



The OBSERVATORY

on borderless higher education

Report

GATS, Trade and Higher Education: Perspective 2003 - Where are we?

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Abstract:

This paper is an update of Dr Knight's first report on GATS, published by the Observatory in March 2002. Following the initial deadlines, which countries have made requests for other nations to remove barriers to trade in education services, and which countries have offered their own education markets to foreign competition? Dr Knight notes that the majority of nations have yet to make any formal statement in the process, on any service sector, and points to education as one of the least committed sectors. Many of the issues raised in the first report still hold today. There remains considerable uncertainty about the coverage and implications of GATS in the education sector, and a wide range of opinion about possible benefits and risks. Dr Knight raises important questions concerning quality assurance, professional mobility and recognition of qualifications, and considers the issues from the perspectives of both the developed and developing world. Included in the paper is a list of prominent organisations and groups that have taken an active interest in GATS.

About the Author:

Dr Jane Knight, Ontario Institute for the Study of Education, University of Toronto, Canada, is an expert on internationalisation in higher education and the author of the Observatory's March 2002 report on GATS. The present study is an update on developments one year on and a through discussion of the emerging issues.



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1 Introduction

...and the debate goes on. It is good news that discussions continue on the potential impact of new international trade regulations on higher education. During this past year, the education sector has become increasingly aware and involved in thinking about the General Agreement on Trade in Services (GATS), the emerging international trade agreement administered by the World Trade Organization (WTO). Stakeholder groups are talking about potential new opportunities, benefits and risks and are actively speculating on different countries' negotiating positions for increased liberalization of trade in education services. In short, GATS and trade are beginning to appear on the education agenda.

At the same time, many trade experts and educators note that international mobility of students, teachers, education and training programs has been happening for a very long time, and therefore question why there is such interest in the prospect of expanding import/export of education services. The answer partially lies in the fact that while cross-border 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 really been described as commercial trade. International trade agreements such as GATS, which clearly identifies education as a service sector to be liberalized, is relatively new territory for the education sector. This is why the debate within national and international education communities is necessary and welcomed. However, the discussions need to move from speculation towards informed analysis. The introduction of GATS serves as the catalyst for the education sector to move more deliberately into examining how trade rules may influence higher education policy, and determining whether the necessary national, regional and international education frameworks are in place to deal with the implications of increased cross-border education, including commercial trade.

1.1 Purpose of Report

This paper is a follow up to last year's Observatory report (Knight, 2002) which outlined the purpose and rules of GATS, explained the relevance of GATS to higher education and identified some key policy issues which needed to be addressed. The purpose of this paper is threefold: 1) to update on the current GATS negotiations, 2) elaborate on the implications of trade for the higher education sector, and 3) begin to situate trade of higher education services in the broader context of cross-border education.

1.2 Terminology

A few comments about the use and meaning of terms used in this paper may help to provide some context. When terms from the trade sector migrate to the education sector and vice versa there is fertile ground for confusion and misunderstanding. This is to be expected. Therefore it is important to lay out how the principal concepts are interpreted and used by these two sectors. For example, 'trade in education services' is a key term for this paper. For the education sector, 'trade in education services' is a relatively new term and would probably be interpreted in a myriad of ways. For the trade sector, 'trade in education services' is understood to exclude any products such as text books but would include services such as education/training programs well as education support services such as testing.

The trade sector through GATS has developed four 'modes' to describe trade or supply of services. It is interesting that explicit definitions for the terms 'service' and 'trade' are not provided in the agreement. The four modes of trade in services are described as follows:

Mode 1: Cross-border supply focuses on the service crossing the border, which does not require the consumer or the service provider to physically move. Examples in higher education include distance education and e-learning.

Mode 2: Consumption Abroad refers to the consumer moving to the country of the supplier which in education means students taking all or part of their education in another country.

Mode 3: Commercial Presence involves a service provider establishing a commercial facility in another country to provide a service. Examples in higher education include branch campuses or franchising arrangements.

Mode 4: Presence of Natural Persons means people travelling to another country on a temporary basis to provide a service, which in education would include professors or researchers.

Three common terms used by the education sector to describe the international nature of education are internationalization, cross-border education and more recently trade in education. There is a hierarchy to these terms, with 'internationalization of education' being the most comprehensive, 'cross-border education' being one component of internationalization and then 'international trade in education' being used to characterize some cross-border activities. The last section of this paper elaborates on the issue of terminology and attempts to position trade in education services within a larger context of cross-border education but a few comments up front might help.

A review of reports and articles by trade experts reveals that often when they talk about internationalization of education they actually are referring to international trade in education services. When educators talk about internationalization they are talking about a broad range of activities some of which would have absolutely nothing to do with trade. More and more, internationalization is being seen to consist of two streams or components (Knight 2003a). The first is 'internationalization at home' (Nilsson, 1999) which refers to the international and intercultural dimension of curricula, the teaching/learning process, research, extra-curricular activities, in fact a host of activities which help students develop international understanding and intercultural skills without ever leaving the campus. The second component is 'internationalization abroad' that is cross-border education (often referred to as transnational education) which involves students, teachers, scholars, programs, courses, curriculum, projects moving between countries and culture, in short, across borders.

So cross-border education is a term that educators are using to capture a wide range of education activities that are part of international academic linkages and agreements, international development/aid projects and international commercial trade initiatives. Therefore, 'trade in education services' is usually interpreted by educators as a subset of cross-border education, and for the most part is described as those activities that have a commercial or for-profit nature or purpose to them. This interpretation is much narrower than one used by economists or the trade sector. From their perspective, even if a cross-border education activity is seen to be non-commercial in purpose -for instance the exchange of students or professors for a semester - there is still export value in a country's balance of

payments from accommodation, living, travel expenses, and therefore there are commercial implications (Larsen and Vincent-Lancrin, 2002).

It is not an easy task to have a clear and shared interpretation of what trade in education services really means across the two sectors. It may be dangerous to oversimplify how the different sectors perceive and use the term 'trade in education services' but the clear message is that more effort is needed to help the two sectors understand the different approaches to using and defining trade in education services. It is equally important to have clarity and assurance as to which international cross-border education activities would fall under the purview of international/regional trade agreements and be labelled as trade. As will be noted later, there is ambiguity in GATS on this point.

For the purposes of this paper, the term 'trade in educational services' is primarily used in the trade and GATS 'four mode' sense, and the term 'cross-border education' is used to depict a broad range of activities, some of which are commercial in nature and some of which are not, which move across borders.

1.3 Assumptions

This paper assumes that readers have a rudimentary understanding of GATS. The basic information on the structure and disciplines of the trade agreement is not repeated in this paper.¹ There are a number of other assumptions that are worth noting. This paper is written from an educator's point of view, not from an economic or trade perspective. An international approach is emphasized meaning that implications for both developed and developing countries are noted. It is recognized that trade issues are closely related to the larger issues of commercialization and commodification of education but the focus remains on the potential impact of trade rules on cross-border education. More attention is given to the delivery of education/training courses and programs across borders (modes 1 and 3) than to the movement of students to study in foreign countries (mode 2). Again, the intention is to take a balanced approach in discussing the implications of new trade rules and increased trade in education services. Potential benefits and risks are identified.

1.4 Outline of Paper

There are six major sections to the paper. The first constitutes the introduction. The second provides information on the current status of the GATS negotiation process. A brief update on the number and nature of requests and offers is given. Several of the barriers that the United States has requested other countries to remove are listed to give a concrete idea of what liberalizing trade in education can involve. The third section includes a brief discussion on the rationales driving countries to increase trade in education services through import or export. The fourth part identifies key higher education policy issues related to the potential impact of increased trade and new trade regulations. The issues addressed include the following: the role of government, student access, registration and licensing of education providers, quality assurance and accreditation, recognition of academic and professional qualifications, and funding among others. The fifth section of the paper recognizes the four trade modes outlined by GATS but suggests that they need to be situated in the larger arena of cross-border education. In the last section, the actions and interests of different stakeholders are described to illustrate the breadth of the debate. The conclusions reiterate that there are still more questions than answers. GATS is a new and untested agreement and we simply do not know what some of the intended and unintended consequences will be.

2 Update on GATS and the Negotiation Process

The purpose of this section is to give an update on the key dates and expected outcomes of the current round of negotiations and to provide a cursory review of some of the requests/offers and identified barriers.

2.1 Facts and Realities about GATS

- GATS has existed since 1995. It will not go away.
- The purpose of GATS is to reduce or eliminate barriers to trade.
- GATS is a worldwide agreement covering all 145 member countries of WTO.
- GATS is the first multi-lateral agreement on trade in services. GATT covers trade in products.
- Education is one of the 12 primary service sectors. This will not change.
- There are five subsectors in education- primary, secondary, higher, adult and other. The descriptions of these need to be reviewed and updated.
- GATS is a new and untested agreement. Key articles/disciplines are still being developed. For example, the disciplines dealing with subsidies, domestic regulation and government procurement are still under negotiation.
- Individual countries have the power to determine the degree of market access to each of the subsectors. This can include no access at all. However, due to the most favored nation principle all countries must be treated equally in terms of market access and national treatment for services covered in the scope of the agreement.
- National treatment requires equal treatment for foreign and domestic providers where a country has made a specific commitment. Exemptions are allowed.
- Due to the principle of progressive liberalization, there will be increased pressure for further liberalization of trade barriers with each round of negotiations.

2.2 Key Dates and Actions

Table 1: Key dates and actions of GATS

DATE	Action	Notes for Education Sector
1995	GATS founded; initial commitments	44 countries (if you count the EU as one country) made commitments to Education. Of these 44 countries, 21 included commitments to higher education. ²
End of 2001	Negotiating proposals due	Four countries- USA, Australia, New Zealand and Japan submitted a proposal outlining their general positions related to commitments in the education sector. Japan's proposal was remarkably different as their statement highlighted quality assurance, recognition of credentials and distance education as key issues that required further consideration.
June 2002	All requests for access to foreign markets due	To date, only 34 out of the 145 WTO members have tabled their requests. It is not mandatory for a country to publish their tabled requests for market access in other countries. However, there were leaks and it is known that the USA made substantial requests of other countries to remove barriers to enable greater access to higher, adult and other education services.
March 2003	Offers from each country to provide access to their domestic market due	As of the end of April 2003, only 20 countries had submitted their offers. Argentina, Australia, Bahrain, Canada, European Union, Hong Kong, Iceland, Israel, Japan, Liechtenstein, New Zealand, Norway, Panama, Poland, Paraguay, South Korea, Switzerland, Taiwan, the United States and Uruguay. It is not necessary for a country to publish their offers and only 8 of the 20 countries have done so to date. These countries are Australia, Canada, European Union, Japan, Liechtenstein, New Zealand, Norway and the United States.
Up to January 1, 2005	Countries can submit offers and requests until end of Doha round	The end date of this round may be extended given the significant delays in the tabling of both requests and offers. Further rounds will occur. It is important to note that offers made during the negotiation phase of the Doha round are conditional up to the conclusion of the negotiating round and at that time, final offers are included in a country's schedule of commitments.

2.3 Status of Requests/Offers to Date

All in all, Table 1 shows that education has not been a priority sector for the GATS negotiations. Secondly, only a handful of countries have tabled their requests or offers by the targeted dates; and thirdly, there is very little concrete information on access to education markets. The targeted end date for this round of negotiations is January 1, 2005. This will give the education sector more time to become better informed and prepared for the potential implications of increased trade, including countries taking whatever steps are considered necessary to ensure that trade in higher, adult and other services is undertaken in accordance with national/ educational priorities.

While the low and slow response rate is providing time to become better informed and prepared, it can also be troublesome. It should be noted that there are very few developing countries that have submitted either their requests or offers. There are several possible reasons for this. First, is the question of capacity. All in all, there are 160 subsectors covered by GATS and it takes both time and expertise to be informed on all of them. Some technical assistance is available to developing countries through multi-lateral agencies and bi-lateral donors but the commitment should not be underestimated. Secondly, there is an element of 'wait and see' in many national trade negotiating strategies. Given that commitments on market access made for one country are automatically applied to all WTO members (due to the most favored nation obligation), it is not necessary for all countries to make official requests. It is also true that requests and offers can be made at any time during this present round - that is until January 1, 2005. It is clear that the majority of WTO members are not ready or are hesitant to table their offers. This means that to date, it is the quad- the four of the most influential countries- USA, Japan, EU and Canada, plus several other OECD member countries- who are taking the lead and shaping the negotiation process. This may not be a surprise but it may have some unintended consequences.

2.4 Brief Analysis of Leaked Requests and Published Offers

An analysis of the requests provides some insight into the extent and type of trade one can expect in educational services. As already mentioned, only 34 countries have tabled their requests to date and because it is not necessary to publicize them, there is a great deal of speculation as to their contents. Speculation is inevitable but it is important to be cautious about the veracity or completeness of the leaked requests. Unofficial versions of the requests from the United States and from the European Union are available and while one is not certain whether they are completely accurate it is interesting and informative to review them.³

The US request for market access and national treatment in education has been described as maximalist or 'go for the moon and see what you get' approach. The US has asked that all 145 WTO members "undertake full commitments for market access and national treatment in modes 1,2, and 3 for higher education and training services, for adult education, and for 'other' education. Consistent with the commitments, countries remain free to review and assess higher education and training, by governmental or non-governmental means, and to co-operate with other countries, for purposes of assuring quality education." In other words, the United States is asking for extensive liberalization of the higher and adult education markets in all WTO member countries. It is interesting that the US has added that governments should be able to assure quality. Quality was not mentioned in the US negotiating proposal,⁴ but it is one of the most critical issues in the debate and will be discussed later in the paper. In addition to this generic request to all countries, the US makes more specific requests of particular countries. Some of these are listed in Table 2. Finally, the

question must be asked whether the US is willing to offer the same degree of access to its domestic higher education markets as it has requested of other countries. This is not anticipated but is not yet confirmed. By contrast, and contrary to some expectations, the EU request barely mentions education at all.

To date, only eight countries have made their total GATS offer public. In the Canadian offer, no offers were made in any of the education subsectors. Canada did not make any education requests either. Australia has not tabled any new offers. This means that Australia's commitments remain for private tertiary level education only. New Zealand has also not made any further offers beyond its original commitments. Japan only published an offer summary and has made offers on adult and other education services but none on higher education.

The offer tabled by the United States⁵ included offers on "Higher Education Services (including training services and educational testing services, but excluding flying instruction)." The most interesting part of the US offer is the 'limitations' that were noted in text format. (The word 'limitations' is used here to mean national stipulations that limit an offer). These limitations are evidence of a conditional approach to access to domestic markets, and an attempt to assuage concerns of domestic higher education institutions and groups. Examples of limitations include the following:

'Nothing in this agreement will interfere with the ability of individual U.S. institutions to maintain autonomy in admission's policies, in setting tuition rates, and in the development of curricula or course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established', and secondly

'the granting of U.S. federal or state government funding or subsidies may be limited to U.S. schools. Scholarships and grants may be limited to U.S. citizens and/or U.S. residents of particular states. Tuition rates may vary for in-state and out-of-state residents.'

Additionally, the US offer addresses the issues of admission policies and accreditation by indicating that *'Admission policies include considerations of equal opportunity for students (regardless of race, ethnicity or gender), as well as recognition of credits and degrees; state regulations apply to the establishment and operation of a facility in the state; and accreditation of the institution and its programs may be required by regional and/or specialty organizations; required standards must be met to obtain and maintain accreditation; foreign-owned entities may be ineligible for federal or state funding or subsidies, including land grants, preferential tax treatment, and any other public benefits; and to participate in the U.S. student loan program, foreign institutions established in the United States would need to meet the same requirements as U.S. institutions.'*

These stated limitations are evidence of how a country can determine the degree and conditions of access to its domestic market. However, it is revealing and intriguing when one compares the 'limitations' imposed by the US on access to their own market to the requests they make of other countries to remove the kinds of barriers noted in the next section. It will be interesting to see whether in future requests, countries will perceive the above 'limitations' as barriers and ask the US to remove them- see below.

2.5 Removal of barriers

The purpose of GATS, as stated by the WTO, is to reduce or eliminate barriers to trade. In order to give concrete examples of barriers in the education sector, Table 2 lists a sample of the US requests to targeted countries to remove specific barriers. It is interesting to note the range of barriers different countries have established to regulate the import of education services. Of major importance are matters of quality assurance, accreditation and recognition of credentials. One of the GATS principles is that countries can determine the degree of market access they will give to foreign providers (e.g. the 'limitations' imposed by the US above). This is seen as a certain kind of safeguard. However, safeguards can be interpreted as barriers. Therefore, when one considers the GATS principle of progressive liberalization, one questions whether these so called safeguards will in fact be able to withstand the pressure of liberalization in future rounds of negotiations. It should also be noted that barriers to trade seen from the exporting country's point of view, may be seen by the importing country as fundamental aspects of domestic higher education policy.

Table 2: Examples of US requests to remove barriers to trade in education sector

Request to remove barrier	Targeted Country
Remove nationality requirements for certain executives and directors of educational institutions	Taiwan
Remove ownership limitations on joint ventures with local partners	Egypt, India, Mexico, Philippines, Thailand
Remove prohibition on joint ventures with local partners	El Salvador
Remove requirement that foreign entities teach only non-national students	Turkey
<p>Remove ban on education services provided by foreign companies and organizations via satellite networks</p> <p>Remove requirements for foreign educational institutions to partner with Chinese universities</p> <p>Remove ban on for-profit operations in education and training services</p> <p>Relax other operational limits and restriction on geographic scope of activities</p>	China
<p>Recognize degrees issued by accredited institutions of higher education (including those issued by branch campuses of accredited institutions)</p> <p>Adopt a policy of transparency in government licensing and accrediting policy with respect to higher education and training</p>	Israel Japan
Remove burdensome requirements, including non-transparent needs tests, applicable to foreign universities operating, or seeking to operate in South Africa	South Africa
Remove restrictions that the granting of degrees is limited to Greek institutions only	Greece
Remove requirement that foreign entities teach only non-national students	Italy
Remove quantitative limitation on education institutions	Ireland
Adopt a policy of transparency in government licensing and accreditation with respect to higher education and training	Spain Sweden

3 Rationales and Benefits of Increased Trade in Higher Education

It is somewhat surprising and perhaps worrisome that very little has been written by educators or trade specialists on rationales for and benefits from the import/export of education services. Besides the four negotiating proposals (USA, Australia, New Zealand, Japan) there are few statements which have championed the benefits, other than the obvious ones by the WTO⁶ and other trade secretariats. It appears that rationales and benefits specific to education are taken for granted in the overall assumption that liberalized trade will increase a nation's economic prosperity. The analysis provided by Larsen and Vincent-Lancrin (2002) is one of the few comprehensive studies on the implications of trade in education services. They conclude that due to the complexity of the factors involved and because the issues vary substantially with the country, mode of delivery and sector of education, it is difficult to draw a definitive conclusion on whether trade in education services is 'good or bad'. They suggest that there will be a deeper impact on the lifelong learning market than on the traditional higher education.

3.1 Overview of Rationales for Import/Export

Unfortunately, there are few statements or policy papers which specifically discuss the different rationales and anticipated impact of trade in higher education. Therefore it is only possible to provide a general overview of possible motivations. Reasons for importing higher education services include:

- limited domestic capacity to meet growing demand for higher education
- provide greater access to specific knowledge or skilled-based education and training
- improve the quality of higher education provision by allowing market access to prestigious/reputable foreign providers
- create cultural or political alliances
- secure trade tied aid development projects and funds
- develop human capital and stem 'brain drain'
- foreign competition may improve cost effectiveness in domestic institutions
- imported programs may offer better value than studying abroad.

Reasons for exporting higher education services include:

- excess national capacity in higher education
- income generation
- international recognition and branding
- strategic cultural, political, economic and education alliances
- institutional strengthening and innovation
- a tool for further internationalization of domestic institutions
- education as a conduit to access trade in other service sectors.

This overview of rationales illustrates the range of motivations that different countries, actors and education institutions bring to the dialogue on trade in education. Despite this diversity, the common factor underlying them all is 'self-interest'. Self-interest appears to be the strongest motivator for trade, even if there are seen to be benefits for all parties involved. A former secretary-general of the Association of Indian Universities clearly articulates this view. "Commitments will be made in the best interests of the country. They have to be in the areas

of the country's strengths and where there are strategic opportunities for exploitation through trade" (Powar, 2002, p18). Other concrete examples of 'self-interest' being the fundamental driver are those countries who are requesting more liberalization of the education market in other countries than they themselves are willing to offer.

3.2 View from Developing Countries

There is definitely more written on why countries are cautious and guarded about the impact of trade, than on the benefits of trade. This is especially true for developing countries. For instance, the Minister of Education in South Africa states very clearly that "it is important that we remain vigilant to ensure that increased trade in education does not undermine our national efforts to transform higher education and in particular to strengthen the public sector so that it can effectively participate in an increasingly globalizing environment. Trade considerations cannot be allowed to erode the public good agenda for higher education." On the other hand, he warned against parochialism and stressed the need for genuine international collaboration in education.⁷ It will not be a surprise if South Africa does not respond positively to the requests by Kenya, New Zealand, Norway and the US for unlimited access to its domestic education market.

Mohamedbhai, Vice Chancellor of the University of Mauritius (2002/2003) notes when considering the WTO proposal to liberalize trade in education services through GATS that "while there is no doubt globalisation may have some positive effects from the point of view of increasing access in higher education and reducing the knowledge gap in developing countries, it equally has negative aspects which can seriously threaten universities in those countries." He believes that foreign providers have helped to provide courses locally and at a significantly lower cost than travelling abroad but they do not share the same national values and priorities. Their purpose is to provide education in the most cost-effective way for them. He worries that developing countries may be "flooded with foreign and private providers delivering essentially profitable subjects ...and in these areas they will pose as serious competitors to local universities, leaving the latter to deal with non-profitable subjects in arts, humanities, science and technology, so vital for a country's development."⁸

India is a good case study of diverse motivations for increased trade. India is interested in new opportunities for import and export of higher education and sees benefits as well as potential risks.⁹ Powar, cited above, believes "that because India has a large higher education system with many institutions that provide a good quality education... it can benefit both economically and politically by exporting education, especially to the developing countries that have a substantial Indian Diaspora." In terms of importing higher education services, Powar recognizes that "the effect on quality can be both beneficial and detrimental." He sees the potential for quality to be "improved from interaction and competition with reputable international institutions and decreased if low quality providers offer 'canned degrees'." Powar maintains that "quality education provided by reputed international providers will be accessible only to the privileged few that can pay for it. Access to education that can lead to decent employment will probably be limited to those with more-than-adequate financial resources. This is likely to create, in the long run, three classes of graduates. The resultant inequity will be the cause for economic disparity and possibly for social tension." In terms of the impact on both the public and private education subsystems he comments that "GATS will affect the two sub-systems differently but it is difficult to precisely foresee the effects on either of them. The greater impact will be on the public sub-system as the private sub-system, by its very nature, will be in a better position to absorb the effects. There is a possibility of the government slowly withdrawing from its commitments to higher education, seeing that the alternate mechanism of

funding is gaining support from international sources. We may end up with an inefficient and languishing public sector and a dominant private sector.” He adds “from the point of view of the academics, the most serious consequence of GATS is that it has led to the ‘commodification’ of education... In the case of the Indian higher education system, commodification is bound to affect access and equity, funding and quality.” Finally, he notes that “with the infrastructure for quality education being deficient in most developing and under-developed countries, the potential of higher education services as a trade is large. This has been realized by the developed countries and for many of them the rationale for internationalization of higher education has shifted from cultural and political to economic” and furthermore “in a WTO controlled regime there is a real danger of the universities in the developing world being swamped by overseas institutions intent on earning a profit but not concerned about contributing to national development” (Powar, 2002, pp 11-18).

Patil, President of the Association of Indian Universities and Vice-Chancellor of Indira Gandhi Agricultural University, makes an additional point on the economic benefits. He states that “the efforts of WTO to include education in the GATS agreement should be seen as a significant contribution to enhance further total factor productivity leading to a higher growth-rate in GDP. Therefore, India has to pay serious attention to the GATS agreement as applicable to educational services, identify opportunities and competitiveness in various sub sectors, and negotiate WTO commitments accordingly.” He believes that “while India seeks to liberalize trade in education services and offer specific commitments in its proposal for negotiations, Indians must understand that they are not trading off their rights and controls on issues that are integral to their nationhood, cultural ethos and security. There are many exemptions and safeguards allowed in GATS which can be effectively utilized to protect Indian interests.” (Patil, 2002, p 8)

These comments from Indian academics are a good illustration of the analysis of opportunities and risks associated with increased trade in higher education. The strong link between commercialization, commodification and trade is noted and underlines the point that it is often difficult to separate the challenges related to trade from these two other issues.

The following section moves away from the requests/offers and rationales, and concentrates on policy issues and implications that new trade rules and the advent of increased trade liberalization may have for the higher education sector.

4 Policy Issues

In the past year, limited progress has been made in studying the implications of new trade policy and regulations on higher education. More attention has been focused on interpreting the rules and articles of the GATS agreement and speculating on the requests and offers made. Given that this is the second and more public round of GATS negotiations, it is understandable that more effort has been directed to studying the actual education requests and offers than to thinking about some of the larger policy issues. However, it is timely and important that more attention be devoted to examining the aspects of higher education policy which may be affected by or need to be developed because of the existence of trade agreements and new regulations.

4.1 Role of Government

In most, if not all countries of the world, the government plays a critical role in regulating, funding, and monitoring the provision of higher education. This applies where education is

more or less publicly funded and also where there is a mixed public/private system. Will trade liberalization affect a mixed system differently than a public system, and how might the role of government change in particular cases? Inherent in these questions is the issue of just what services are covered or exempted from GATS. There is an implicit understanding that public services will be exempted, but close scrutiny of Article 1.3 raises several related questions and concerns.

Article 1.3 states that “those services supplied in the exercise of governmental authority” are “not in competition” with other service providers and operate on a “non-commercial basis” are exempted. So, if one takes the first condition, “supplied in the exercise of governmental authority”, one would believe that education supported by government funding and regulation would not be covered by GATS. However, the two additional conditions raise concerns. What does “not in competition” mean? In a mixed public/private education system there is implicit and explicit competition and therefore one could interpret the article to mean that public institutions could therefore not be exempted. The second condition ensures that the services are provided on a “non-commercial basis”. Again, one asks what does this mean and again there is no stated definition. Given that public institutions are increasingly dependent on non-governmental sources of income, including research contracts or fee-based training, the term ‘non-commercial’ may not apply to all public institutions. Secondly, if tuition fees are charged, is that a commercial transaction? Legal opinion (Gottlieb & Pearson, 2001) and the 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.

The second point relates to GATS Article 6.4 that addresses domestic regulations and a country’s ability to set qualifications, quality standards and licences. The articles read 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 for 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 certainly not the intention of GATS to limit governments’ role in the regulation of quality assurance of education or the professions. 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 role of government.

Much discussion about the impact of globalization on governance has focussed on the ‘push up’ factor from national to international levels and the ‘push down’ factor from national to sub-regional to local, thereby leaving the scope of national governance in question and perhaps diminished. Trade analysts and WTO staff are quick to alleviate any concern that the role of national government will change in terms of policy objectives and regulation, but the ‘jury is still out’ on this issue until there is further clarification and development of Articles 1.3 and 6.4.

4.2 Student Access

Demographic changes, lifelong learning, and developing human resource needs created by the knowledge economy are increasing the unmet demand for post-secondary education and training worldwide. GATS supporters maintain that increased international trade will help countries satisfy this growing demand. Public and private higher education institutions also recognize this need and are increasingly involved in cross-border education through development projects, linkages and commercial ventures. Private commercial providers who are primarily concerned with teaching (meaning limited attention is given to research and service) are targeting niche markets. GATS supporters believe that increased student access to education and training is one of the strong rationales and articulated benefits linked to trade liberalization. GATS critics question the need for trade rules when much trade (and national regulation) is already underway. So while there is general agreement on the need for greater student access, questions of affordability and the impact of trade rules on providers and governments remain.

4.3 Registration and Licensing of Foreign Providers

Many educators believe that one of the negative consequences of market driven for-profit education is that the number of 'diploma mills', 'canned degrees' and 'accreditation mills' will increase. This worry applies to both domestic and cross-border provision and can potentially be exacerbated with increased trade. New types of commercial providers such as private education, media and information technology companies, and new forms of program delivery such as branch campuses, franchises and distance education, introduce new challenges for national regulation. Some countries have established new regulations for registering and licensing foreign/ private providers, but many have not, and some may not have the ability to implement policy. There is also apprehension that some of the requirements established for licensing will be perceived as potential barriers to trade and will therefore be targeted for liberalization during future rounds of GATS negotiations.

While these may still be 'what if' scenarios, it is important to discuss the role and capacity of national governments, especially from the developing world, to establish and monitor systems for registering new private international providers. It should be noted that the term 'private provider' is used because in most cases, public institutions are classified as private entities as soon as they cross the border and deliver in a foreign country. There are of course exceptions to this trend. Partly for tax reasons, some public institutions setting up branch campuses abroad are trying to get classified as non-governmental organizations or foundations instead of private commercial enterprises. All and all, the issue of regulating and licensing providers delivering education across borders needs further attention. Consideration of what national policies and frameworks are necessary and feasible in light of new trade regulations merits study by the education sector at both national and international levels. This is a complex and increasingly urgent issue to address.

4.4 Accreditation and Quality Assurance

If we thought the questions related to registration and licensing were complex, it becomes even more complicated when one looks at accreditation and quality assurance. The terms accreditation and quality assurance have different meaning and significance depending on the country, actor or stakeholder using the term. Terminology related to quality is a minefield and the cause of much debate and confusion at the international level. For the purposes of this paper, 'quality assurance' is used in a general sense and includes audit, evaluation,

accreditation and other review processes and elements. This generic approach is not meant to diminish the differences in meaning and approach used by various countries. However, a macro interpretation of quality recognition and assurance of cross-border education is needed to attract the attention that this issue deserves.

Increased importance has been given to quality assurance at the institutional and national level in the past decade. Over that period, new quality assurance mechanisms and national organizations have been developed in over sixty countries.¹⁰ Regional quality networks have also been established. Most effort has been targeted at quality assurance of domestic higher education provision by public and/ or private higher education institutions. However, the increase in cross-border education by such institutions and commercial providers has raised new challenges.

Generic international quality standards might be applied to education in this territory. ISO standards, or other industry-based mechanisms such as the Baldrige Awards, are examples of quality systems that might be applied or modelled for cross-border education. ISO 9001 is already popular among many private education providers, particularly in Asia. Of course, the education sector has mixed views on the appropriateness of quality standards being established for education by those outside the sector. There is also the matter of whether international standards or criteria for quality assurance might jeopardize the sovereignty of national systems, and whether such an approach would lead to unhealthy standardization. The issue is complex and there are many different actors and stakeholders involved. However, given the growth in the number and type of cross-border education providers, the prospect of increased trade and new trade rules, there is again a sense of urgency.

The credibility of higher education programs and qualifications is extremely important for students, employers, the public at large and the academic community itself. Thus the question of quality for all forms of cross-border education needs to be taken very seriously. Of current interest and debate, is whether national level accreditation and quality assurance systems (where they exist) are able to attend to the complicating factors of education mobility across countries, cultures and jurisdictional systems. A fundamental question is whether countries have the capacity and political will to establish and monitor quality systems for both incoming and outgoing education programs given the diversity of providers and delivery methods. Should national quality/accreditation systems be complemented and augmented by regional or international frameworks? Is it advisable and feasible to develop mutual recognition systems between and among countries? Would an 'International Code of Good Practice' be appropriate or strong enough to monitor quality? These are key questions for the education sector to address and of course, in the exploration of these issues it is imperative that trade rules are given due consideration.

It is also important to acknowledge that there is a great deal of cross-border mobility of students, teachers and programs through non-commercial 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. However, it is the idea and prospect of using trade-based rules to govern the quality assurance and recognition of cross-border education that is troublesome to certain segments of the education sector. At this point, it must be clarified that GATS and 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 these issues.

As the discussion moves forward it will be of strategic and substantive importance to recognize the roles and responsibilities of all the players involved in quality assurance, including individual institutions/providers, national quality assurance systems, non-government accreditation bodies, and regional/international organizations, all of which contribute to ensuring the quality of cross-border education. It will be important to work in a collaborative and complementary fashion to build a system that ensures the quality and integrity of cross-border education and maintains the confidence of society in higher education. It is timely that this question is currently being addressed by UNESCO through the Global Forum, OECD, several international/regional NGOs, and that different approaches to developing national, regional and international frameworks are being discussed (Van Damme, 2002).

4.5 Recognition of qualifications

The need to have mechanisms which recognize academic and professional qualifications gained through domestic or international delivery of education is another important consequence of increased cross-border activity. Even if the education program does not move, the student or the prospective employee can move and therefore credentials need to be recognized if further study or employment is desired. Once again, this issue is relevant to all forms of cross-border education, not just commercial trade initiatives, but the existence of international/ bilateral trade agreements is pushing the education sector to give more priority to this issue.

UNESCO has long acknowledged the need for an international system to facilitate recognition of academic and professional qualifications. Regional UNESCO conventions on the 'Recognition of Qualifications' were established more than twenty-five years ago and have been ratified by over 100 Member States in Africa, Asia and the Pacific, the Arab States, Europe and Latin America. They are unique legally binding instruments dealing with cross-border mutual recognition of qualifications. There is limited general awareness of these instruments except for the European regional convention that was jointly updated in 1997 by UNESCO and the Council of Europe in the form of the Lisbon Convention. In 2001, the same two organizations established a 'Code of Good Practice for Transnational Education' which is now a recognized part of the Lisbon Convention. At the present time, there is discussion on how these UNESCO conventions can be used as instruments to complement trade agreements and assure students, employers and the public that there are systems in place to recognize academic and professional qualifications. Given the growth in academic mobility, the increased mobility of the labour force and the fact that GATS is encouraging greater professional mobility, there is a clear and urgent need to address this issue. Questions are also being raised whether these UNESCO conventions could also be used to help address the quality assurance and accreditation issues as well. This idea will be certain to stir up increased interest in the subject and hopefully give the issues the attention they deserve.

4.6 Funding

A discernible trend in many developed and developing countries is that the growth in public funding of higher education is not keeping pace with the accelerated levels of private investment in the sector (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 post-secondary 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 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. The Global Education Index, recently developed by the Observatory on Borderless Higher Education (Garrett, 2003), tracks the progress of 50 such companies in ten countries.¹¹ Many of the firms operate on an international scale.

The greatest fear among many education leaders is that while private investment in education rises, the public support will 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 will begin to rely more and more on foreign investors and providers. This will give trade rules a heavy influence on the terms and use of the private investment and thereby national policy for education. A review of the barriers to trade in education services show that measures relating to commercial presence/ foreign investment (mode 3) are being targeted for removal. Of course, a huge proviso in this scenario is that the private and commercial education providers will find it economically viable to deliver internationally, and if this not the case then new questions will arise.

4.7 Internationalisation of Academic Relations

In the last section, emphasis was placed on private and commercial education providers with a strong orientation to for-profit delivery. There are many public and private non-profit institutions committed to an international dimension of education that goes beyond the delivery of education across national boundaries. Higher education institutions are actively expanding the international dimension of their research, teaching and service functions. This collaborative research and scholarly activity is a necessity given the increasing interdependency among nations to address global issues such as climate change, crime, terrorism and health. The international and intercultural aspects of the curriculum and the teaching/learning process are important contributions to the quality and relevance of higher education. One of the leading rationales at the institutional level for internationalization is the preparation of graduates to live and work in more culturally diverse communities at home and abroad (Knight, 1999). An important question is how an increased emphasis on international trade in education and new trade regulations will affect the nature and priority given to non-commercial international education activities. Secondly, what are the consequences for higher education institutions in both developed and developing countries of the discernible shift from aid projects to trade relationships?

4.8 Cultural Diversity and Acculturation

The influence of trade and new trade regulations on the recognition and promotion of indigenous and diverse cultures is a subject that evokes strong positions and sentiments. One camp believes that new technology and movement of people, ideas and culture across borders presents fresh opportunities to promote one's culture and furthers chances for fusion and hybridization of culture. This position rests on the assumption that this flow of culture across borders is not new at all, it is just the accelerated speed which has changed. Others contend that these same forces are eroding national cultural identities and instead of forming 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 and the teaching/learning process of exported/imported programs. Both perspectives have strengths but the real question is whether trade agreements will have an impact. This is still

an unanswered question. Does the fact that commercial exports are often based on surplus capacity suggest that efforts are made, or are not made, to customize programs to local needs and to make programs culturally sensitive? This too merits further investigation before conclusions are drawn.

Will commercially traded education programs be any more or less culturally imperialistic or diversified than programs or curriculum which cross borders as part of development projects or academic exchange programs? Many would want to 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 providers are market driven there may be a demand from the students and employers for what is perceived to be modern (read western) education. The question of the impact of commercial trade (as well as non-commercial cross-border delivery) of education on cultural diversity requires significant study.

4.9 Higher Education Role and Values

At the heart of the debate for many educators is what impact will increased trade and new trade policy have on the purpose, role and values of higher education. The discussion on GATS has, to date, focused more on the technical, legal, and economic aspects of the movement of students, programs and providers/institutions across borders. But, the growth in new commercial and private providers, the commodification of education, and the prospect of new trade policy frameworks are catalysts for stimulating serious reflection on the role and funding of public higher education institutions in society. The trinity of teaching/learning, research and service to society has traditionally guided the evolution of universities. Is the combination of these roles still valid or can they be disaggregated and rendered by different providers? Values that have traditionally underpinned public education, such as academic freedom and institutional autonomy, are under scrutiny in many countries. Is education still considered to be a public good¹² in the sense of contributing to the development of society or is it now perceived as more of a private good for consumption by individuals? Some believe that these traditional values are even more relevant and important in today's environment, others argue for a shift away from these traditional values in light of globalization. And still others argue that if higher education is to fulfil its role as a 'public good' then it will need to move away from its traditional public funding sources in favour of more market-based approaches. Once again, the new emphasis on trade and the introduction of trade rules, demand a rigorous review of the values of higher education. Perhaps the issues of trade and the commercialization of higher education will eventually be critical elements that define and contrast national approaches to the role and purpose of higher education.

4.10 Trade Creep

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 there is a deliberate positioning of education as an export industry, accompanied by considerable investment of resources. 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. The education sector has become the education industry in some countries. The student or learner is the consumer. Students travelling abroad to study is now referred to as mode two or 'consumption

abroad'. Reference to the four modes of trade is being used to describe internationalization in general and cross-border education in particular. The next section focuses on this last point and aims to acknowledge the existence and importance of trade in education services but suggests that it needs to be understood and placed in the larger context of international academic mobility and cross-border education.

5 Trade as a Subject of Cross Border Education Activities

The first task is to clarify the meaning of the terms central to the discussion. As outlined in the introduction, the phrase 'trade in education services' and the four mode classification system- cross-border trade, consumption abroad, commercial presence, movement of natural persons- have been especially developed by trade experts to categorize trade in services. The education sector also has its own lexicon of terms to describe education programs and services delivered internationally. These terms include transnational, offshore, cross-border, borderless and the more generic term internationalization. The use of these terms across sectors is inevitable and misunderstanding about their meanings is predictable. The purpose of this section is to provide some clarity on what terms are used by the trade and education sectors and to ensure that 'cross-border education' as interpreted by educators is much broader than 'cross border supply' as used in the trade sector.

5.1 Trade talk- education speak

First the education sector. In the past decade, the interest and growth in international academic mobility has exploded. It involves students, teachers, institution/provider, program and/or curriculum moving across a border. This increased mobility is reflected in the introduction of new terminology to describe or characterize these phenomena. Transnational education is a term used by UNESCO and the Council of Europe in their 'Code of Practice on Transnational Education'. The term is used to mean all types of higher education study where the learners are located in a country different from the one where the awarding institution is based (UNESCO/ Council of Europe, 2001).

The term 'borderless education' first appeared in an Australian report by Cunningham et al (1998). Basically the term refers to the blurring of conceptual, disciplinary and geographic borders traditionally inherent to higher education (CVCP, 2000). It is interesting to juxtapose the terms borderless education and cross-border education. The former acknowledges the disappearance of borders while the latter term emphasizes the existence of borders. Both approaches reflect the reality of today. In this period of unprecedented growth in distance and e-learning, geographic borders seem to be of little consequence. Yet, on the other hand, we can detect a growing importance of borders when the focus turns to regulatory responsibility, especially related to quality assurance, funding and accreditation. Off-shore education is a term used to denote education delivered abroad, but its use is arguably decreasing due to the more recent introduction and popularity of the term cross-border. Cross-border seems to be emerging as the more widely used phrase and refers to the movement of education across a jurisdictional or national border.

The trade sector when referring to GATS uses the term services in order to differentiate from products which are covered by GATT (General Agreement on Trade and Tariffs). In terms of education services, GATS covers primary, secondary, higher and adult education and training programs as well as various 'other' education services such as language testing. Within GATS, the services are supplied through four modes. In short, Mode 1 deals with the service moving, Mode 2 deals with the consumer moving, Mode 3 deals with the provider and

investment moving and Mode 4 deals with the human resources or human capital moving. It must be said that it is quite an accomplishment to have a generic framework applicable to the supply of commercial services for the 12 major service sectors and 160 subsectors included in GATS. But this framework does not capture or reflect the full range of international cross-border education activity. As more attention is given to the analysis of major actors, stakeholders, rationales, benefits and delivery of cross-border education activity, and as one examines the implications for quality assurance, credential recognition, accreditation, funding and access, it is important that these matters are addressed in terms of the larger picture of cross-border education, not just the four trade modes.

5.2 An Education Framework for cross-border education.

The growth and changes in cross-border education are staggering¹³. There are now new types of providers, new methods of delivery, new learners, new partnerships, new financial arrangements, new types of awards, new policies and new regulatory frameworks. All this presents new challenges for how cross-border education is conceptualized (and regulated). Using a trade framework to categorize cross-border activity is one approach, but given these new developments, it is argued that a trade framework is too limited. Cross-border education occurs for a variety of reasons and under a diversity of arrangements- for example, through academic linkages and exchange programs, through development/aid projects and through commercial trade. The GATS trade mode framework only covers commercial trade. Therefore it is proposed that the education sector begin to develop its own classification system to categorize cross-border education in a manner which includes all types of activities not just commercial ventures.

Table 3 presents four education categories for cross-border education based on two elements- what moves (people, providers, programs and projects) and where the qualification is awarded - not on whether the initiative is public, private or commercially oriented.

Table 3: Education Framework for Cross-border Education

Category/Model	Description	Arrangements	Notes
1. People			
Students/Learners Trainees	-full academic program -semester or year abroad -internship program -research/field work	-exchange agreements - scholarship/bursaries -govt/public/private sponsored -self-funded	-involves credit-based educational activities and programs
Students/Learners Trainees	-full academic program -semester or year abroad -internship program -research/field work	-exchange agreements - scholarship/bursaries -govt/public/private sponsored -self-funded	-involves credit-based educational activities and programs
Professors Instructors Scholars Experts	-teaching and/or research purposes -technical assistance/consulting -sabbaticals/professional development	-self or institution funded -govt/public/private sponsored -contract/fee for service	
2. Providers			
Institutions, providers, organizations, companies	-foreign provider has academic responsibility for programs -foreign award granted -provider secures physical or virtual presence in receiving country	-academic/financial partner/s in receiving country possible but not required. -includes private, public, commercial & non-commercial providers	-branch campuses -franchises -stand alone foreign providers -some twinning arrangements
3. Programs			
Credit/ award based academic partnership programs	-involves domestic qualification awarded by receiving country or double/joint award -courses and programs move, not the student	-based on academic linkages between sending and receiving institutions	-primarily involves institutional linkages -some twinning and franchise arrangements.

		-can be commercial or non-commercial	
4. Projects & Services			
Wide range of education related projects and services	-no award based program involved. -examples of projects include: research; curriculum design; professional development; capacity building, technical assistance and services	-includes development/ aid projects, partnership programs and commercial contracts	-involves all types of HEI institutions, providers and educational organizations/ companies

This framework is a 'work in progress' (Knight 2003b). It is purposely generic in order to be relevant to many different countries, jurisdictions, cultures and education systems and to include the diversity of cross-border activities and providers. The categories will have to be porous as not all new developments fit neatly into four conceptual groups. Ideally the framework will be used as an alternative to the trade modes and will help the education sector to 1) analyze policy implications for issues such as quality assurance, funding, equity of access, accreditation, recognition of credentials at the national and international levels; 2) study the relationship of cross-border education with trade agreements and trade policy; 3) examine the different and common trends and issues within and among categories; 4) determine the major actors and stakeholders and level of provision within each category; and 5) help to ensure that the international dimension of post-secondary education, specifically cross-border, is not conceptualized only as a commercial activity.

6 Update on Stakeholder Interests and Actions

There is no doubt that certain education stakeholder groups are clearly and loudly expressing their views about potential risks associated with GATS and further trade in higher education services. There seems to be more debate within countries than between countries. Larsen and Vincent-Lancrin (2002) note that at the 'Washington Forum on Trade in Educational Services', the debate was less about conflicting country positions than about conflicting professional groups, each with their own culture and interests. Furthermore, there is little discussion as to whether the anticipated economic and supply benefits to education are reasonable and probable. One reason for this is the lack of hard data on forecasted growth in each of the four supply modes and in-country impact. The movement of students to study in other countries (Mode 2- Consumption abroad) is the only mode where there is good information available (OECD, 2002).

6.1 Examples of Involved Stakeholder Groups

During the last year, there has been a surge in the attention given to the impact of GATS and trade policy on post-secondary education. Intergovernmental bodies such as UNESCO,

OECD, and the World Bank have given prominence to the issue. International and regional non-governmental organizations such as Education International, International Association of Universities, Association of Commonwealth Universities and European Universities Association are taking concrete steps to inform the education community and engage their members. At the national level, associations of universities, student groups and university teacher organizations have been active in expressing their opinions to their respective governments. In fact, it is probably the teachers' unions around the world that have been most engaged in speaking out about the potential impact of trade and the commercialization of education. There are also, of course, democracy, civil society and development groups who have very vocal about their concerns regarding the impact of GATS on public services, including education. On the supportive side, the International Chamber of Commerce, the European Services Forum, and the Coalition of Service Industries in the United States are examples of three powerful and active organizations promoting increased trade liberalization of services; but these organizations have shown limited, if any, interest in the education sector.

It is both informative and revealing to see the variety of declarations, meetings, newsgroups, and campaigns mobilized around the issue of GATS and education. To maintain a balanced approach in this paper, substantial efforts were made to locate education groups actively campaigning in favour of increased trade in education. This search only identified the US based National Committee for International Trade in Education (NCITE) and an organization in New Zealand called Education Forum which is linked to the New Zealand Business Round Table. This does not necessarily mean other groups do not exist. It may mean that they are not as visible to the public or to the education community.

To illustrate the diversity of groups and actions engaged with the issue of GATS and higher education, a sample of declarations, meetings and organizations are listed in Appendix A. This is not a comprehensive list, it is for illustrative purposes only. Unfortunately the list is very oriented to Europe and North America, and does not include sufficient examples from Africa, Asia and Latin America.

6.2 Issues being discussed by stakeholders

It is important to recognize the range of issues different stakeholder groups are raising. Those aspects which relate to the technical and legal issues of GATS are not included in the list below as they have already been addressed in the previous paper (Knight, 2002) and by different authors (e.g. Sauvé, 2002 and Education International, 2000). Prominent issues and arguments include:

- Of common concern is the fear that public domestic provision of higher education may be undermined by foreign competition and national education policy objectives may be at risk.
- It is believed that trade, coupled with commercialization and commodification of higher education, will put more importance on economic benefits than on the academic, social, scientific and cultural contributions of higher education to society.
- It is suggested that increased trade by for-profit providers using new delivery methods may jeopardize consumer confidence and public trust in the quality of higher education. It is also important to be alert to public opinion and confidence in public/private higher education institutions who are active in trade of education services.

- Higher education is seen to be different from other service sectors due to the public mandate and the role of government.
- 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.
- Many of the barriers identified for Mode 2 (study abroad) and Mode 4 (movement of people) do not fall within the GATS frameworks. These include aspects such as visas, work permits, immigration status as well as those barriers put into place by a country wanting to prevent consumption abroad. It is Mode 3 (commercial presence) that merits the closest scrutiny. It is pointed out that what may be seen as barriers by exporting countries are in fact, fundamental aspects of the regulatory systems in the importing country.
- The impact of trade in education services on institutional autonomy, academic freedom, brain drain and academic employment requires further investigation.
- One of the most critical implications is the impact of increased trade on the quality of higher education provision and the recognition of qualifications and accreditation. Quality standards and mutual recognition issues should be addressed by the education sector, and outside the purview of trade agreements.
- There is significant concern that increased trade in education will characterize and promote higher education as a 'private good' rather than a 'public good'.

6.3 What is not being addressed by stakeholders?

It is equally interesting to note which actors/stakeholders are not involved and what issues have not been addressed.

- There has been very little discussion on the benefits of increased trade in education. Most of the concern is on the respective roles of the government and the market in the regulation of higher education. It would be useful to have further analysis on the contributions of more liberalized trade in higher education to the international demand post-secondary education.
- The primary and secondary education sectors have been almost silent on the implications of GATS. There seems to be an implicit understanding or assumption that public compulsory education will not be covered by GATS. This may or may not be the case. Time will tell, especially for those countries that have liberalized access to compulsory education.
- It is the university sector within the post-secondary education category that has been most involved in discussing GATS. The professional, technical and vocational providers have not been very vocal. It would be useful to have more information and discussion with the non-university sector.
- The impact of trade rules on the regulations of the professions needs further attention,

especially in relation to domestic regulation and the 'necessity test'.

- To date there has been little discussion of issues related to the 'other services' category. Increased trade in education services such as language testing or quality assessment and evaluation services may have implications for higher education. The category of adult education has also not been fully addressed even though commitments have been made in this category.
- 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.
- 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 the university 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 undertake research and development activities have unfair advantage over private organizations who 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 be applicable to private providers?
- Attention needs to be given to potential public backlash to the efforts of public higher education institutions efforts to recruit large numbers of international students (even if they are paying differential fees) and invest public funds in overseas commercial ventures that may or may not be profitable.
- Commercial trade is only one aspect of cross-border education. Analysis of the implications of new trade rules and increased trade on non-commercial cross-border education is required.

Individually, the issues outlined above merit further investigation and rigorous analysis. Collectively, they demonstrate the breadth of interest and concern. They also point to the need for further consultation within the higher education sector, with other service sectors, and certainly with trade officials.

6.4 Ongoing Questions

At this stage of exploring the implications of GATS on the provision of higher education, there are still many more questions than answers. The questions, not all of which are new but most of which are still not answered, deal with a broad range of issues:

- Technical issues related to the continuing development of specific articles/rules in the GATS agreements-subsidies, domestic regulation, dispute resolution.
- Clarification issues regarding the implications of which services are covered by GATS and how to distinguish between commercial and non-commercial cross-border education.
- Policy issues related to fundamental aspects of higher education- access, funding,

quality, both for domestic and cross-border delivery.

- Philosophical issues dealing with the core values of higher education (domestic and international provision) and its role and purpose in society.
- Negotiation issues related to the current requests and offers and identified barriers.
- Market issues as to actual size of trade forecasted growth and where it will occur.
- Data collection issues so that reliable information exists on the size and scope of commercial trade in education by all types of institutions, providers, companies.
- Education stakeholder issues related to increased awareness, understanding and action.
- Consultation issues within and among the education community, government and trade actors and sectors.

7 Concluding Comments

As has been repeated many times, GATS is a new, untested and evolving agreement. The interpretations of existing articles and obligations can change and new disciplines can be developed. There continues to be more questions than answers. To date, there have been fewer commitments to trade in education than expected. This means that there is time for the higher education sector to become better informed about how best to move forward to maximize the benefits and minimize the risks of commercial trade. Working in a trade policy environment is relatively new territory for the education sector. It will take further work and analysis for the various education sectors to be confident and credible actors in shaping and reacting to new trade policy developments. However, the education sector as a whole has considerable experience in other policy arenas- immigration, foreign relations, culture, science and technology to name a few. It will require that the higher education community at the national level be vigilant in monitoring new developments and work collaboratively with government and non-government representatives from education, trade, industry and commerce and foreign affairs.

While it is true that both the benefits and risks of increased international trade in education will be felt most keenly at the national level, it also important that the wider international higher education community continues to work together on these issues so that 1) educators' views and expertise come to bear on developments in trade in education services; 2) the higher education sector continues to work towards national/regional and international education frameworks that addresses the quality assurance, accreditation and recognition of qualifications for cross-border 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 one subset of the larger phenomenon of cross-border education; and 5) that the impact of trade on the larger more philosophical questions related to the purpose, values and role of higher education continue to be explored.

The information on requests and offers is accurate up to the end of April 2003. As noted in the text, the number of offers will increase and the details of some may change as offers only become final at the end of the Doha round (January 1, 2005).

APPENDIX A: Further details on selected stakeholder organisations and activities associated with GATS

1 Declarations

Joint Declaration on Higher Education and the General Agreement on Trade in Services - September 2001. Developed and signed by the European Universities Association, the Canadian Association of Universities and Colleges, the American Council for Education and the Council for Higher Education Accreditation. The declaration states that “our institutions are committed to reducing obstacles to international trade in higher education using conventions and agreements outside of a trade policy regime. This commitment includes, but is not limited, to improving communications, expanding information exchanges, and developing agreements concerning higher education institutions, programs, degrees or qualifications and quality review practices.” It is expected that the signatories to this declaration will be issuing a second one in mid 2003 that will address the need for a new international policy framework for cross-border education.

Brixen/Bressanone Declaration on Cultural Diversity and GATS (2002). The European Regional Ministers for Culture and Education adopted this declaration which focussed on the protection of diversity in education, culture and media. The declaration states that we “believe that GATS carries the tendency of the precedence of commercial priority over democratically agreed quality”, and calls for “democratically supported services in education, culture and media [to be] excluded from further GATS involvement”.

Port Alegre Charter (2002) The participating rectors at the ‘Iberoamerican Summit of Rectors of Public Universities’ signed this charter and requested “the governments of their respective countries not to become engaged in any commitment concerning higher education”. This Charter in turn stimulated other Brazilian organizations such as the ‘National Association of Leaders of Federal Institutions of Higher Education’ to send the Port Alegre Charter to the president of Brazil, asking for an explicit statement of the government’s position on GATS and higher education services.

Education Group Charter (2002) The European Social Forum established a number of principles to guide the actions and construction of the ‘Europe of Education’. Examples of these principles include: “Education is a right, not a commodity. Education must be a public service, free and secular. Its financing must be public. The mission of education is to educate, form and qualify workers, citizens and humans. Economic profits must not guide its objectives. Education also has a role of fostering social change.” The Charter concludes with a rejection of the integration of education into trade liberalization and advocates a ‘no’ position to GATS.

2 Intergovernmental Organizations’ Meetings

UNESCO Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications (2002) was convened by UNESCO to bring together governments, institutions, policy makers, educators and students to look at the impact of globalization on quality assurance and accreditation. In light of increased cross border education delivery and new trade agreements, the topic of international recognition of qualifications was also addressed. There was an urgent call to move forward on looking at the relationship between trade agreements and the 6 Regional UNESCO Conventions on Recognition of Qualifications, including the Lisbon Europe Region Convention.

OECD/US Forum on Trade in Educational Services (May 2002), in co-operation with the World Bank, brought together a broad range of stakeholders with an interest in cross-border trade in higher education services. Perspectives on the benefits, risks and issues on trade in educational services were heard from representatives from different regions of the world, from private/public, for-profit/non-profit education providers, trade experts, students, non-government organizations, sceptics and supporters. This was a first opportunity for education and trade policy makers and other stakeholders at an international level to address this issue. There was a broad consensus and acknowledgement by the higher education sector and governments that among the key issues needing further and immediate attention are quality assurance, accreditation and recognition of qualifications.

<http://www.oecd.org/EN/document/0,,EN-document-4-nodirectorate-no-20-25748-4,00.html>

3 International Non-Governmental Associations

Education International is a worldwide confederation of education trade unions and was one of the first groups to address the issue of GATS and trade in education. This group has prepared several reports cautioning against the potential risks and threats of including education services in GATS. EI's central objective is to have education excluded from the scope of GATS. The EI documents address the technical and legal aspects of GATS as well as some anticipated implications for higher education. These documents are available on their website.

http://www.ei-ie.org/action/english/Globalisation/e%20wto_gats%20index.htm.

International Association of Universities is a signatory to the 'Joint Declaration on Higher Education and the General Agreement on Trade in Services' mentioned above. IAU links trade liberalization of education with globalization and commodification and provides a website with information and links to organizations dealing with these issues.

<http://www.unesco.org/iau/globalization/wto-gats.html>

4 National/Regional Associations

National Committee for International Trade in Education is a US group whose mission is to be "an organized voice for United States education, training and testing institutions, corporations and organizations which provide services internationally". One of its stated purposes is to "provide accurate, current and organized information related to US education and training interests to the proper US government agencies, and particularly the Office of the US Trade Representative, as well as keeping NCITE members informed of governmental and other related activity." The organisation serves as an active advocate/lobby group to the government on the matters relating to access to foreign education markets.

http://www.tradeineducation.org/general_info/frames.htm

People and Planet is an example of one of the most active student groups. It is a UK-wide student network organizing campaigns on a number of international issues, one of which is GATS. This organization has produced a major report entitled 'Trading it away: How GATS threatens UK education' which examines in detail the rules and disciplines of GATS and speculates on potential impact on the quality, funding and role of UK higher education.

<http://www.peopleandplanet.org/tradejustice/>

Education Forum is an association of individuals who have a common concern for the future direction of New Zealand education. The membership is drawn from the primary, secondary and tertiary sectors, together with leaders of industry and commerce. They take the position that GATS and education is a 'win/win' situation for New Zealand and actively support the Government's position on gaining greater access to foreign education markets.
<http://www.educationforum.org.nz/>

5 National Associations of Students, Teachers, Universities

There are numerous other student groups, teachers' associations, and university organizations at the national/regional which have prepared informative reports, briefing papers, and press releases on the implications of GATS for higher education. These groups are especially active in Europe, Australia, New Zealand, Canada, South Korea, USA, India, South Africa.

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¹ For background information on GATS see the WTO references plus Education International (2000), Knight (2002) and Sauve (2002).

² See OECD (2002) Current Commitments under GATS in Education Services.

³ See news groups GATSWATCH and GATSeducation for information on requests/offers
<http://www.gatswatch.org/requests-offers.html> GATSeducation@yahoo.com

⁴ Available at: http://www.wto.org/english/tratop_e/serv_e/s_propnewnegs_e.htm#education

⁵ See USTR website for full text of US offer
http://www.ustr.gov/sectors/services/2003-03-31-consolidated_offer.pdf

⁶ See WTO (1998) *Education Services. Background Note* by the Secretariat.

⁷ See full article in Linda Ensor Business Day, 1st Edition, March 06 ,2003.

⁸ Mohamedbhai, G. (2002) *Globalisation & Its Implications on Universities in Developing Countries*, presentation at the conference 'Globalisation: what issues are at stake for universities?', Université Laval, Quebec, Canada, 19 September.

⁹ See also Deodhar (2002) for a discussion on issues for India's response to GATS.

¹⁰ See the website of the International Network of Quality Assurance Agencies in Higher Education for a database on quality assurance and accreditation bodies. www.inqaahe.nl

¹¹ Examples of GEI companies include Apollo (USA), Aptech (India), Informatics (Singapore), Sylvan (USA) all of whom work internationally.

¹² See Singh (2002) Re-inserting the 'Public Good' into Higher Education Transformation.

¹³ See OECD (2002) "Growth in Cross-Border Education" for further information especially on international student mobility.