, Australian students traveling to study overseas, and through establishing a presence in Australia.
Australia’s existing National Treatment commitments for tertiary education

- Australia committed in 1995 to National Treatment for Cross-Border Delivery and Consumption Abroad.
- These commitments bind Australian governments to treat foreign providers who teach using distance education or to students who have travelled abroad to study no less favourably than local institutions.
- One important exception was that Australia did not commit to National Treatment for Commercial Presence, in order to retain the ability to discriminate between domestic and foreign providers in the allocation of government funding/subsidies.
Australia’s commitments on Research Services

• In the Uruguay Round, Australia made commitments to Market Access and National Treatment for social sciences and humanities research only
• Government subsidies for research and development remain unbound
• Australia has received requests to commit to Market Access and National Treatment for all research and development services in the current round
Promoting Trade Liberalization

• Australia has been one of the most active advocates of trade liberalisation in education services, along with the US and New Zealand

• Australia’s bilateral free trade agreements (with New Zealand and Singapore, and being negotiated with Thailand and the US) all include education

• The Australian government plays a prominent role in promoting trade liberalisation in education services in the WTO, the OECD, APEC and other intergovernmental forums.

• Most Australian education institutions, while wanting to be seen to be lobbying other governments, have been quietly supportive of efforts to promote liberalisation amongst trading partners
Economic Benefits for Exporting Countries

• International trade allows institutions with additional capacity to respond to unmet demand in other countries
• Export income from students fees, living expenses, repatriated funds from overseas operations, testing, textbook sales
• Fees from international students support are an important source of income for many institutions, especially at tertiary level
• Long-term connection with highly-educated overseas alumni
Benefits for Importing Countries

Today … more countries are recognizing that the key to their economic growth is greater openness to foreign-based public and private institutions. They are seeking greater diversity among their higher-education providers – welcoming more foreign colleges and universities that cater to specific educational needs.

• Early growth has been in students travelling overseas to study
  – This is a consumer-driven response to local undersupply of places
  – Balance of trade implications
  – Difficult to restrict individual study overseas
  – Does not assist in development of increased local capacity

• Liberalisation of other forms of trade promises:
  – Increased local capacity and greater range of educational options available to students
  – Less need for students to travel abroad, leading to reduced imports
  – Development of export orientation
  – Economic development resulting from more highly educated workforce
‘Subjecting academe to the rigors of a WTO-enforced marketplace would destroy one of the most valuable institutions in any society.’

Criticisms of Market Access commitments

- Market Access commitments mean that Australian government cannot restrict the number, size, or range of offerings of foreign providers.
- Qualification requirements and procedures, technical standards and licensing requirements should not constitute unnecessary barriers to trade in services.
- Market-driven educational trade emphasises programs that are profitable, vocational and technical, which may meet the needs of some students and the labour market, but may not meet the social and developmental needs of the nation.
- More private and foreign providers will exacerbate social inequalities in access, especially in developing countries.
- Difficult for countries to retract or limit existing commitments.
Criticisms of National Treatment commitments

• May prevent developing countries from encouraging the development of local institutions and prolong dependence on foreign providers
• May require governments to fund public and privately-owned institutions equally, or to fund local and foreign private institutions equally
• Even when governments state that their commitments only apply to private education services, the meaning of this is not clear
• Lack of clarity about how various policy options would be affected (eg loans schemes for fee-paying students)