

Unclassified

EDU/CERI/CD(2006)4

Organisation de Coopération et de Développement Economiques
Organisation for Economic Co-operation and Development

17-Mar-2006

English - Or. English

DIRECTORATE FOR EDUCATION
CENTRE FOR EDUCATIONAL RESEARCH AND INNOVATION (CERI) GOVERNING BOARD

EDU/CERI/CD(2006)4
Unclassified

CROSS-BORDER HIGHER EDUCATION FOR DEVELOPMENT

Interim report

27-28 March 2006

This document accompanies EDU/CERI/CD(2006)3. It includes the first drafts of chapters 1 and 3 of the planned report on Capacity building through cross-border higher education.

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JT03205909

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CHAPTER 1

BUILDING CAPACITY THROUGH CROSS-BORDER TERTIARY EDUCATION

Abstract

While several OECD countries compete to attract foreign students, some pioneering emerging economies show that an innovative strategy for the import of cross-border education can form a part of a national capacity building strategy. Could this be a suitable model for developing countries to build capacity in tertiary education, and more generally, to accelerate economic development? This chapter argues that this is the case: using cross-border education to build capacity could be an effective strategy, especially when it is accompanied by appropriate policies and regulatory frameworks. Once an overall strategy for capacity building in education is in place, as part of a national capacity building strategy, countries should examine how tertiary (and more broadly post-secondary) education fits into this. A subsequent question concerns whether cross-border tertiary education could play a role in this strategy, and, if so, which. This chapter does not offer definitive answers as these issues are closely connected to the local context of each country. Possible answers will be explored though and an attempt to illustrate the mechanisms that may link cross-border education to capacity building will be made.

1. Introduction

1. The emergence of new forms of cross-border education and the establishment of capacity-building approaches towards this type of provision are a recent phenomenon. Consequently, little empirical data exist to evaluate its effectiveness as an economic development tool. However, considering the growing scale of cross-border education, it seems appropriate to examine the impact of these activities in a capacity development context based on available indicators and the theoretical perspectives vis-à-vis this approach to development.

2. Tertiary education has become increasingly international in the past decade as more and more students choose to study abroad, enrol in foreign educational programmes in their home country, or simply use the Internet to take courses offered by institutions in other countries. Students going abroad to study have traditionally constituted the most common form of cross-border higher education. In the last decade, however, new types of cross-border post-secondary education have emerged. Cross-border education does not only include international student mobility, but also the mobility of educational programmes and institutions across borders.

3. Cross-border tertiary education refers to situations where students, teachers, programmes, institutions/providers or course materials cross national borders. It can take several forms, such as students (and teachers) travelling to study (teach) in foreign countries, educational institutions partnering with foreign institutions to offer joint educational programmes or degrees, educational institutions operating abroad, and educational courses being supplied across borders through e-learning or distance learning (Knight, 2003, 2005; OECD, 2004a). All forms of cross-border education are currently delivered under a variety of contractual arrangements: development aid, not-for-profit partnerships, and, increasingly, trade (OECD, 2004a).

4. The number of foreign students in OECD countries¹ has doubled over the past 20 years to 1.8 million in 2002. OECD countries received around 85-90% of the world's foreign students in the same year (OECD, 2004a). Conversely, about 57% of all foreign students studying in OECD countries were from outside the OECD area in 2002. Asia heads the list of regions sending students abroad for higher education, accounting for almost half (43%) of all international tertiary-level students in the OECD area. Europe is a close second, accounting for 35%, followed by Africa (12%), North America (7%), South America (3%) and Oceania (1%). The bulk of cross-border post-secondary education through programme and institution mobility occurs in the Asia-Pacific region. Singapore, Malaysia and Hong Kong China are probably the main importers of cross-border education through institution and programme mobility. This type of activity is also increasingly being developed in mainland China. From the late 1990s the Malaysian government has encouraged foreign universities to establish branch campuses on its soil. There are currently five branch campuses of foreign universities and over 600 private colleges offering both local and foreign qualifications. In Hong Kong, approximately 165 foreign educational institutions and professional bodies offered a total of 856 courses in June 2003, alone or with local partners (OBHE, 2003). Finally, China has reported a nine-fold increase between 1995 and 2003 in foreign programmes (all offered in co-operation with local institutions as required by Chinese legislation). In early 2003, there were 712 such programmes, 37% of them at post-secondary or higher education level.

5. This growth stems from several different, but not mutually exclusive, factors in importing and exporting countries: a desire to promote mutual understanding; a need for the migration of skilled workers in a knowledge based economy; the desire to generate revenue for the higher education sector; or the need to build a more educated workforce (generally found in emerging economies). These factors have led to the emergence of four different policy approaches to cross-border higher education.

6. The *mutual understanding approach* encompasses political, cultural, academic and development aid ambitions. It allows and encourages mobility of domestic as well as foreign students and staff through scholarship and academic exchange programmes and supports academic partnerships between educational institutions. This is the traditional approach to the internationalisation of tertiary education.

7. While sharing the objectives of the first mentioned approach, the other three are to a larger extent economically driven. Two of them are mainly concerned with export. Compared to the mutual understanding approach, the *skilled migration* policy places stronger emphasis on the recruitment of international students. The aim of this approach is to render the higher education and research sectors more competitive and/or to attract talented students to join the work force after graduation. The *revenue-generating approach* shares the objectives of the mutual understanding and skilled migration approaches, but offers higher education services on a full-fee basis, without public subsidies. Compared to domestic students, international students generate additional income for institutions, which are encouraged to become entrepreneurial in the international education market. Under this strategy, governments tend to grant institutions considerable autonomy but seek to secure the reputation of their higher education sector and protect international students.

8. A final approach to the internationalisation of higher education, more prevalent in emerging economies, is the *capacity building* approach. This perspective is that of an importing country, which perceives cross-border education as a means to cater for unmet demand as well as to assist in building the capacity of high quality higher education. This rationale is also present in the mutual understanding approach and hence found in all countries, but it has greater significance in countries, where the higher education system does not meet domestic demand, both in terms of quantity or quality. Indeed, some

¹. A list of the 30 member countries of the OECD is available at:
www.oecd.org/document/58/0,2340,en_2649_201185_1889402_1_1_1_1,00.html
 Last Accessed 28 February 2005.

South-East Asian countries support imports of cross-border education services for capacity-building purposes. Such countries have policies to encourage students to study abroad as well as attracting foreign providers to offer courses on their soil. Malaysia provides extensive scholarships for postgraduate study or training of teachers, academics and civil servants, mainly in the United Kingdom and Australia. The country has also established offices abroad to assist students studying outside Malaysia. Thailand provides scholarships for students and employees in the public sector. Students educated abroad are expected to help build domestic capacity in higher education when they return. However, given the costs, the number of scholarship programmes is limited and successful capacity building is also dependent on foreign programmes and institution mobility. Indonesia, Malaysia, Singapore, Hong Kong China, Vietnam and China encourage foreign academics, programmes and institutions to offer their services in their countries. Policy statements from several countries mention the potential for programme and institution mobility to contribute to capacity building. China has stated that it aims to “attract high-quality educational resources from overseas” and to “introduce globally advanced curriculum and teaching materials which are in urgent need in China”. In Indonesia a framework for locally based co-operation with foreign universities to “improve and enhance the performance of higher education” and to “maintain, develop, empower and expand science, technology and/or arts” has been implemented (New China News Agency, 2003).

Table 1. Types of cross-border education activities

Type	Main forms	Examples	Size
1. People			
Students/ trainees	Student mobility	<ul style="list-style-type: none"> - Full study abroad for a foreign degree or qualification - Part of academic partnership for home degree or joint degree - Exchange programmes 	This activity probably constitutes the largest share of cross-border education activities
Professors/ trainers	Academic/trainer mobility	<ul style="list-style-type: none"> - For professional development - As part of an academic partnership - Employment in a foreign university - To teach in a branch institution abroad 	A traditional activity in the education sector, which should grow given the emphasis on mobility of professionals and internationalisation of education more generally
2. Programmes			
Educational programmes	Academic partnerships E-learning	<ul style="list-style-type: none"> - Joint course or programme with a foreign institution - E-learning programmes - Selling/franchising a course to a foreign institution 	Academic partnerships represent the largest share of these activities E-learning and franchising are rapidly growing activities
3. Institutions			
Universities Training centres Companies	Foreign campuses Foreign investments	<ul style="list-style-type: none"> - Foreign branch campuses - Buying (part of) a foreign educational institution - The establishment of foreign-branded institutions 	A trend increasing very quickly from a modest starting point

Source: Organisation for Economic Co-operation and Development (2004) Internationalisation and trade in higher education. Opportunities and Challenges, Paris, OECD.

9. These trends and policy approaches are analysed in depth in Internationalisation and Trade in Higher Education (OECD, 2004a).

10. While several OECD countries compete to attract foreign students, these pioneering emerging economies show that an innovative strategy for the import of cross-border education can form a part of a national capacity building strategy. Could this be a suitable model for developing countries to build capacity in tertiary education, and more generally, to accelerate economic development? This paper will

argue that this is the case: using cross-border education to build capacity can be an effective strategy, especially when it is accompanied by appropriate policies and regulatory frameworks.

11. Once an overall strategy for capacity building in education is in place, as part of a national capacity building strategy, countries should examine how tertiary (and more broadly post-secondary) education fits into this. A subsequent question concerns whether cross-border tertiary education could play a role in this strategy, and, if so, which. In order to reach a decision on this matter, governments should examine a range of issues and clarify their objectives according to the local context:

1. Which objectives might cross-border education be able to address?
2. Would certain types of cross-border education be more suitable for the achievement of these objectives
3. Are some contractual arrangements for the delivery of cross-border education more effective than others? For which objectives and in what circumstances?
4. Which policies can maximise the benefits of cross-border education and minimise (possible) risks? Which are feasible in the local context?

12. This paper does not offer definitive answers to all those questions, as these issues are closely connected to the local context of each country. Possible answers will be explored and an attempt to illustrate the mechanisms that may link cross-border education to capacity building will be made.

13. In the following section the concept of capacity building will be defined. It will be argued that the term refers to principles whose validity goes beyond a development assistance context. The opportunities and challenges of cross-border tertiary education for capacity building in tertiary education will also be examined in this section. Section 3 argues that education, including tertiary education, has a privilege over other sectors because it is crucial to any sectoral capacity building strategy, and Section 4 shows the importance of tertiary education for economic development. Section 5 outlines the reasons cross-border education could assist capacity building within tertiary education and Section 6 examines the benefits and drawbacks of the different modes of delivery of cross-border education. Section 7 discusses the caveats and advantages of trade provision compared to development assistance and claims that trade and development assistance could be complementary in a capacity building strategy. In Section 8 some of the policies, which could help maximising the benefits of cross-border education and minimising the risks, are outlined. The final section concludes by arguing that it would be beneficial for developing countries to develop a conscious and proactive strategy for cross-border education, whatever form this strategy may take.

2. What is capacity building?

14. The concept of *capacity building* or *capacity development*² appeared in the late 1980s and has become the buzzword of development in the 1990s. Rather than capturing a new idea, it embodies the criticism of development assistance by emphasising the need to build development on indigenous resources, ownership and leadership and by bringing human resources development to the fore. While the

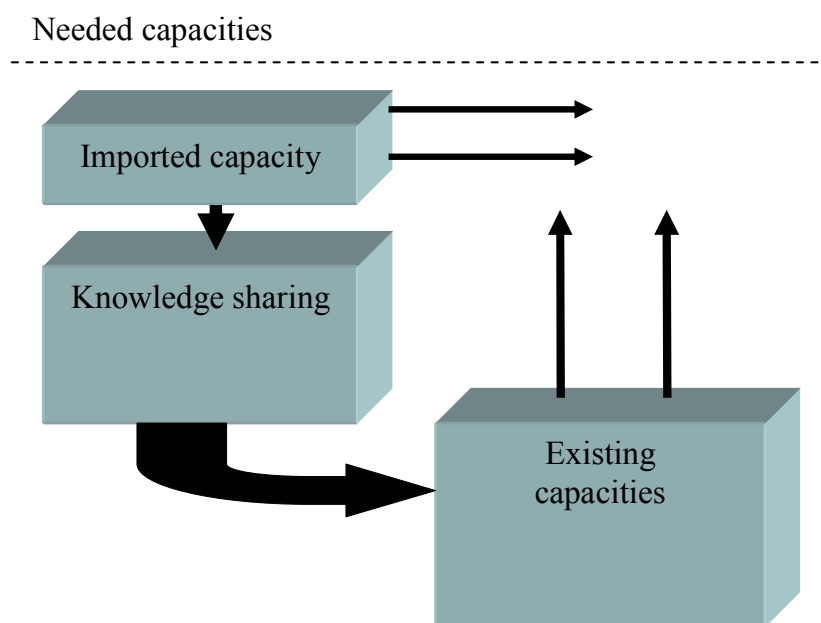
². In this paper, we consider the two terms as synonymous: although they are sometimes used with slightly differing meanings, this is how most people treat the two notions. “Capacity building” is often used in the African context as well as in relation to trade and private sector development, whereas “capacity development” is more commonly used in aid development agencies. There is actually no clear cut distinction and both terms refer to the same idea and convey the same connotations.

1980s are typically described as the “stabilisation and structural adjustment” decade, in the 1990s a strong emphasis was placed on the building of human capital following advances in the ‘endogenous growth theory’ (Thorbecke, 2000). The shift from traditional development aid to capacity building is illustrated by the well-known proverb: “give someone a fish and he eats for a day; teach someone to fish, and he can feed himself for a lifetime”. The concept of capacity building signals a shift from *assistance* to a less dependent “help yourself” attitude in the development community. It appeared in a context marked by a widespread (and possibly exaggerated) dissatisfaction with technical co-operation (Arndt, 2000) and, more generally, with aid effectiveness—the so-called “aid fatigue” of the 1990s.

15. The United Nations Development Programme (UNDP) defines capacity and capacity development as follows:

Capacity is the ability of individuals, organisations and societies to perform functions, solve problems, and set and achieve goals. Capacity development entails the sustainable creation, utilisation and retention of that capacity, in order to reduce poverty, enhance self-reliance, and improve people’s lives. [...] Capacity development builds on and harnesses rather than replaces indigenous capacity. It is about promoting learning, boosting empowerment, building social capital, creating enabling environments, integrating cultures, and orientating personal and societal behaviour. (www.capacity.undp.org)

Figure 1. Capacity Development



Source: Vincent-Lancrin, S (UNDP, 2003)

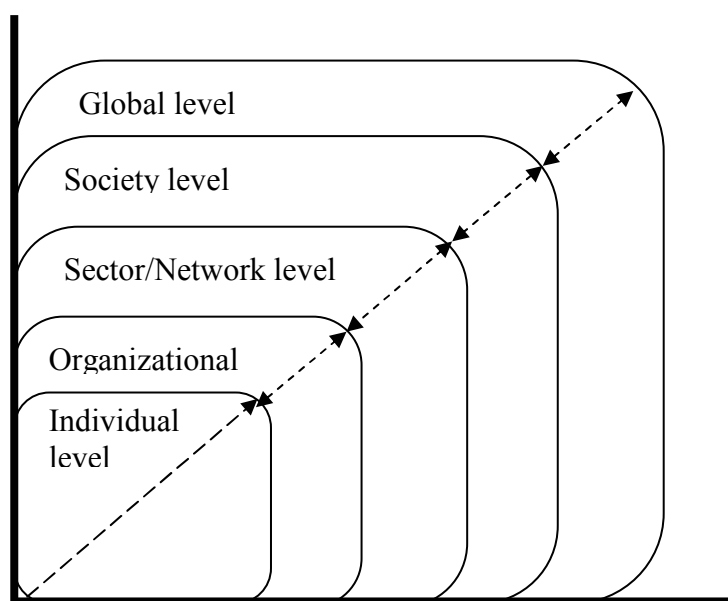
16. Capacity building is thus based on learning and acquisition of skills and resources among individuals and organisations. The acquisition of skills should be seen in opposition to transfer of technology or technical assistance, neither of which have necessarily lead to individual and/or organisational learning in developing countries. While this process does rely on some imported resources, foreign capacity should be used as a knowledge-sharing device, which allows the strengthening and developing of the local capacity (Figure 1). Capacity building is committed to sustainable development, to a long rather than short term perspective, and attempts to overcome the shortcomings of traditional donor-led projects—typically criticised for being too short-term rather than sustainable, and not always addressing the needs of the recipients. Development within a capacity building context allows developing

countries to identify their own needs, and design and implement the best suitable development strategy within the local context. Its ultimate aim is to make developing countries less dependant on aid. As a process, it builds on monitoring and evaluation in order to identify existing capacities, deficiencies and the progress and achievements of development.

17. In Boxes 1 and 2 (below), two sets of guiding principles for capacity development are outlined. They offer two different entries based on a shared philosophy. According to capacity development principles ownership of development projects is transferred from the donor to the recipient community and mirror recent aid effectiveness principles.³ For this reason, capacity development is not necessarily linked to development aid but can also describe countries' efforts to meet their development goals regardless of external assistance.

18. An important dimension of capacity building is found within its systemic or multi-level approach to development: capacity building acknowledges the need to consider several levels of interventions and understands their interdependence in order to develop a coherent and sustainable development policy. Adapting Bolger (Bolger, 2000), five levels of capacity are considered in this paper (Figure 2): the individual, organisational, sector/network society and global level (OECD, 2001b; UNDP/Global Environment Facility, 2003).

Figure 2. Capacity Development: a multi-level conceptual framework



Source: Vincent-Lancrin (Bolger, J., 2000)

19. At the individual level, capacity building refers to the acquisition of skills, through formal education or other forms of learning. Although skills and knowledge can be acquired in various settings, formal education systems play a paramount role in this connection.

20. At the organisational level, capacity building focuses on infrastructure and institution building, the availability of resources and the efficiency of processes and management to achieve effective and

³. Namely that foreign aid should depend more on what the recipient needs than on what the donor can provide; that foreign aid through foreign technical expertise is often unsustainable once the foreign experts are gone; that aid should be managed by the recipient country and untied, etc.

quality results within existing infrastructures. In education, this level signifies the improvement of domestic educational institutions, *e.g.* universities, through additional resources and a better use of those already available.

21. At the sector/network level, capacity building seeks to enhance the consistency of sector policies and promote a better co-ordination between organisations. In education, capacity building could for example aim at improving links between vocational and academic educational institutions, between research-intensive and teaching-only institutions or to improve the co-ordination of institutions across different academic fields.

22. The society level refers to the human frameworks (conventions, habits, values, regulations, political regimes, policies, etc.) within which development takes place. The society level can enable or constrain development. Gender inequality, racial discrimination, corruption, lack of security and commitment to development, inability to raise taxes, etc., are typically constraining factors. Stable political and economic environments, commitment, sound policies, etc., on the other hand, typically facilitate development. In some cases, capacity development has the ability to transform attitudes and values, which are hindering development, for example through efforts to fight corruption, crime and insecurity, or other policies challenging socially unproductive behaviour, such as gender inequality. Transforming society, however, is a slow and uneasy process. The society level, whether this is facilitating or constraining development (and regardless of whether this level is changing) forms the basis for capacity building activities. The importance of appreciating the nature of this level corresponds with the principle of developing capacity building activities within the local situation: one size does not fit all.

Box 1.
OECD Development Aid Committee (DAC)
Guiding principles for sustainable development strategies

Strategy formulation

- Country ownership and participation, leadership and initiative in developing their strategies.
- Broad consultation, including particularly with the poor and with civil society, to open up debate on new ideas and information, expose issues to be addressed, and build consensus and political support on action.
- Ensuring sustained beneficial impacts on disadvantaged and marginalised groups and on future generations.
- Building on existing strategies and processes, rather than adding additional ones, to enable convergence and coherence.
- A solid analytical basis, taking account also of relevant regional issues, including a comprehensive review of the present situation and forecasts of trends and risks.
- Integration of economic, social and environmental objectives through mutually supportive policies and practices and the management of tradeoffs.
- Realistic targets with clear budgetary priorities.

Capacity development

- Strengthening and building on existing country capacity—public, civil society, and private—as part of the strategy process.
- Linking national and local levels, including supporting devolution, in all stages of strategy development and implementation.
- Establishing continuous monitoring and evaluation systems based on clear indicators to track and steer progress.

Source: Organisation for Economic Cooperation and Development (2001), *Strategies for Sustainable Development: Guidance for Development Co-operation*, The DAC Guidelines, Paris.

Box 2.
UNDP's 10 default principles for capacity development

1. Don't rush - Capacity development is a long-term process. It eludes delivery pressures, quick fixes and the search for short-term results.
2. Respect the value system and foster self-esteem - The imposition of alien values can undermine confidence. Capacity development builds upon respect and self-esteem.
3. Scan locally and globally; reinvent locally - There are no blueprints. Capacity development draws upon voluntary learning, with genuine commitment and interest. Knowledge cannot be transferred; it needs to be acquired.
4. Challenge mindsets and power differentials - Capacity development is not power neutral, and challenging mindsets and vested interests is difficult. Frank dialogue and a collective culture of transparency are essential steps.
5. Think and act in terms of sustainable capacity outcomes - Capacity is at the core of development; any course of action needs to promote this end. Responsible leaders will inspire their institutions and societies to work accordingly.
6. Establish positive incentives - Motives and incentives need to be aligned with the objective of capacity development, including through governance systems that respect fundamental rights. Public sector employment is one particular area where distortions throw up major obstacles.
7. Integrate external inputs into national priorities, processes and systems - External inputs need to correspond to real demand and be flexible enough to respond to national needs and agendas. Where national systems are not strong enough, they should be reformed and strengthened, not bypassed.
8. Build on existing capacities rather than creating new ones - This implies the primary use of national expertise, resuscitation and strengthening of national institutions, as well as protection of social and cultural capital.
9. Stay engaged under difficult circumstances - The weaker the capacity, the greater the need. Low capacities are not an argument for withdrawal or for driving external agendas. People should not be held hostage to irresponsible governance.
10. Remain accountable to ultimate beneficiaries - Any responsible government is answerable to its people, and should foster transparency as the foremost instrument of public accountability. Where governance is unsatisfactory it is even more important to anchor development firmly in stakeholder participation and to maintain pressure points for an inclusive accountability system.

Source: UNDP (2003) *Ownership, Leadership and Transformation. Can we do better for the capacity development?*, Edited by Carlos Lopes and Thomas Theisohn Earthscan, London.

23. Finally, the global level needs to be taken into consideration, *i.e.* the international context in which the country operates. This includes multilateral agreements, international laws, but also geo-strategic considerations. At this level, capacity development seeks to improve a country's participation in and utilisation of international organisations, treaties and agreements.

3. The centrality of education and higher education in any capacity building strategy

24. In general, education, and the higher education sector play a significant role in any capacity building strategy. The ultimate goal of national capacity development strategy is to achieve progress and development, *inter alia* by becoming a developed high-income economy. According to their natural assets and constraints, to their already existing capacities, to their possible competitive advantages, and to their priorities, countries need develop differing national development strategies. National development strategies build on a variety of complementary sectoral capacity development strategies. A country may need and want to develop capacity in education, in trade, in health, in engineering, in agriculture, etc., each sector contributing to growth and to its development goals in a different manner.

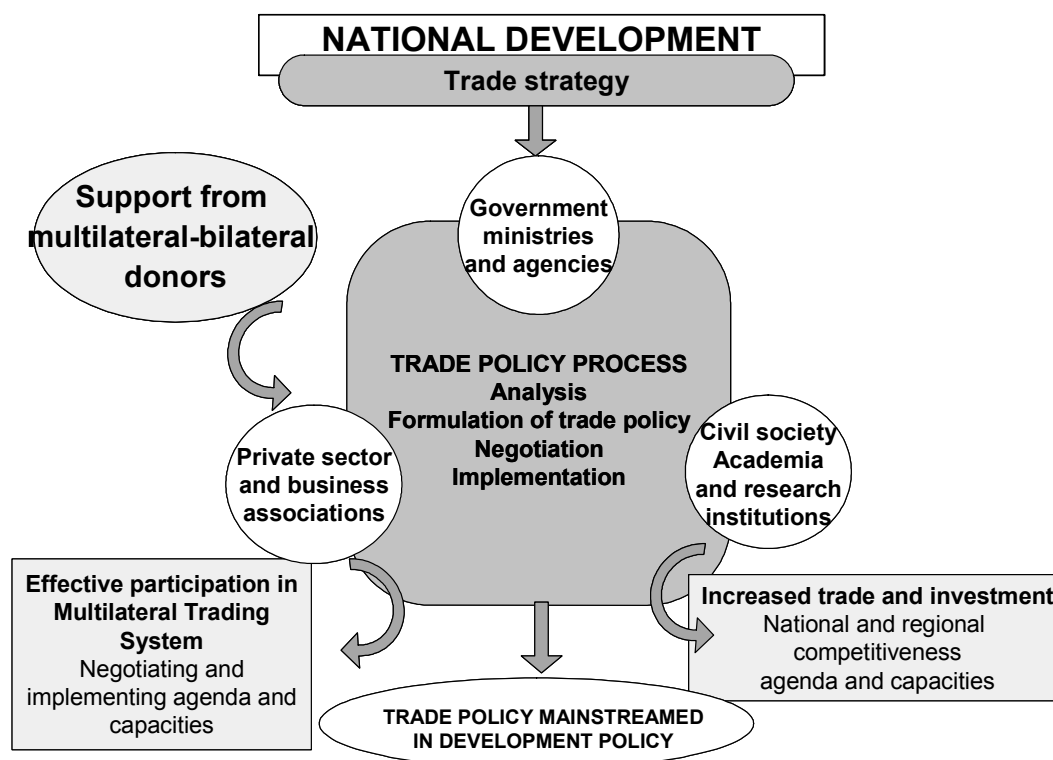
25. It is noteworthy that some sectors like education, health or trade are cross-sectional or horizontal in the sense that they impact on all sectors in the economy. Even if agriculture is the main priority in a developing country's strategy, it should not neglect the horizontal sectors as its agricultural sector will be more competitive if it has a healthy labour force (health), if its peasants know and use the latest agricultural techniques (education), and, possibly, if he can trade them effectively on the world market (trade).

26. However, education has a unique privilege as a built-in feature of any capacity development strategy. Whatever the sector, capacity building relies on the strengthening of individual capacity through training and learning, in order to raise the domestic stock of human capital in a specific field. This can be done by setting up specific educational programmes in the formal education system or by other forms of learning. Although some of the necessary skills would typically be acquired on-the-job or through learning-by-doing, developing countries characterised by less efficient organisations of work or by obsolete technologies might need to rely more on formal vocational education and training. What level of education (primary, secondary or tertiary) is required to achieve this goal depends on the kind of competence to be built. Post-secondary education, including degree-granting tertiary education, is certainly important for developing capacity in some fields.

27. Moreover, the higher education sector, including research, also plays a specific role in any capacity development strategy. First, domestic researchers and academics should help design the national development strategy by exploring the costs and benefits as well as the feasibility of alternative policies. Second, an essential feature of capacity building strategies lies in the establishment of continuous monitoring and evaluation systems based on clear indicators to track and steer progress (see Box 2). Here again, academics and researchers are well equipped to contribute to this task, as it is the case in many developed countries. When it is carried out in the higher education sector, this evaluation benefits from an open and contradictory scientific debate and allows for shedding light on many possible consequences of the policy. But even if it is carried out outside the academic sector, this policy assessment requires a highly educated workforce people, typically domestic tertiary-level graduates. For example, according to Schultz (1999), there lacks an information base to set human resource priorities for Africa and allocate on a firm foundation public resources among human capital resource development programmes. Foreign scholars and academics can help a developing country to build this capacity, but this imported capacity is generally insufficient and not in the best position to gather data and design an evaluation framework.

28. The importance of education and higher education can be quickly highlighted with one example: trade capacity building. Trade capacity building encompasses several distinct and complementary activities: developing the domestic capacity for the design and implementation of a coherent trade strategy; developing the capacity of domestic firms and others to engage in international trade; enhancing the collection, dissemination and analysis of trade-related information; developing the capacity to understand and negotiate trade agreements and to enter the multilateral trading system (see Figure 3 and OECD, 2001b, for more details).

Figure 3. An example of capacity building strategy: trade capacity building



Source: OECD, 2001b

29. All of these activities involve education, understood as teaching, learning and acquiring new skills. Some of this learning may best occur via learning by doing, although formal trainings and education might also contribute helpfully: this is for example the case for the actual participation in international trade or for negotiating trade agreements. Some of these activities, like the analysis of trade-related information or the design of a coherent trade strategy, can definitely gain from academic and research institutions, as acknowledged in Figure 3. Moreover, cross-border education is a very effective and widely used means to help developing countries build capacity, especially via the training of a handful of indigenous civil servants and lead stakeholders that are meant to train or teach others in their country: external technical assistance is currently the most widely used form of development-oriented cross-border education. The growth of formal cross-border education may significantly complement this limited effort, for example (in the case of trade) with foreign business administration, international relations or international economics programmes as far as general education is concerned, but also with other related vocational and training programmes.

4. Why build capacity in tertiary education in developing countries?

30. Why invest and develop capacity in tertiary education? Often affected by severe fiscal and budgetary constraints, developing countries face difficult priority choices in the design of their national and sectoral capacity building strategies. Before considering the possible role of cross-border provision to build capacity in tertiary (or, more broadly, post-secondary) education, they must first consider what role tertiary education should have in their education capacity building strategy. Before focusing on cross-border provision, this section recalls the main reasons to invest in tertiary education and argues that all developing

countries should devote some effort to build capacity in this area—although it does not say what the level of this investment should be.

31. One consequence of the former section is that some capacity in tertiary education is necessary in any country to contribute to the design of its capacity building strategies and to the construction of an information base for monitoring its progress. But others reasons relate to the support of the primary and secondary education system as well as to the contribution of tertiary education to economic growth and development.

The contribution of tertiary education to economic growth

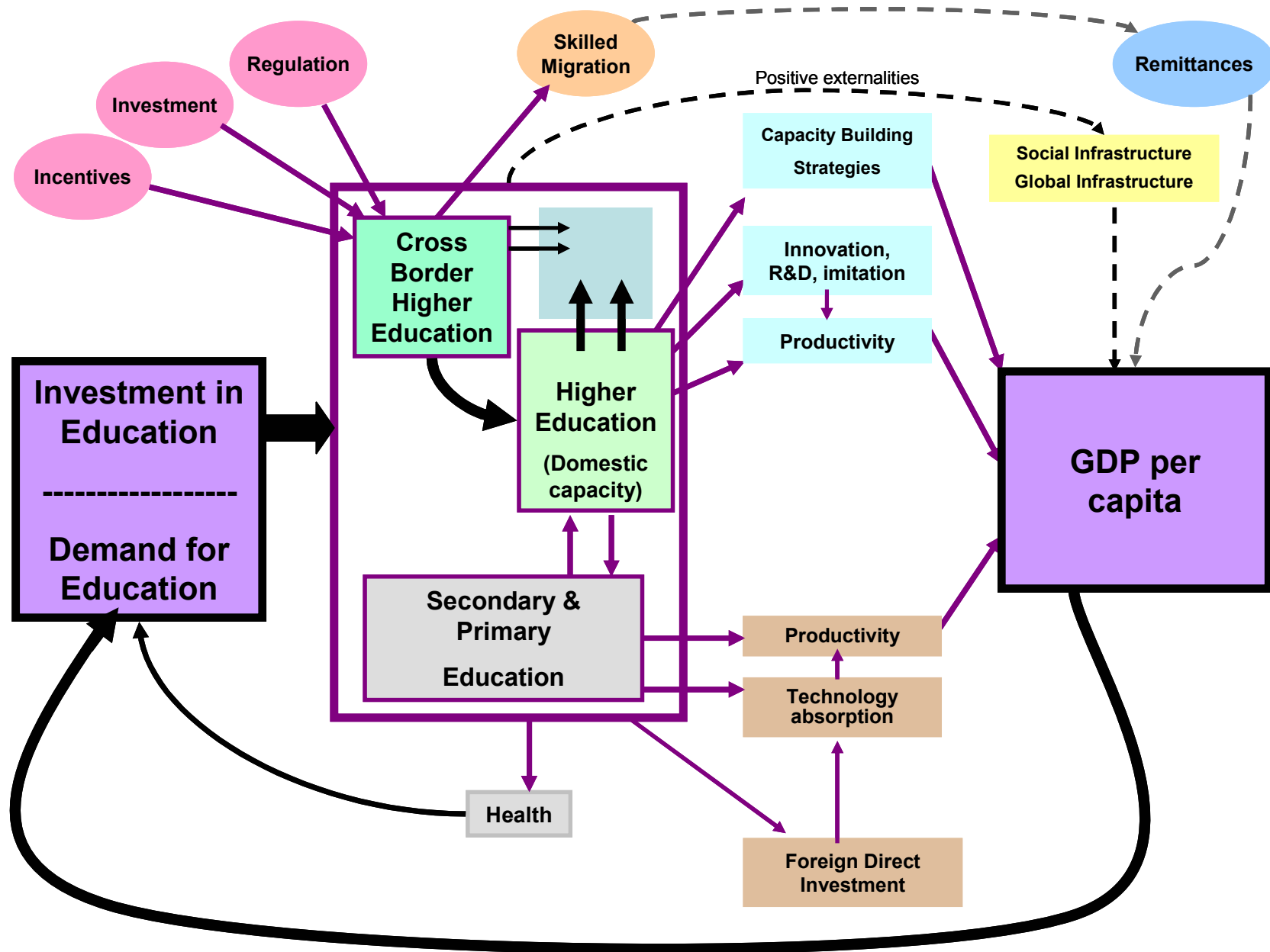
32. As education has been recognised as a human right by the international community and “basic education for all” is one of the internationally agreed Millennium Development Goals, the importance of education for development hardly needs discussion. Education is widely seen as a good in itself and one of the “primary goods” all people are entitled to in democratic societies. Understood as a road to freedom, development policies can certainly not neglect education and treat it as a luxury in the context of developing countries as it enhances people’s “personal capabilities” which are seen as fundamental objective of development (Sen, 2001; Sen and Williams, 1982). A host of basic ethical, humanistic and political reasons justify investment in education in all countries in the world.

33. While the importance of education goes well beyond economic considerations, there is also a host of economic and social reasons for developing capacity in education. Education is widely considered as a significant engine of economic growth. The estimated long-run effect of one additional year of education in the OECD area generally falls between 3% and 6% (OECD, 2004c). What role does tertiary education play in the development process? The few economic studies which attempted to weigh the impact of different levels of education on economic development have shown that the impact of education differs according to countries’ stages of development, although explanations of the differences differ (Pritchett, 2001; Hall and Jones, 1999; Hanushek and Kimko, 2000; Krueger and Lindahl, 2001). According to Gemmell (1996), tertiary education is more important in OECD countries, while secondary and primary education contribute the most to growth in the intermediate and poorest countries, respectively. This does not imply, however, that tertiary education does not play a role in developing countries.

34. First, individuals get important private returns from tertiary education: generally, the higher their educational attainment the higher their wages and their likelihood to be employed. Individual returns are typically much higher in developing countries than in OECD countries where primary and secondary educational are very high. In the former, the wage difference between someone with tertiary and secondary educational attainment is generally much higher than in the former—that is, more than twice higher in developing countries whereas it is higher 30 to 80% more in OECD countries. (UNESCO/OECD, 2002; OECD, 2004c). Private returns from education mainly benefit individuals and give them incentives to invest education.

35. At the macro level, recent advances in the growth theory have brought human capital to the fore. Two main mechanisms explain how the stock and/or growth of human capital can impact on growth and economic development (Aghion and Howitt, 1998; Sianesi and Van Reenen, 2003; de la Fuente and Ciccone, 2002).

Figure 4. Cross-border Education in Capacity Building



36. First, a rise in education could have a once and for all impact on economic growth: it would lead to a rise in the level of output of the economy (Lucas, 1988; Mankiw *et al.*, 1992). The output growth is then proportional to the growth of education. A developing economy could thus develop by increasing its quantity of human capital, defined *e.g.* as the educational attainment of its population. All other things remaining the same, a developing country would then catch up with developed countries once it has accumulated the same amount of human capital. Additional education would indeed raise the overall productivity, which corresponds to the micro-evidence of a positive correlation between higher educational attainment and higher wage (and thus, in principle, marginal productivity). Here, tertiary education plays the same role as any other levels, except that it is easier for a developing country to raise its primary and secondary educational attainment than its tertiary educational attainment in the short and medium run. This could also be more effective as primary and secondary education might be more attuned to the economic structure of the country (the usefulness of skills in an economy depends on the demand for these skills).

37. Second, a rise of human capital could have a permanent effect on economic growth. Human capital is seen as a determinant of the *growth rate* of the economy rather than just a determinant of its growth (or level of GDP). This implies that human capital allows developed countries to grow more rapidly than developing countries and that the gap between them could continue to widen if developing countries were not to catch up in terms of human capital. The underlying mechanism is the following: growth is driven by physical capital investment, which is in turn driven by innovation, by investment in research and development (R&D) generating ideas for new designs or goods (Romer, 1990, 1993; Aghion and Howitt, 1998). For this to happen, a country needs a population with different levels of education, but tertiary educational attainment is particularly important. Researchers and highly skilled workers drive innovation, and possibly technology transfer, but an educated workforce with lower educational attainment is also necessary to absorb the new technologies. Another close explanation views education (and more broadly human capital) as a facilitator of transfer technology from “innovating countries” to “imitating countries”. The larger the stock of educated labour countries with lagging technological capacity would have, the more easy for them to catch up on the more effective technologies and develop (Barro, 1991; Benhabib and Spiegel, 1994). Although basic and secondary education improves the returns of R&D activities, tertiary education and R&D activities are crucial in economic development. In line with this view, the World Bank has recently highlighted the role of tertiary education in developing countries to construct knowledge societies and create local innovation networks (World Bank, 2003).

38. Third, education (including tertiary education) can have positive social externalities modifying the country at society level: it contributes to *social* capital as well as *human* capital (OECD, 2000). Education contributes to better health, higher life expectancy, lower crime, better parenting, better governance, enhanced trust, etc. (World Bank, 2003).

Supporting primary and secondary education

39. Tertiary education is also important in an education capacity building strategy because it supports the primary and secondary levels of education. The training of teachers and school principals, the curriculum design and reform, the educational research and innovation, are primarily the responsibility of tertiary education. A strong tertiary education is thus necessary for quality primary and secondary education sectors.

40. Figure 4 summarises the role of education and tertiary education in a national development strategy and anticipates on the possible role of cross-border provision in a country’s capacity building strategy for tertiary education.

5. Why incorporate cross-border education into a capacity building strategy?

41. There are three main reasons for which developing countries may choose to incorporate cross-border education into a capacity building strategy: to increase the *quantity*, the *quality*, or the *variety* and *relevance* of domestic tertiary education provision. In many cases, cross-border education may be a means to achieve the three goals simultaneously.

Expanding access to tertiary education

42. Many developing countries face a problem of unmet demand for tertiary education due to insufficient domestic provision. In emerging economies (generally middle-income countries), rapid economic development has resulted in a growing middle class with an increasing demand for tertiary (or post-secondary education). In many cases the domestic sector is unable to meet this demand. A similar capacity problem can be found in many lower income developing countries, which have managed to significantly increase participation in primary and secondary education (particularly amongst the female population) over the last decades.

43. Whilst participation rates in tertiary education vary between OECD countries, almost half of the age cohort (45%) in the OECD area will enter higher education at some point (assuming that current entry rates continue) compared to one in four (26%) in the 12 non-OECD countries in the World Education Indicators (WEI) programme, which reported on this particular issue.⁴ In OECD countries, a 17-year old can on average expect to receive 2.6 years of tertiary education, compared to 1.2 years in the 19 non-OECD countries reporting to the WEI. Although considerable progress has been made with regards to access to education in developing countries, participation continues to be limited. This is particularly the case at upper secondary and tertiary level, the areas that are crucial for economic development.

44. As shown in Table 2 further improvement in participation rates are necessary if developing countries are to reach the level of human resources found in OECD countries (UNESCO/OECD, 2000, 2002). Whilst the growth in enrolment rates at tertiary level has been similar across developing countries (except for lower middle income countries where it has been slower), there is still a significant gap between high income and low income countries. About 45% of the relevant age cohort in high income countries entered tertiary education compared to 8% in low income countries (and 24% and 32% in lower and upper middle income countries, respectively).

45. For developing countries cross-border post-secondary education can be seen to have the potential to rapidly improve access to post-secondary education for domestic students. In order to provide education (and, more generally, human resources) a country must have human resources at its disposal. The less human resources a country has, the less it is able to produce new human resources. This equally applies to tertiary education: the fewer people with tertiary educational qualifications, the less a country is able to raise participation in tertiary education. Even with adequate financial resources, developing countries with a low percentage of tertiary education graduates may find they are unable to develop their tertiary education system as quickly as required in order to catch up with developed countries. Such countries can use cross-border tertiary education to train their population for the labour market as well as the domestic tertiary education system, which as a consequence could develop more rapidly.

⁴. Nineteen countries participate in the OECD/UNESCO World Education Indicators (WEI) programme: Argentina, Brazil, Chile, China, Egypt, India, Indonesia, Israel, Jamaica, Jordan, Malaysia, Paraguay, Peru, Philippines, Russian Federation, Thailand, Tunisia, Uruguay and Zimbabwe.

Increasing the variety and relevance of tertiary education

46. Cross-border education may also be able to offer students a wider range of study opportunities than those available in domestic institutions. Furthermore, this provision can assist domestic institutions in efficiently adjusting their course offerings to become more relevant to serve the areas that have been identified as the most important in the national capacity development strategy.

47. Small countries or countries with small tertiary education systems are not always able to offer courses in all disciplines within the domestic system. Small OECD countries such as Luxembourg or Iceland have traditionally used cross-border mobility to complement domestic capacity.

48. Some countries may for historic reasons have the capacity to enrol all domestic students, but not in the fields most relevant for the country's economy or capacity building strategy. This situation can lead to shortage in certain areas, *e.g.* agriculture, business or engineering. Shortage of capacity in a specific field is often mirrored by insufficient education capacity in the same area. For the reasons mentioned above, cross-border education can help to increase domestic educational capacity more rapidly than if the country was relying on its own (limited) human resources in this field.

49. Moreover, educating sufficient people able to contribute to a capacity development strategy and establish systems of monitoring and evaluation to steer progress, is an important aim of any tertiary education system. Developing countries often lack these monitoring and evaluation systems.

Improving the quality of tertiary education

50. Some developing countries face a problem of the quality rather than the quantity of the domestic tertiary provision. Although there is little evidence on the relative quality of tertiary education systems, many experts believe that the quality of tertiary education in developing countries requires significant improvement (World Bank, 2002). The underlying reasons are manifold: developing countries may not have a sufficiently large critical mass of researchers and tertiary educated people, they have insufficient financial resources to attract and retain the best academics, they lack resources to offer competitive teaching and research facilities, compared to developed countries they are less engaged in international networks of knowledge, they generally have a shorter academic tradition and therefore less experience in this field and finally they may use their human resources in tertiary education less efficiently than developed countries.

51. How can developing countries improve the quality of their tertiary provision? Cross-border education may offer a partial answer, through the mobility of people, but also increasingly through programme and institution mobility.

52. Expanding, enhancing variety and relevance and improving the quality of the tertiary education sector all require the same: a critical mass of high quality academics. When this capacity is not available domestically, quality cross-border educational provision can help reach the goal of improving quality. Faculty members and post-graduate students can through study abroad obtain a high-quality education or develop their competencies before returning to the university sector in their home country. In addition, policies to attract foreign faculty to the country can also be implemented, although this option may be limited for some developing countries if they have insufficient national research capacity. Academic exchanges designed to improve or maintain quality in tertiary education and research are common practice within the OECD area.

Table 2. Participation in education by country's level of income: Gross enrolment

	Primary 2002	Secondary 2002	Tertiary 1980	Tertiary 1990	Tertiary 2002		Primary 2002	Secondary 2002	Tertiary 1980	Tertiary 1990	Tertiary 2002
Lower-Income						Lower-Middle Income					
Afghanistan	23	12	-	2	-	Albania	-	-	5	7	-
Angola	-	19	0	1	-	Algeria	108	72	6	11	-
Bangladesh	98	47	3	4	6	Armenia	96	87	-	20	26
Benin	104	26	1	3	-	Azerbaijan	93	80	24	24	23
Bhutan	-	-	-	-	--	Belarus	110	84	39	48	62
Burkina Faso	44	-	0	1	-	Bolivia	114	84	15	21	39
Burundi	71	11	0	1	2	Bosnia/ Herzegovina	-	-	-	15	-
Cambodia	123	22	0	1	3	Brazil*	148	108	11	11	31
Cameroon	107	33	2	3	5	Bulgaria	99	94	16	31	-
Central African Republic	66	-	1	2	-	Cape Verde	123	66	-	-	4
Chad	73	-	-	1	--	China	-	-	2	3	-
Comoros	90	28	-	0	-	Colombia	110	65	9	13	24
Congo, Dem. Rep.	-	-	1	2	-	Cuba	100	89	17	21	27
Congo, Rep.	86	32	5	5	4	Djibouti	40	20	-	-	1
Cote d'Ivoire	80	-	3	3	-	Dominican Republic	126	67	-	20	-
Equatorial Guinea	126	30	-	-	-	Ecuador	117	59	35	20	-
Eritrea	61	28	-	-	2	Egypt, Arab Rep.	-	-	16	16	-
Ethiopia	64	19	0	1	2	El Salvador	112	56	9	16	17
Gambia, The	79	34	-	-	-	Fiji	109	80	2	8	-
Ghana	81	38	2	1	3	Georgia	92	79	30	37	36
Guinea	77	-	5	1	-	Guatemala	103	33	8	8	-
Guinea-Bissau	-	-	-	1	-	Guyana	-	-	3	6	-
Haiti	-	-	1	1	-	Honduras	106	-	7	9	14
India	-	-	5	6	-	Indonesia*	111	58	4	9	12
Kenya	96	32	1	2	4	Iran, Islamic Rep.	92	81	-	10	19
Korea, Dem. Rep.	-	-	-	-	-	Iraq	-	-	9	13	14
Kyrgyz Republic	102	85	16	14	44	Jamaica	101	84	7	7	17
Lao PDR	115	41	0	1	4	Jordan	99	86	13	16	31
Lesotho	124	34	1	1	2	Kazakhstan	99	89	34	40	39
Liberia	-	-	-	3	-	Kiribati	-	-	-	-	-
Madagascar	104	-	3	3	2	Macedonia, FYR	-	-	28	17	-
Malawi	-	-	0	1	-	Maldives	125	66	-	-	-
Mali	-	-	1	1	2	Marshall Islands	-	-	-	-	-
Mauritania	86	22	-	3	3	Micronesia, Fed. Sts.	-	-	-	-	-
Moldova	85	72	30	36	29	Morocco	107	-	6	11	10
Mongolia	99	76	22	14	35	Namibia	106	61	-	-	7
Mozambique	99	13	0	0	-	Paraguay*	112	64	9	8	m
Myanmar	90	39	5	4	11	Peru	-	-	17	30	-
Nepal	122	44	3	5	5	Philippines*	112	82	24	28	52
Nicaragua	105	57	12	8	-	Romania	-	-	12	10	-
Niger	40	6	0	1	1	Russian Federation	114	92	46	52	68
Nigeria	96	-	3	4	-	Samoa	103	75	-	5	7
Pakistan	-	-	-	3	-	Serbia/ Montenegro	-	-	-	18	-
Papua New Guinea	77	23	2	3	-	South Africa	105	86	-	13	15
Rwanda	117	14	0	1	-	Sri Lanka	110	81	3	5	-
Sao Tome and Principe	126	39	-	-	1	Suriname	126	74	-	-	12
Senegal	75	19	3	3	-	Swaziland	100	45	4	4	5
Sierra Leone	-	-	1	1	2	Syrian Arab Republic	112	45	17	18	-
Solomon Islands	-	-	-	-	-	Thailand*	98	-	15	17	47
Somalia	-	-	-	3	-	Tonga	112	100	-	-	3
Sudan	59	32	2	3	-	Tunisia*	112	79	5	9	28
Tajikistan	107	82	24	22	15	Turkey*	94	76	5	13	20
Tanzania	70	-	0	0	-	Turkmenistan	-	-	22	22	-
Timor-Leste	143	35	-	-	-	Ukraine	90	97	42	47	57
Togo	124	-	2	3	-	Vanuatu	112	29	-	-	4
Uganda	136	-	1	1	3	West Bank and Gaza	-	-	-	-	-
Uzbekistan	103	99	28	30	9	Lower middle income	106	73	15	17	24
Vietnam	103	70	2	2	10						
Yemen, Rep.	81	-	-	4	-						
Zambia	79	-	1	2	-						
Zimbabwe	99	43	1	5	4						
Low Income	92	38	4	4	8						

	Primary 2002	Secondary 2002	Tertiary 1980	Tertiary 1990	Tertiary 2001		Primary 2002	Secondary 2002	Tertiary 1980	Tertiary 1990	Tertiary 2001
Upper-Middle Income						High Income					
American Samoa	-	-	-	-	-	Andorra	-	-	-	-	-
Antigua and Barbuda	-	-	-	-	-	Aruba	115	101	-	-	29
Argentina*	120	100	22	39	59	Australia*	102	154	25	35	65
Barbados	108	103	15	27	39	Austria*	103	99	22	35	35
Belize	-	-	-	1	-	Bahamas, The	92	91	17	19	-
Botswana	103	73	1	3	5	Bahrain	98	95	5	18	-
Chile*	103	85	12	21	43	Belgium*	105	154	26	40	32
Costa Rica	108	67	21	27	21	Bermuda	-	-	-	-	-
Croatia	96	88	19	24	36	Brunei	106	88	1	4	13
Czech Republic*	104	95	17	16	30	Canada*	100	106	57	95	m
Dominica	-	-	-	-	-	Cayman Islands	-	-	-	-	-
Estonia	103	110	25	26	-	Channel Islands	-	-	-	-	-
Gabon	134	51	-	-	-	Cyprus	-	-	4	13	-
Grenada	-	-	-	-	-	Denmark*	102	128	28	36	44
Hungary*	102	98	14	14	56	Faeroe Islands	-	-	-	-	-
Latvia	99	93	24	25	-	Finland*	102	126	32	49	72
Lebanon	103	77	30	29	45	France*	105	108	25	40	37
Libya	114	105	8	15	58	French Polynesia	-	-	0	1	-
Lithuania	104	98	35	34	-	Germany*	103	99	-	34	32
Malaysia	95	70	4	7	26	Greece*	97	96	17	36	m
Mauritius	106	80	1	4	11	Greenland	-	-	-	-	-
Mayotte	-	-	-	-	-	Guam	-	-	-	-	-
Mexico*	110	73	14	15	26	Hong Kong, China	-	-	10	19	-
Northern Mariana Islands	-	-	-	-	-	Iceland*	-	-	20	25	61
Oman	83	79	0	4	7	Ireland*	119	-	18	29	38
Palau	-	-	-	-	-	Isle of Man	-	-	-	-	-
Panama	110	69	21	21	-	Israel*	114	93	29	34	50
Poland*	100	101	18	22	67	Italy*	101	96	27	32	44
Saudi Arabia	67	69	7	12	22	Japan*	101	102	31	30	41
Seychelles	116	110	-	-	-	Korea, Rep.*	100	94	15	39	49
Slovak Republic*	103	87	-	19	40	Kuwait	94	85	11	-	-
St. Kitts and Nevis	-	-	-	-	-	Liechtenstein	-	-	-	-	-
St. Lucia	111	86	-	-	-	Luxembourg*	-	-	3	6	m
St. Vincent	101	72	-	-	-	Macao, China	104	87	-	25	66
Trinidad and Tobago	105	70	4	7	7	Malta	-	-	3	13	-
Uruguay*	108	101	17	30	30	Monaco	-	-	-	-	-
Venezuela, RB	106	69	21	29	18	Netherlands*	108	124	29	40	54
Upper middle income	104	85	15	19	32	Netherlands Antilles	104	73	-	-	14
						New Caledonia	-	-	-	6	-
						New Zealand*	99	113	27	40	76
						Norway*	101	115	25	42	62
						Portugal*	121	114	11	23	m
						Puerto Rico	-	-	42	45	-
						Qatar	106	90	10	27	23
						San Marino	-	-	-	-	-
						Singapore	-	-	8	19	-
						Slovenia	100	106	20	24	-
						Spain*	107	114	23	37	48
						Sweden*	110	149	31	32	69
						Switzerland*	107	100	18	26	33
						United Arab Emirates	92	79	3	9	-
						United Kingdom*	101	158	19	30	45
						United States*	100	94	56	75	42
						Virgin Islands (U.S.)	-	-	-	-	-
						High income	104	107	20	30	45

Note: OECD data correspond to net rather than gross entry rates. This ratio is typically slightly lower than the gross ratio but more precise. The gross enrolment rate is the ratio of total enrolment, regardless of age, to the population of the age group that officially corresponds to the level of education shown. The net enrolments rate only considers the enrolment of children of the official school age.

Source: Unesco Institute for Statistics; *OECD Education database for tertiary enrolment rates in 2002, see OECD (2004) *Education at a Glance 2003*, Paris.

53. Mexico is an example of a country using academic mobility to improve the quality of its higher education. Between 1996 and 2002, the percentage of Mexican full-time academic staff with a degree rose from 30 to 65. Universities have achieved this increase through the 'Institutional Enhancement Integral Programme' (PIFI) aiming, amongst others, at improving the quality and qualifications of the faculty through new recruitment and in-service training. The latter included the possibility to study abroad, particularly at doctorate level.⁵

54. Programme and institution mobility can provide another way of improving the quality of domestic educational provision. Foreign programmes delivered at local institutions or foreign institutions operating in the country can in specific fields offer students a better education or training than some domestic institutions are able to. At their best, such programmes are able to link developing countries with cutting-edge knowledge and in this way assist in training an effective workforce as well as a high quality faculty for the domestic system. Finally, partnerships or foreign programmes may also help developing the infrastructure to undertake more efficient teaching and research and ultimately create a more effective and cost-efficient organisation of the higher education institutions and sector.

6. How can different forms of cross-border education contribute to capacity building in higher education?

55. Once developing countries have identified what they expect to gain from cross-border education, they should examine the possible costs and benefits of the different types of cross-border education. They would also need to examine which forms they would like to promote and in which context, what benefits they may expect from them—and what risks they might incur in their particular context.

Student and academic mobility

56. Student and staff mobility is an effective way to build capacity in tertiary education at the individual level. Students and academics can access better quality courses and research facilities abroad and return with enhanced skills and experience. Encouraging and supporting domestic students to study abroad is arguably the best way to get a well-trained international workforce, which can improve the quality and quantity of human resources in the economy as well as in the domestic education sector. This is true for faculty too, who would be able to access international academic network, in which many developing countries have little involvement, although it is growing (Vincent-Lancrin, 2006). Moreover, mobility facilitates a cultural experience, which may broaden the staff member's perspective on his/her home country, especially at the society level and it may lead to better linguistic abilities compared to other types of cross-border education. Finally, mobility is more likely to lead to the establishment of an international network of the academic elite relying on personal ties between professionals. In principle, there seems to be plenty of arguments supporting the development of student and academic mobility. Similar reasons explain why many developing countries have a strong interest in the world wide facilitation of the temporary mobility of persons to supply services (OECD/World Bank/IOM, 2004).

57. A limitation of student and academic mobility lies in its cost, which may be unaffordable for students from developing countries. Access to student mobility partly depends on the host country's fee policy and standard of living, but study abroad is in general a very big investment. Given limited resources, most governments can only support a handful of students. Most students are self-funded, but only a limited number of families are able to meet the costs. Differences between the cost of living and studying in the country of origin and the host country (which is most likely an OECD country) mean that low- or even

⁵. From a presentation by Eugenio Cetina Vadillo (Mexican Ministry of Public Education) at the OECD/Norway forum on trade in educational services held on 3-4 November 2003 (http://www.flyspesialisten.no/vfs_trd/ufd/).

average-income families in general cannot afford to send their children abroad to study. While gross national income (GNI) per capita (*i.e.* average income per person) in 2001 was USD 890 in China and USD 460 in India, the yearly median cost of living and studying for an undergraduate degree in business amounted to approximately USD 12 300 in Australia, USD 13 800 in Canada, USD 19 000 in the United Kingdom and between USD 20 200 (public institutions) and USD 34 300 (private institutions) in the United States (IDP Education Australia and AEI, 2001). Even in countries where international students do not pay tuition fees (*e.g.* Norway and Germany) or just a small one (*e.g.* France and Spain), the costs of living make access to the higher education system difficult for students from middle-income families in developing countries.

58. The other main negative consequence of student and academic mobility is a possible brain drain from the developing country. Behind the arguments in support of mobility is the assumption that the period abroad is temporary rather than permanent, and that the experience and skills acquired through this will eventually benefit the developing country's faculty and economy. However, in practise this does not always happen, particularly as an increasing number of developed countries are trying to retain skilled foreign students, academics, and, more generally, professionals to join the labour market (OECD, 2004a). Moreover, in countries where education is largely publicly funded, the non-return of highly educated students and academics represents a loss in investment, where the country of origin has covered the costs of the education but the country of destination benefits from these. As it will be discussed below, it is difficult to evaluate the real cost of skilled emigration given that highly educated expatriates may generate economic changes in their home country through investment and business links.

Programme and institution mobility

59. Programme and institution mobility represents an interesting opportunity for developing countries. In general, developed countries are exporting educational programmes and institutions to developing countries. Mobility between developing countries also occurs and has recently been growing.

60. An increasing number of students are being offered and are taking advantage of the option of obtaining a foreign degree or other post-secondary course without leaving their home country. The provision can take different forms, such as distance learning or e-learning delivery or through a physical presence of a foreign institution, such as a UK or Australian university opening up a branch campus in Asia. Programme and institution mobility has grown over the past decade and is likely to continue to meet a growing demand. Although such services might not offer students the same cultural and linguistic experiences as those obtained through studying abroad, they involve lower costs and can lead to beneficial spillovers in the receiving country's higher education sector.

61. First and foremost, the costs of this type of cross-border education are considerably lower compared to student mobility, both for students and for the governments supporting them. Programme and institution mobility can potentially allow a larger number of domestic students to participate in tertiary education, including people already in employment. Foreign programmes are in general more expensive than private domestic courses and participation may therefore still be limited; however, the costs connected to this type of cross-border education are generally lower compared to student mobility (involving large living costs and possibly higher tuition fees).

62. Second, programme and institution mobility can alleviate the risk of brain drain as students do not leave the country (or do so for a short planned period of time). The business of teaching foreign programmes can also provide new job opportunities for students who studied abroad (and are interested in an academic position) and for mobile academics, and thereby facilitate their return.

63. Third, where a close collaboration between higher education institutions from developed and developing countries is facilitated, programme and institution mobility can have a positive impact on the higher education sector in the importing country. Foreign programmes are frequently offered through local higher education institutions and this partnership can assist the local institution in building capacity in teaching and curriculum design. Foreign institutions opening campuses in developing countries are in some cases required to partner with a local organisation/institution with the view to generate positive externalities and/or to employ local staff. This spill-over is not only channelled through organisational learning but also through competition and learning within the sector as other domestic providers have to consider the new provision.

64. Fourth, if institution mobility involves research activities, it can contribute to the development of the research capacity in the host country. Even where an established tertiary education system exists, many developing countries lack a sufficient research infrastructure (*e.g.* Indonesia) (OECD, 2004a). Arguably, research undertaken in such foreign establishments represents openness to international research and increases the critical mass of researchers and of research in the country. These factors are important in order to generate strong academic research and to foster innovations conducive to growth. Moreover, foreign institutions, like their counterparts in the domestic sector, may contribute to regional development through links with the local industry.

65. All the benefits listed above, however, are not automatic consequences of programme and institution mobility. Being generally more expensive than domestic private education, foreign programmes can raise inequity issues. This is problematic as a good distribution of human capital (and wealth) across the population is important for social as well as economic development (Easterly, 2002). Moreover, while possibly alleviating the risk of brain drain, programme and institution mobility does not remove it altogether as getting more affordable foreign degrees at home could allow more graduates to emigrate subsequent to their studies. As was the case with regards to study abroad, developing countries have different strategies in place to tackle this issue. Some countries regard the emigration of their professionals (*e.g.* nurses in Philippines) as brain circulation rather than drain while others view and experience it as a net loss to their economy (*e.g.* nurses in Jamaica).

66. Finally, foreign programmes and institutions may in some cases not lead to any positive quality enhancement or spillovers in the host country. There can be many reasons that such a situation arises. At an institutional level, off-shore operations may not maintain the quality of education provided at the home campus, local providers may not be delivering the foreign programmes in an appropriate manner; rogue providers could disguise themselves as ‘foreign’ institutions and programmes and take advantage of the lack of transparency about tertiary institutions (and tertiary education systems) worldwide. For the sector as a whole, foreign programmes could also have a negative effect on the quality of domestic provision, especially in those developing countries where foreign education enjoys a good reputation. In those cases, foreign programmes and institutions would lead to little quality improvement in the developing country’s stock of human resources. What is important in this connection is the relative quality of foreign programmes compared to those provided in the domestic sector in the host country (rather than the relation between programmes offered by the foreign institution abroad and in its home country). Spillovers and organisational learning may also be more limited if institutions for example do not partner with local organisations or if partnerships are formal rather than effective/real.

7. The complementarity of trade and development assistance in cross-border higher education

67. Student, programme and institution mobility can be carried out under different arrangements: development assistance; academic partnerships and linkages; and trade. Under development assistance arrangements, institutions or students receive funding to deliver or undertake cross-border education. Academic partnerships are co-operative arrangements between educational institutions undertaking joint

academic activities; international academic partnerships generally involve cross-border mobility of students, academics or programmes on a non-commercial basis.⁶ But cross-border post-secondary education is also increasingly delivered for profit or through commercial partnerships: trade has become a major and increasingly prevalent feature of cross-border higher education in the last decade, especially outside Europe.

68. International students pay full tuition fees (including a small profit) in some OECD and non-OECD countries: student mobility is then governed by a commercial arrangement. As for programme and institution mobility, it is increasingly governed by commercial arrangements, especially in Asia. Many public universities operate as for-profit ventures once they cross their jurisdictional borders, so that foreign branch campuses mainly operate for-profit. In programme mobility, the relationships between foreign and local institutions are regulated under a variety of arrangements, from development assistance to for-profit arrangements. Commercial arrangements are becoming prominent in the Asia-Pacific region, mainly through franchises and twinning arrangements. Under a franchise arrangement, a local provider is typically licensed by a foreign institution to offer whole or part of a foreign educational programme (generally leading to a foreign degree) under stipulated contractual conditions. Franchise arrangements do however take many other forms. Under a twinning programme, students are enrolled with a foreign provider and are taught a foreign syllabus; they carry out part of the course in the home country and complete it in the home country of the foreign institution. This form of cross-border education typically involves both student and programme mobility.

Caveats of trade provision in education

69. Commercial provision of cross-border higher education might have three adverse effects for developing countries: it may lack stability, raise quality and inequity issues. It may also widen rather than close the gap between developed and emerging economies and the less developed countries if it is perceived as a substitute rather than a complement to development assistance.

70. First, as in other sectors of the economy, foreign investment in educational services may raise issues of stability and continuity of provision. In the event of an economic crisis, foreign educational institutions may leave the country and threaten the stability and continuity of the higher education system. This is one of the major differences between foreign private investment and long-term public investment and a good reason for a country not to leave its entire post-secondary educational infrastructure to foreign direct investment.

71. Second, trade could exacerbate low quality provision in cross-border education (which does not imply that quality is lower when provided commercially than when it is not). When programme and institution mobility does not generate income, post-secondary education institutions have no incentive to lower their quality standards: they tend to partner with good quality partners and/or to deliver education at their home quality standards. However, given the costs involved by such activities, institutions may in some cases have difficulties in keeping up these standards. When programme and institution mobility generates money (whether subsidies or profits), the possibility of misconduct is greater. Although students or importing countries may be more vigilant if they pay full cost for the educational services, the quality of education is not easily assessed by students. Education is typically a service involving asymmetric

⁶. In this paper, “academic partnerships” refer to non-commercial partnerships between educational institutions, in line with the common understanding of the term; however, “partnerships” (as opposed to *academic* partnerships) may refer to commercial arrangements between institutions. While commercial partnerships between education institutions may cover the same activities as “academic partnerships”, the distinction reflects the conventional understanding of “academic partnerships” in the education community in most countries.

information between teachers and learners, institutions and students: institutions have better information than students on the quality of their teaching. This is why reputation plays such an important role in education. National students have better access to reliable information on educational institutions and have a much better understanding of this information than international students. Hence, the risk of receiving poor quality education is greater in cross-border provision than in domestic provision of education. The relative opacity of information at the international level gives degree mills more opportunities in cross-border provision: actually, they typically take the form of (true or false) “foreign” for-profit institutions. Again, this does not imply that quality of cross-border post-secondary education is higher under not-for-profit than under for-profit provision, but just that the incentives for misconduct (*i.e.* to lower their standards of quality) are higher. Programme and institution mobility carry greater quality risks than student mobility, because they are new, less stable and often currently do not fall within the scope of the quality assurance and accreditation systems (OECD, 2004b). As we will see in the next section, these risks can however be tackled by appropriate quality assurance policies.

72. Third, although it brings greater diversity and choice for students, cross-border tertiary education can raise the inequity of tertiary education participation in developing countries. As already noted, cross-border education via student mobility is generally accessible only to financially supported students or students from high income backgrounds. Although cross-border education via programme and institution mobility is cheaper, it is generally more expensive than private domestic education. In the absence of public support, it might thus expand access to tertiary education for a small part of the population and widen the gap between students from advantaged and disadvantaged backgrounds. Besides being unfair, too inequitable a distribution of income, which is reinforced by inequity of access to tertiary education, does actually hamper long-run economic development (Engermann and Sokoloff, 2002; Easterly, 2002). This is why one capacity building principle lies in ensuring sustained beneficial impacts on disadvantaged and marginalised groups and on future generations (see Box 1). Wherever possible, funding domestic students to access cross-border education via programme and institution mobility to the same extent as private domestic education could help alleviate inequity in participation, but this is often difficult, for financial and political reasons.

73. Although these challenges are more difficult to overcome for developing countries, they are not specific to them. The development of trade presents two specific challenges to the less developed countries: trade might not happen in some developing countries and lead to a drop in development assistance in tertiary education.

74. A major concern relating to the growth of trade in cross-border post-secondary education is that it may only benefit developing countries that are already developed enough economically to attract a foreign supply of education. In order to attract foreign direct investment in education or foreign educational providers, countries must have a large enough solvent demand for post-secondary education (besides a stable political and economic environment). Actually, most of the commercial provision of cross-border tertiary education occurs in emerging economies in Asia, the Middle-East and, to a lesser extent, Latin America (OECD, 2004a). This is often not the case in the least developed countries, where many attract only few foreign educational institutions even if their markets are fully open to foreign providers.

75. Having only a selective set of developing countries attracting foreign providers of education is not a problem in itself, as long as these providers benefit these countries. The problem lies in the impact that the growth of trade in education services may have on countries that do not attract foreign provision if it were leading to a decline of donor countries’ development aid in tertiary education. The development of trade in cross-border educational provision could indeed lead to the progressive abandonment of development assistance programmes in post-secondary education in the least developed countries. This may hinder the development of a post-secondary education system in the least developed countries, and increase their educational gap with middle- and high-income countries. Drops in development assistance

for post-secondary education for students from developing countries, in the form of scholarships or partial subsidisation of post-secondary education, may be detrimental to the poorest developing countries where the main problem for access to higher education is an inadequate level of economic development. Thus, international trade in educational services represents opportunities but also presents challenges for developing countries, depending on their level of economic development.

Table 3. Official Development Assistance (ODA) to post-secondary education and education (1995, 2001)

	ODA to post-secondary education (million current USD)		ODA to post-secondary education as % of GDP (current prices levels and exchange rates)		Share of ODA in education devoted to post-secondary education		Share of total ODA devoted to education		Total ODA as % of gross national income (total resource flows)	
	1995	2001	1995	2001	1995	2001	1995	2001	1995	2001
Australia	246.44	13.49	0.661	0.037	83%	20%	24%	9%	0.34	0.25
Austria	76.11	52.98	0.324	0.279	78%	80%	18%	13%	0.27	0.34
Belgium	47.79	39.85	0.173	0.175	63%	61%	14%	13%	0.38	0.37
Canada	100.94	50.48	0.174	0.072	71%	42%	9%	10%	0.38	0.22
Denmark	5.02*	10.05	0.033*	0.063	22%*	52%	5%	2%	0.96	1.03
Finland	5.54	0.21	0.043	0.002	37%	1%	7%	9%	0.31	0.32
France	m	415.38	m	0.315	m	54%	22%	24%	0.55	0.32
Germany	78.17	445.77	0.032	0.240	6%	78%	18%	16%	0.31	0.27
Greece	m	5.14	m	0.044	m	63%	34%	10%	m	0.17
Ireland	m	m	m	m	m	0%	18%	20%	0.29	0.33
Italy	67.5	12.99	0.062	0.012	100%	21%	6%	9%	0.15	0.15
Japan	223.82	401.87	0.042	0.096	14%	51%	9%	7%	0.27	0.23
Korea	m	m	m	m	m	0%	4%	8%	m	0.06
Luxembourg	m	m	m	m	m	m	12%	m	0.36	0.76
Netherlands	6.78	23.24	0.016	0.061	6%	11%	6%	9%	0.81	0.82
New Zealand	27.12	20.86	0.446	0.406	95%	74%	34%	33%	0.23	0.25
Norway	-	51.71	m	0.305	m	68%	3%	7%	0.86	0.8
Portugal	17.69	10.58	0.165	0.096	57%	34%	18%	17%	m	0.02
Spain	29.24	43.66	0.050	0.075	39%	31%	8%	11%	0.24	0.3
Sweden	16.73	15.97	0.067	0.073	17%	40%	8%	4%	0.77	0.77
Switzerland	9.65	5	0.031	0.020	41%	18%	3%	4%	0.34	0.34
Turkey	m	m	m	m	m	0%	m	40%	0.06	0.04
United Kingdom	40.06	3.65	0.035	0.003	24%	2%	10%	7%	0.29	0.32
United States	m	110.74	m	0.011	m	35%	5%	3%	0.1	0.11
DAC Country. Total	993.58	1733.62	-	-	16%	47%	11%	9%	0.39	0.36

* 1994 instead of 1995.

Source: OECD DAC statistical database.

76. Table 3 shows that the bilateral development aid to post-secondary education from countries whose institutions are actively engaged in commercial cross-border post-secondary education is generally relatively low, except for New Zealand. This is clearly the case in Australia and the United Kingdom, arguably the most active countries in commercial provision of cross-border education (in relation to their size), where development assistance to post-secondary education has dropped significantly between 1995 and 2001. While the share of official development assistance to post-secondary education in all education

development assistance decreased from 83% to 20% in Australia and from 24% to 2% in the United Kingdom, it increased on average in OECD countries from 16% to 47% over the same period. This is also possibly the case in the United States, where the official assistance to education has decreased (although the decomposition by level is unavailable for 1995). While the share of Canadian and Swiss development assistance to education has increased by 1% between 1995 and 2001, the 29% and 23% decrease of funding for post-secondary education in their educational development assistance (respectively) clearly indicates a shift of priorities towards basic education, possibly in relation to the inclusion of basic education in the Millennium Development Goals (but also to the development of revenue-generating activities in cross-border education). In Finland, where the overall assistance to education has risen by 2%, which has little (if any) commercial activity in cross-border education, the shift can be more readily attributed to a shift towards basic education. The data should be interpreted with caution, however, given that development assistance (which often funds projects) is irregular.⁷

77. It should be noted that development assistance to post-secondary education does not necessarily reflect countries' commitment to development assistance in education nor to development assistance in general: countries may have priorities other than education on their development assistance agenda. For example, Denmark contributes more to development assistance (as a percentage of its GDP) than any other DAC member, but its development assistance to post-secondary education is inferior to that of other OECD countries, though increasing. In any case, Table 3 shows that development assistance for post-secondary education is generally very modest and has declined significantly in recent years. The share of development assistance devoted to education (all levels) has in fact also slightly declined from 11% to 9% between 1995 and 2001.

The advantages of trade

78. While the development of trade in education might have an adverse effect on development assistance disbursement to education in donor countries, decline in development assistance can be traced back to a number of other reasons than trade. Moreover, as already mentioned in Section 2, aid assistance itself can also be (and has actually also been) criticised for its lack of sustainability (it is often project-based) and for the quality (relevance) of its delivery.

79. Some doubts about the effectiveness of aid have been voiced over the past decade as the impact of development assistance on development appeared questionable (see Hudson, 2004, and Tarp, 2000, for a quick overview). Aid ineffectiveness has been attributed to the bad governance of some developing countries (Burnside and Dollar, 2000; Easterly *et al.*, 2004; Dalgaard *et al.*, 2004; Boone, 1996), to ineffective practices in the donor community, aid tying being the most widely criticised, to inappropriate allocation of aid assistance on political rather than economic grounds (Alesina and Dollar, 2000), etc. Again, the rise of the concept and of the principles of capacity building can be seen as a response to these critics.

80. In this context, trade could be seen as more effective and more development-friendly than non-commercial forms of partnerships, especially development assistance. Actually, a "trade is enough" policy has been prevalent from the eighties to the mid-nineties in development economics and in development policy agendas (Adelman, 2000). While there is still no definitive econometric evidence that trade liberalisation leads automatically to growth and economic development in (all) developing countries (Rodriguez and Rodrick, 2001), anecdotal evidence from Asian countries suggests that outward-looking and export-led economies have yielded more growth than less open economies (World Bank, 1993; World Bank, 2003). Although it is difficult to assess whether more developed economies are more open

⁷. The drop in Italy might be due to incomplete data as the country reported that all its development assistance was devoted to post-secondary education in 1995.

because they benefit more from trade or, conversely, it is because they are more open that they are more developed, there is neither quantitative nor anecdotal evidence that closed economies could lead more effectively to growth and economic development than open economies (Winters, 2004).

81. The very nature of trade actually embodies many (though not all) principles of capacity building. “Learning-by-trading” has become central to many contemporary treatments of trade and growth: the learning externalities of trade are an important theoretical argument for considering trade liberalisation as an engine of growth in developing countries. Some argue that trade is a means of knowledge circulation giving access to knowledge to all trading partners. Exports expose domestic firms to foreign knowledge and allow developing countries to reap benefits from foreign research and development (R&D): they may learn about new technologies and materials, production processes, or organisational methods. Imports of goods and services can also be seen as diffusing foreign R&D developed by trade partners: importing intermediate goods embodying foreign research and development correspond to a use of this technology by the importing country, which could affect positively its productivity (Grossman and Helpman, 1991; Coe and Helpman, 1995; Bayoumi, Coe and Helpman, 1999; Romer, 1993).

82. Like capacity building (and cross-border education), trade helps development by giving developing countries access to (mainly foreign) knowledge. While it is more expensive for the importing country than aid, trade in post-secondary education does not make them dependent on developed countries’ policy agendas: for example, aid assistance often has an indirect cost, either economic (*e.g.* tied aid) or political. Trade gives developing countries ownership and leadership on the cross-border education services they import. This might explain why “capacity building” is sometimes viewed as a synonym of “trade capacity building”.

83. Commercial provision of cross-border post-secondary education represents an opportunity for developing countries because it allows them to build capacity much more rapidly than they could do with their limited domestic resources and/or with the help of development assistance, which tends to be limited and erratic (Table 3).

84. Some education stakeholders consider the growing role of trade in cross-border higher education as a possible threat for developing countries. Given that educational institutions in developed countries often have a major comparative advantage over most institutions in emerging economies and developing countries in terms of quality, it is often argued that their presence might jeopardise the development of national university systems. The risk is seen as much greater when cross-border education is delivered commercially as higher education institutions from developed countries get financial incentives to enter the developing countries’ markets that are absent (or at least weaker) in academic partnerships and development assistance projects. The underlying assumption is that developing countries would end up with a higher education system dominated by foreign institutions and educational programmes, which could be problematic for cultural and political reasons.

85. However, this will not necessarily be the case. While it may unsettle national systems, except for the local elite institutions, in the short term, recourse to foreign educational services may actually be a means of accelerating the development of a national university system in the medium term. Foreign educational programmes and institutions can provide training for future teaching staff and promote knowledge exchange via partnerships between domestic and foreign institutions. Foreign direct investment is, on the whole, greatly beneficial to the development of developing countries (OECD, 2002a), and this can also be the case in the education sector. There is no reason why academic staff trained through cross-border post-secondary education cannot work and develop a quality national post-secondary education system in their own country. The more trained the academic and managerial local staff, the more likely it is that such a system can be created. Where the alternative is to have a domestic system of poor quality or no system at all, (quality) commercial cross-border education might be preferable, at least in the short run.

86. Moreover, international trade in education services can help developing countries to build capacity in trade and to become exporters of education services themselves, possibly to developed countries, given that they benefit from a cost advantage. For example, as a net importer of higher education services, Malaysia is willing to become a net exporter of educational services, and there are some signs indicating that it is effectively using the knowledge and the expanded capacity gained from its imports of education services to build capacity in trade of education services. Malaysia wants to expand into the export market by attracting fee-paying students from the region, mostly from China and Indonesia (and increasingly from Pakistan and other Islamic countries which might be experiencing difficulties getting visas in the post-September 11 world). Between 2000 and 2001, the number of foreign students in Malaysia has thus been multiplied five-fold to 18 900. In 2003, the Ministry of Education appointed the Malaysian Education Service to promote Malaysian education in Indonesia. Malaysia, Singapore and Thailand increasingly see twinning programmes not just as a means to meet needs domestically but as a way to enhance their own capacity to export educational services to other countries. As a Muslim country where the cost of living is lower than in most OECD countries, Malaysia may indeed have a comparative advantage for Muslim students from Asia and can sometimes offer them a post-secondary education taught in English, possibly through a franchise agreement with a British, US or Australian university. Malaysia is also starting to attract Australian and New Zealand post-graduate students.

The complementarity of trade and aid

87. The conclusion of the present analysis is that trade and development assistance should be seen as complementary rather than as substitutes.

88. Trade in educational services may be more effective for quickly building capacity in post-secondary education, under programme and institution mobility. But in some cases, especially in the least developed countries, the foreign provision of education is not likely to happen, because of an insufficient solvent demand or of an insufficient capacity at society level (corruption, etc.) (Figure 2). Moreover, the growth of trade arrangement in cross-border higher education might also make the only form they could access (student and academic mobility) unaffordable to them.

89. On the other hand, if capacity building principles were actually to be implemented by the donor community, developing countries would be better off if they could access cross-border education at lower cost through academic partnerships and development assistance. The least developed countries could actually use development assistance revenues to finance their imports of commercial cross-border education services.

90. A decrease in development assistance could widen the gap in post-secondary education between the developed and the least developed countries. One way to limit this risk would be for donor countries to target development assistance for post-secondary education to the least developed countries, where there is no market for commercial cross-border provision. Developing countries could also consider how cross-border higher education under trade arrangements could complement their domestic capacity building efforts: all the benefits of cross-border education highlighted in the section 6 can indeed happen regardless of the contractual arrangement governing the educational provision.

8. Which policies can maximise a country's benefits from cross-border education and minimise the possible risks?

91. Overall, there are many reasons to suggest that cross-border tertiary education can effectively assist developing countries in building capacity in this (and the post-secondary) sector and subsequently foster economic development. Cross-border education can help developing, emerging and transition economies to expand domestic access to post-secondary education, through outbound student mobility as

well as through inbound programme and institution mobility and ultimately, a well-educated population contributes to growth and development.

92. Cross-border student and scholar mobility facilitates the building of international networks, which are essential to academic expertise as well as to the creation of national innovation systems and international business. Partnerships between local and foreign universities through programme and institution mobility have the potential to generate positive spillovers and can help improve the quality of local provision. A post-secondary education system of sufficient quality and size favours the return of the required numbers of highly skilled emigrants.

93. Developing countries choosing to utilise cross-border tertiary education to build capacity and complement domestic provision face several policy challenges. As argued above, the benefits that the countries can enjoy from cross-border education do not follow automatically. Such countries should therefore put in place a framework facilitating:

- Participation of their nationals in cross-border education and co-operation between foreign providers and the domestic tertiary education sector.
- Relevance and quality of cross-border education.
- Actual value added from cross-border education to the domestic higher education sector.
- Limitation of possible brain drain.

94. The enhancement of participation of domestic students in cross-border education can be facilitated by several policy instruments: home recognition of foreign degrees; allowing foreign institutions and programmes to operate in the country; make grants available for all forms of cross-border education. Developing countries should also ensure that cross-border education meets quality requirements, that domestic students are given the right information when they enrol in a foreign programme/institution, and, finally, that foreign vision meets the country's needs and lead to actual spillovers in the domestic higher education system. The two first challenges can be met with an appropriate national quality assurance framework whereas the third issue requires a regulation of foreign educational provision in the importing country. Finally, policy tools to prevent a possible brain drain can also lie in the recognition of qualifications acquired abroad or in policies facilitating the return of mobile students. However, the mobility of highly skilled people actually depends on many factors, some of which are not under the control of a government.

Expanding and widening participation

95. The policies facilitating access to cross-border education and promoting equity in participation are mainly addressing funding, recognition of foreign degrees and possibly the issue of attracting foreign educational provision.

96. How can governments alleviate the factors (mainly connected to costs) limiting students' participation in cross-border education? Where they exist, regional mobility programmes can help raising student mobility as they often include facilitating elements (recognition, agreements on tuition fee levels, reciprocity, etc.). Scholarship programmes are the most straightforward policy instrument to foster mobility. Means-tested scholarships can be a useful way to make the most of limited resources and to widen participation in cross-border education. Academics may find it difficult to participate in cross-border exchanges if working abroad proves administratively difficult. Besides scholarships, providing domestic faculty with the opportunity to work abroad temporarily and return to their 'old jobs' when they come back

can also foster mobility, regardless of funding. This can take the form of sabbaticals or special exchange programmes. Developing academic exchanges and allowing foreign faculty to work at least temporarily in the higher education system can assist in facilitating inbound mobility. Aside from exchanges with developed countries, exchanges with countries in the region and other developing countries can be important.

97. Developing countries, particularly emerging economies, are generally the importers of foreign educational provision. As mentioned above, this provision can assist such countries in meeting unmet demand, and/or improving the quality of the domestic higher education system. Naturally, the first step in facilitating inward programme or institutional mobility involves permission for such provision to be offered. Some countries may wish to encourage foreign programmes and institutions to operate on their soil rather than just permitting them to enter the country. If a country's main objective is to enhance the quality of domestic institutions or international exposure, it could encourage international programmes through academic partnerships or provide institutions with incentives to participate in international academic partnerships. If the aim is to increase and widen participation as well, another option is to allow commercially oriented providers of cross-border education to operate. Commercial provision facilitates capacity building more quickly compared to a process where resources are restricted to those provided through domestically or through development assistance. Commercial provision also grants importing countries more power to dictate conditions and obtain the provision required. Regional and multilateral trade agreements like the General Agreement in Trade in Service (GATS) can be used to attract foreign providers or at least to signal an interest in attracting such provision. These agreements ensure some stability for foreign providers, hence the attractiveness 'effect', but at the cost of flexibility and (to some extent) reversibility. However, attracting foreign programmes and institutions does not necessarily require commitments in trade agreements, signalling interest and having appropriate regulatory frameworks can be enough although this represents less stability from the viewpoint of the foreign providers.

98. While different kinds of cross-border education arrangements can help expanding participation in tertiary education, it is important to bear in mind that commercial provision is not equally accessible for all developing countries. Foreign commercial provision is likely to be unaffordable in the poorest countries. In these cases, foreign providers and programmes are unlikely to be offered. Even in countries where foreign provision is available, this may not be accessible to domestic students from disadvantaged backgrounds. In order to promote equal access to foreign programmes, governments could allow domestic students to receive public means-tested funding even if they are enrolled in recognised imported programmes or institutions. This might be difficult in many developing countries, due to severe budgetary constraints and/or the impact of such measures on private domestic education. Governments could however consider policies aimed at disadvantaged students. Funding students to participate in cross-border education delivered in the home country could arguably be a sensible usage of limited financial resources. If possible, countries could use their development assistance funds to support cross-border education, be this commercial or non-commercial provision.

99. The issue of recognition of degrees obtained abroad or through foreign institutions operating in the home country is also important. Recognition can facilitate study abroad and will allow students with foreign qualifications to work in their home country or, more generally, in the international labour market. Students' options for undertaking further study abroad may also be limited if their domestic qualifications are not recognised by the foreign institution (for the purpose of enrolling in higher education or further training). In order to meet these objectives, governments could attempt to engage in international dialogue: more information sharing could facilitate the recognition of their domestic degrees and the understanding of foreign qualifications in general. Participating in international initiatives to improve quality assurance, accreditation and recognition of qualifications of cross-border provision is important in this respect.

Quality assurance

100. Over the past 20 years, the number of agencies, networks and initiatives dealing with quality assurance at national level has grown considerably. National quality assurance and accreditation systems are increasingly necessary to monitor not only the quality of higher education nationally but also the delivery of it across borders. As an external quality assurance system is increasingly seen as essential for establishing credibility of a national higher education system more than 60 countries world wide (others are in the process) have established national systems (OECD, 2004). However, most national systems of quality assurance and accreditation focus exclusively on assuring the quality of domestic programmes delivered by ‘traditional’ institutions. The challenge for the current systems is to cover foreign institutions and for-profit providers by broadening the scope of existing systems or by establishing new systems specifically for these (Middlehurst and Woodfield, 2004).

101. The lack of comprehensive frameworks for co-ordinating various initiatives at the international level, together with the diversity and unevenness of quality assurance and accreditation systems at the national level, create gaps in the quality assurance of higher education provided across borders. It makes students and other stakeholders more vulnerable to low-quality provision of this type of provision. The issue is even more complex for online delivery across borders—the Internet does not have any physical boundaries and the control of electronic communication (on a geographical basis) is difficult.

102. Developing countries, which make the decision to use cross-border tertiary education to build capacity, should make sure that the foreign institutions and providers deliver quality programmes in line with their needs. In this respect, establishing transparent and clear quality assurance and accreditation frameworks for national and foreign institutions is very important. Given that developing countries often lack capacity in quality assurance, they will need to build capacity in this area by training national experts but also possibly by combining their resources and capacity at regional (supranational) level (Lenn, 2003). Assisting domestic students in obtaining more transparent information on foreign educational systems and on the quality of foreign institutions can also be very helpful.

103. There are many initiatives both at national and international level to improve quality assurance, accreditation and recognition of qualifications of cross-border provision. An example is a joint initiative between UNESCO and the OECD on developing non-binding guidelines on “Quality provision in cross-border higher education”. This initiative aims at protecting students against misleading information and low-quality provision, making qualifications readable, transparent and stronger in their international validity and portability, increasing transparency and coherence of recognition procedures and intensifying international co-operation among national quality assurance and accreditation agencies (www.oecd.org/edu/internationalisation/guidelines).

Regulation of programme and institution mobility

104. Ensuring that foreign provision is consistent with national objectives and generates positive spillovers goes beyond quality assurance. Developing countries should therefore establish a framework to regulate foreign programmes and institutions to ensure that these meet national needs and objectives. Such frameworks should serve these national objectives but at the same time aim at making the country an attractive site for cross-border provision. A way of generating positive spillovers is for example to provide foreign providers with incentives to partner with local institutions. Many middle-income developing countries wishing to maximise the benefits of cross-border post-secondary education, through revenue-generating as well as non-commercial provision are promoting partnerships between local educational institutions and institutions in the OECD area. According to Chinese regulations, foreign providers are required to establish links with domestic institutions in order to promote knowledge exchange. Countries wishing to build capacity in research could for example favour institution mobility to programme mobility.

Although national regulations should correspond with national objectives, developing countries could examine existing examples of regulatory frameworks for cross-border education, mainly found in the Asia-Pacific region (OECD, 2004a). Indeed, Asia-Pacific countries have devised frameworks to regulate the entry and operation of foreign providers in order to respond to, as well as initiate and promote, programme and institution mobility as part of national development strategies.

105. Since 1997, Hong Kong SAR has regulated the provision of foreign courses on its soil through the Non-local Higher and Professional Education (Regulation) (Government of Hong Kong, 1997; www.justice.gov.hk/). The legislation aims to protect local students against the marketing of substandard non-local courses.

106. In Singapore, foreign institutions operating in co-operation with local providers must apply for government approval, supplying details of course content, the status of the foreign provider at home and the division of responsibilities between the foreign and local partners. Partnerships with local universities can only be created at government invitation (Singapore Ministry of Education, 2000).

107. Malaysia's requirements for foreign providers are set out in legislation dating from 1996 when the country opened its system to foreign branch campuses. There is a five-stage approval and review process, covering educational, business and legal requirements, for foreign providers seeking to establish themselves as fully recognised operators. Addressing the concern to ensure the nation-building role of education, the Private Higher Educational Institutions Act (1996) stipulates the subjects that Malaysian citizens must pass in order to graduate, regardless of discipline (Kandasamy and Santhiram, 2000; McBurnie and Ziguras, 2001).

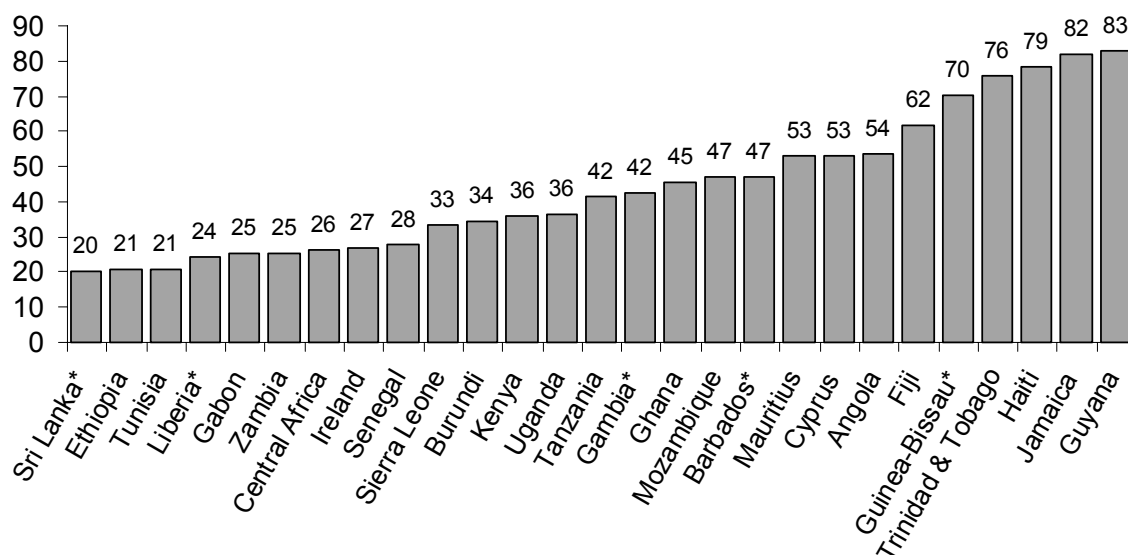
108. In Indonesia, programme mobility has the characteristics of a twinning programme as students can receive qualifications from the local institution as well as the foreign provider if at least one semester is spent studying at foreign institution's home campus. According to the regulation enacted in 1999, co-operation should not be undertaken solely for revenue purposes, should be an "equal partnership" benefiting all parties and in line with national and institutional priorities. It "must be harmonious with the direction of higher education policy in general, and [...] the strategic plan of the relevant higher education institutions". Furthermore, "co-operation [...] shall be prioritised in the fields in which graduates are especially required" (Director General of Higher Education of the Ministry of National Education of the Republic of Indonesia, 2000).

Brain drain and cross-border higher education

109. The growth in the demand for cross-border education is partly but increasingly related to migration. Students from developing countries arguably wish to study in OECD countries partly for reasons related to migration. Moreover, the competition between countries to attract highly skilled workers has intensified in recent years, as reflected in the latest migration policy trends (OECD, 2005). OECD member countries increasingly promote cross-border student mobility as a way of attracting a skilled workforce and building or maintaining capacity for a knowledge-based society. Although the mobility of the highly skilled occurs between OECD countries regardless of cross-border higher education, e.g. as a result of career strategies, war, political, ethnic or religious persecution, cross-border higher education is certainly a powerful catalyst for this type of exchange. There are no systematic data on the relationship between the mobility of students and researchers and immigration, but the few data available show that this relationship does indeed exist. Some 75% of Chinese who studied abroad between 1978 and 1999 have not returned to China (Iguchi, 2003). In the United States in 1999, some 25% of H1-B temporary visa holders had previously been enrolled in US universities (Cervantes and Guellec, 2002).

110. The United States is in fact the only country for which the stay rates of foreign students after they obtain their diploma are known (Finn, 2003). The ability of the United States to attract skills is related to the fact that it receives large numbers of international students, and the magnitude of this attraction has been growing steadily since the beginning of the 1990s because of the combined effect of the increasing number of doctorates granted to foreign citizens by US universities and the number of foreign-born doctorate-holders who stay in the United States. The average stay rate⁸ for foreign doctorate-holders in science and engineering in the United States four or five years after they obtain their diploma has grown, rising from 41% to 56% between 1992 and 2001. It soared from 65% to 96% for Chinese doctorate-holders and from 72% to 86% for Indians. The stay rate after completion of studies varies considerably depending on the country of origin and the discipline. However, in most cases it does not diminish significantly over time and is partly dependent on the level of economic development in the home country, even though there does not seem to be a systematic pattern. For China, India, Iran, Israel, Eastern European countries, Greece, Argentina and also New Zealand and the United Kingdom, the stay rates in the United States five years after the doctorate was obtained are greater than 50% (Finn, 2003).

Figure 5. Countries with more than 20% of tertiary educated people born in the country expatriated in the OECD area (%)

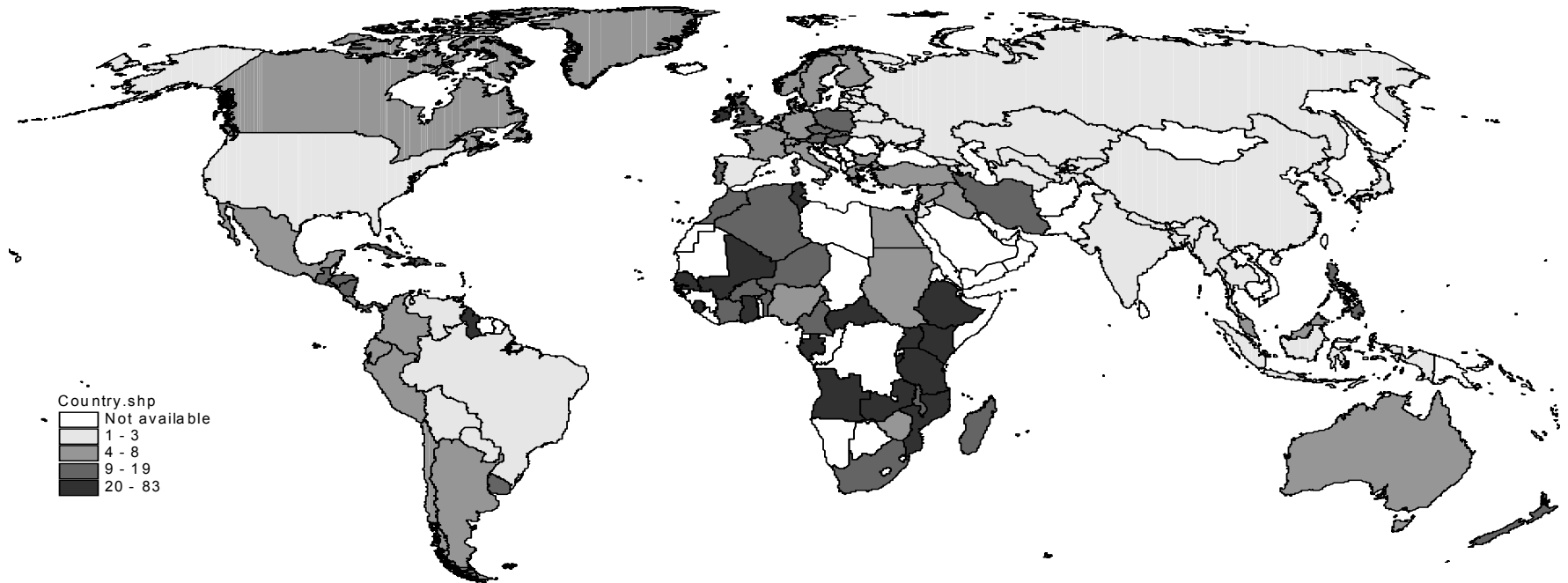


Note: * Based on Barro and Lee database on the stock of human capital, whereas the other calculations are based on Cohen and Soto database. The calculations based on the two databases are not fully comparable.

Source: OECD Migration database

⁸ . The stay rate does not indicate whether foreign students stayed permanently in the United States, but how many foreign doctorate-holders from a specific year were still in the United States several years later. Some of them may leave the country and then return. For example, the stay rate for the class of 1991 was 58% in 2001, but it would be 81.5% if the rate were to show the proportion of persons who had worked in the United States for at least one year during the 1992-2001 period (Finn, 2003).

**Map 1. Percentage of expatriates to OECD countries
among all highly skilled born in the country**



111. Given these high stay rates, there is reason to fear that cross-border education may increase the brain drain as much as it promotes capacity building in developing countries. Although 85 to 90% of international students worldwide were studying in the OECD area in 2003, most of them (61%) came from non-OECD countries. Thanks to the migration database recently established at the OECD, there is now an unprecedented amount of information on the magnitude of the brain drain. It mainly affects African and Caribbean countries: over 70% of Jamaican and Guyanese nationals holding higher diplomas are expatriates in an OECD country. On the other hand, Indian and Chinese nationals, despite their high stay rates in the United States after they finish their studies, each account for less than 3% of the expatriates holding a higher degree in OECD countries, as is also the case for Brazil, Indonesia and Thailand (Map 1). Out of the 113 countries for which information is available, 27 have higher expatriation rates of their tertiary educated people than 20%, including nine over 50% (Figure 5).

112. The mobility of highly skilled people is a very complex and sensitive issue, for the permanent migration of highly skilled people can have a cost as well as benefits for the sending country. On the cost side, the sending country loses the human capital (and productivity) of these highly skilled people, and, if their education was financed with public funds, the cost of the public investment in their primary, secondary and (sometimes) tertiary education. On the benefits side, sending countries may find that their highly skilled diaspora contributes to their economy through their investments, remittances and the links that they provide between the receiving and the sending country in terms of trade, innovation and knowledge, etc. Naturally, the distinction between temporary and permanent emigration is crucial, for if skilled nationals return home with their knowledge and international experience, it re-establishes the positive dynamic of the exchange of skills and capacity building for the home country.

113. Remittances from their diaspora are a significant source of income for developing countries, although highly skilled workers appear to remit less than less skilled workers (ILO, 2003). Recorded workers' remittances to developing countries have grown faster than private capital flows and official development aid between 1995 and 2004. Remittances amounted to USD 160 billion in 2005, which is twice as much as official development aid (World Bank, 2006). While countries such as India have strong evidence of the economic benefits stemming from their skilled diasporas, a recent study covering selected developing countries did not find any clear evidence that skilled diasporas always contribute significantly to economic growth in the countries of origin (ILO, 2003). However, developing countries have different attitudes towards the mobility of their highly skilled people, as its impact varies from country to country. An increasing number of them, with the support of international organisations like the International Organisation for Migration, are launching projects and initiatives underway that try to use their diaspora as a capacity building tool. Source : OECD, 2005.

114. It is difficult to reverse brain drain as it depends on factors that are to some extent beyond governments' control (other countries' immigration and visa policies, discrepancies between (financial) opportunities in the home country and abroad) or difficult to change in a short period of time. An effective reversal of brain drain depends on the economic, social and political environment in the migrants' country of origin. For example, the stronger the economic growth and the more globalised the economy, the greater the rate of return migration as skilled emigrants will not feel a professional set-back by returning to their home country (Iredell, Guo and Rozario, 2003).

115. However, in countries suffering from brain drain, government policies, notably those concerning tertiary education, science and technology play a role in facilitating return migration alongside the country's economic, social and political environment.

116. In the education sector, the return of highly skilled graduates and academics depends on the quality of the post-secondary education and research infrastructure (which can be improved thanks to cross-border post-secondary education). "Countries that have succeeded in fostering the return of skilled

migrants have done so not just through specific return migration programmes but through long-term and sustained efforts to build the national innovation infrastructure” (Cervantes and Guellec, 2002). Investing in research grants and infrastructure affects local capacity directly and indirectly through the impact of cross-border capacity and higher graduate return rates. In turn, returning graduates build more cross-border collaboration and more national capacity in a continuous global feedback loop. Countries investing in building local research capacity in their universities are best equipped to gain from internationalisation. Foreign educational institutions contribute to a country’s local capacity (without being a substitute for domestic capacity building), and may offer opportunities for local academics or facilitate the return of skilled graduates. One way of fast-tracking the development of university research is through Cross-border higher education. In Hong Kong, China and Singapore, international links between universities are now well established and contribute significantly to the development of local university research. International activity and national capacity in higher education are interdependent. China’s efforts to build 100 world-class universities can facilitate the return of highly skilled Chinese international students and academics who are able to find employment in their home country whilst maintaining contact with top academics and scientists internationally. Science parks in Korea, India, Taiwan, China or Costa Rica perform or have performed a similar role and have proved successful for building national innovation systems (World Bank, 2003).

117. Governments can also implement policies and programmes for cross-border education to impact on national capacity by effecting return rates in selected disciplines. For example, Malaysia secures very high return rates among government-sponsored students, mostly *bumiputra*⁹, through conditions attached to scholarships and career prospects on return. The return rate among privately supported students with no career guarantees, mostly from Chinese and Indian families, is less favourable. China has taken various measures to encourage Chinese students to return after their studies abroad, for example through the establishment of an “Office for Returned Chinese overseas students” that offers Chinese students opportunities when they come back. Launched in 2000, Chile’s Millennium Science Initiative proved successful in attracting back world-class Chilean researchers (World Bank, 2003). Brazil is an example of another country with very high return rates (Finn, 2003).

118. Finally, governmental policies on recognition of degrees obtained abroad can in some cases influence the return-rate of graduates. This factor should be taken into account in when such policies are devised.

9. Conclusion

119. The emergence of new forms of cross-border education and actual capacity building strategies for the use of this provision is too recent a development to extract empirical evidence of its effectiveness as an economic development tool. However, there is already sufficient evidence that policies concerning the import of cross-border education can be a part of national capacity building strategies.

120. Cross-border education has the potential to be an effective capacity development tool for developing countries, both for their tertiary education systems but also for the economy as a whole. Imported tertiary education can assist in expanding access for domestic students, in enhancing the quality of tertiary education, and in increasing the variety and relevance of this. A strong tertiary education system can support the overall education system in a developing country, improve the quality and quantity of its human and social resources, and subsequently contribute to an overall positive development.

⁹. The term Bumiputra is used in Malaysia for all Malay speakers and other indigenous peoples, who are of the Malay ‘race’ but not necessarily mother-tongue speakers of Malay.

121. However, cross-border tertiary education also presents challenges in relation to quality, equity, or migration. Because of its costs to students, cross-border education tends to only be affordable for students from affluent families, particularly if it is provided on a revenue-generating basis. Means-tested scholarships have the potential to widen participation. Under certain circumstances (return migration of or as a minimum maintained links with domestic mobile students and academics, domestic academic and institutional development etc.) cross-border education can lead to the enhancement of the domestic tertiary education system. Regulatory frameworks for the import of tertiary education (through various forms) should aim to develop the above described circumstances so countries can benefit the most from cross-border education.

122. Each country has to consider how to use cross-border education in order to maximise benefits and minimise risks. An over-arching model does not exist and countries have to adapt regulatory frameworks to the local context. However, all countries should be aware of the opportunities that cross-border tertiary education offers. It is equally important that countries develop a local strategy for dealing with this type of provision.

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CHAPTER 3 BUILDING CAPACITY IN TERTIARY EDUCATION THROUGH TRADE LIBERALISATION AND THE GATS

Policy maker's corner: key points on liberalisation of higher education services under the GATS

1. What are the benefits of making commitments under the GATS?

123. By creating a more transparent and predictable legal framework, the GATS can improve the investment climate and help attracting foreign investment in higher education. This new investment can in turn provide capital and expertise to help develop capacity in tertiary education. At the same time, it is important to recognise that the GATS cannot solve the issue of access to higher education services. It can only play a role in complementing policy decisions by enhancing investors' confidence when countries decide to allow private sector participation in tertiary education. Domestic factors including the state and features of the higher education system and the country's economic, social and political characteristics remain central.

2. What are the implications for government's ability to regulate of being a Member of the WTO when commitments on higher education services have not been made?

124. If commitments have not been made in a particular sector, only limited disciplines apply, the most important of which is the Most Favoured Nation (MFN) principle (provided that countries have not included the sector in question in their lists of MFN exemptions). MFN treatment does not seem to impinge on governments' ability to retain control over higher education services, given that governments retain the right to exclude any foreign participation.

3. If it is considered beneficial to make commitments on higher education services, what are the implications for public universities?

125. It is recognised that there are uncertainties on the exact scope of the carve-out for services provided under governmental authority (Article I:3). As such, a country that has made commitments on higher education services may find out for example through the dispute settlement that its governmental services thought outside the scope of the Agreement are actually covered by the specific commitments.

4. What would this practically mean in terms of governments' ability to retain policy control over the provision of these services?

126. Once specific commitments are made other more significant obligations kick in, especially on market access and national treatment. The main concern for higher education services relates to national treatment. The measures extended to public universities, should they unexpectedly fall under the Agreement, could trigger equal treatment of like foreign services and service suppliers. The government would then be required, in the absence of appropriate limitations, to extend financial and other benefits to the services and/or suppliers concerned. Otherwise it would need to renege on its commitment under Article XXI, which would entail paying compensation through trade concessions or retaliatory measures of commercially equivalent effect. Although it is difficult to see how foreign providers would be less suited than their domestic counterparts to meet the development objectives of tertiary education, governments should be aware of unintended consequences.

5. How is it possible to deal with these concerns?

127. Pending a clarification of terms and establishment of objective criteria of the carve-out clause, countries wanting to make commitments in higher education services should consider scheduling appropriate limitations in commitments on these services. The GATS allows for wide flexibility in this regard. Members can condition specific commitments to the private sector or exclude public funded institutions, or limit funds, subsidies and other public benefits to national institutions and citizens.

6. What about other existing obligations, can they limit countries' ability to regulate higher education services?

128. Once commitments in a particular sector have been made, other disciplines apply. The most significant of such disciplines for higher education relate to regulatory measures and are contained in Article VI, in particular paragraphs 1 and 5. A closer look at these provisions reveals that they do not seem to affect governments' policy space to regulate the provision of higher education services. Paragraph 1 only applies to the "administration" of regulation and not to its substantive aspects. And while Paragraph 5 does include substantive aspects, it is subject to two important limitations: that the measures in question nullify and impair specific commitments and that they could have not reasonably been expected of that Member at the time the commitments were made. This means in practice that at least all measures that were already in place in 1995 would be excluded.

7. What about disciplines that are still under development?

129. Disciplines to be developed under the Article VI.4 mandate on domestic regulation can potentially have an impact on governments' freedom to regulate higher education services not only to ensure quality but also other policy objectives, such as equity. There are early indications that governments will not develop disciplines in this area that may limit their autonomy to regulate services provision. Nevertheless, in light of the importance of quality assurance and other social objectives in higher education, these negotiations require close monitoring and especially involvement by the different stakeholders of the education community.

8. How does the GATS relate to mutual recognition?

130. Current disciplines regarding recognition in the GATS framework leave considerable regulatory flexibility to Members to accord recognition as they see fit. New disciplines on domestic regulation to be developed under the Article VI.4 mandate might assist in promoting recognition multilaterally. In particular, progress on talks relating to qualification requirements and procedures could prove very helpful in this regard. Nevertheless, delicate issues of necessity and regulatory sovereignty are relevant here as well and call again for active involvement of the education community.

1. Introduction

131. Higher education services have become more than ever critical determinants of a country's economic growth and standards of living. Recent developments worldwide — including the increasing share of services in economic activity, the spread of communication technology, falling telecommunications costs and shorter product development cycles — have turned knowledge into a primary factor of production throughout the world economy. Access to post-secondary education and training services is essential to adapt to these sweeping changes and for integrating into the world economy. However, it remains in most cases at less than 5% of the population in the developing world (World Bank, 2002).

132. Strengthening the higher education service sector is therefore of key importance. There is growing recognition that enhanced trade and investment in tertiary education could provide emerging economies and developing countries with greater access to these services. If appropriately designed, bound liberalisation under the General Agreement on Trade in Services (GATS) of the World Trade Organisation (WTO) could contribute to the advancement of this goal. There is, at the same time, increasing awareness that liberalisation of higher education services at national and multilateral levels is no easy task. Doing so involves a broad set of policies, regulatory instruments and institutions. There is a need to carefully plan liberalisation, ensure that it is compatible with national and development goals and put in place needed regulation. This can pose challenges particularly for developing countries, which are more likely to have weaker regulatory regimes and enforcement capacities.

133. This chapter explores opportunities and challenges of building capacity in higher education through enhanced trade and investment and in the context of the GATS. The next section reviews recent developments that have taken place in higher education services worldwide and the expanded possibilities for trade as a means to build capacity in tertiary education allowed for by these changes. Section III identifies a number of key regulatory objectives that governments seek to achieve in liberalised markets to address market failures and meet public policy objectives. Section IV then links the discussion of liberalisation of higher education services at the national level with the GATS. It examines the GATS framework, how it can accommodate and support the objectives of national policies and key open questions that require active involvement from the education community. The last section concludes.

2. Building capacity through enhanced trade and investment

134. Historically, trade in higher education services has been limited because they were mostly provided by local public institutions to local students throughout the world. Universities have typically been owned, financed and operated by the public sector. Government provision was seen as necessary in light of the widely recognised importance of higher education services for social and economic development and of the need to ensure public policy objectives in the provision of these services.

135. Nevertheless, in recent years countries around the world have experienced significant transformations in the structure, governance and financing of their tertiary education systems. A major driver for change has been widespread concern in the shape of financial pressures and expanding demand. Policy and institutional changes have involved, in addition to scholarship programmes to support the outward mobility of students, the restructuring of public universities and allowing the establishment of private universities, where they did not exist. These policies are seen as way to increase investment and access to service, enhance competition, and foster innovation and managerial efficiency. Particularly in developing and emerging economies, in light of limited domestic capacity and finance, a decision to introduce the private sector typically involves accepting foreign participation.

136. Changes in higher education systems have also been facilitated by technological innovation. Distance learning has been a very dynamic area, benefiting from the development of new information and communication technologies. The Internet, in particular, is perceived as an important contributor to the recent evolutions in higher education. It has introduced changes in the process and organisation of tertiary education (*e.g.* from faculty-centred to student-centred learning) and has significantly facilitated the international transmission of course material, reports, etc. This greatly increases the scope for cross-border supply of post-secondary education services.

137. Another recent development has been the growing importance of specialised training in a wide range of activities, including information technology, languages, testing and corporate training services. Education institutions are teaming up with information technology companies and other experts to design courses of instruction on a variety of subjects. Many of these are practical courses for use on the job, some of which can be used as credits towards degrees. Large companies are also developing education and training courses to improve the skills of their employees and to keep them up to date on their latest products. Such services constitute a growing international business, supplementing the public education system.

138. These changes are having the effect of increasingly bringing higher education and training services into the realm of the market and exposing them to international trade. As with other services sectors, enhanced international trade and investment in post-secondary education could be beneficial and help improve access to these services in the developing world (see Box 1). The gains can be quite significant as knowledge accumulation and application have become major factors of economic development. Comparative advantages for developing countries come increasingly from a combination of low-cost labour with technical innovation and the competitive use of knowledge, as shown by the success of the Indian software industry. The proportion of goods in international trade with medium-to-high level of technology content also rose significantly in recent decades (World Bank, 2002).

Box 1. The gains from liberalising trade in services

Expanding trade in services could strengthen the capacity of developing countries (and developed countries) to achieve their economic and social objectives. A sizeable body of work has emerged in recent years, including within the OECD, highlighting the broad benefits of liberalising trade in services. Developing countries generally stand to make significant gains, despite a perception in much of the developing world that they will lose out because their domestic services industries are inefficient and non-competitive.

For all economies, the gains from more open services trade are substantially greater than those from liberalising trade in goods. This is because levels of protection in services trade are higher than in other areas, services are occupying an ever larger share of the economy and services liberalisation is a proxy for increased factor mobility — investment and labour. An OECD study suggests that if countries went ahead and opened their services markets unilaterally, they would gain almost as much as under a multilateral agreement, and far more than similar reforms in agriculture and manufacturing (see Figures 1 and 2 below). So, there is an argument for individual countries not to wait, though the overall gains to the world economy would clearly be greater from multilateral market opening.

Liberalisation has also been beneficial in expanding access to services with a traditional strong public service aspect. A case in point is telecommunications where liberalisation, coupled with technology advances, has led to significant price decreases and improved access in developing countries. The introduction of competition in mobile telephones, in particular, has considerably reduced the universal access problem for the urban poor and low-income users in rural areas. In other basic services, such as water and sanitation or energy, experience with liberalisation has been mixed, leading in some cases to higher tariffs to the detriment of the poor. This shows the importance of appropriate regulation to underpin liberalisation, particularly in services traditionally provided by governments. With such regulation in place, liberalisation has led to gains in these services as well, through increased investment and service coverage.

The prominent example among developing countries is Chile, where this has happened in virtually all utilities. Another successful case in the water and sanitation sector is Senegal. At the end of the 90s, the government introduced regulated private participation and established a social connection programme to expand service to the poor, through a fund financed by the government and donors. A decade later, the reforms resulted in significant better services, including a 20% increase in the amount of water supplied and a 35% increase in the number of customers connected. Senegal compares well in terms of water coverage with other African countries. According to the last Senegalese Household Survey (2001), drinking water is available (less than 15 minutes away) to more than 70% of the households (almost 90% in Dakar).

Figure 1

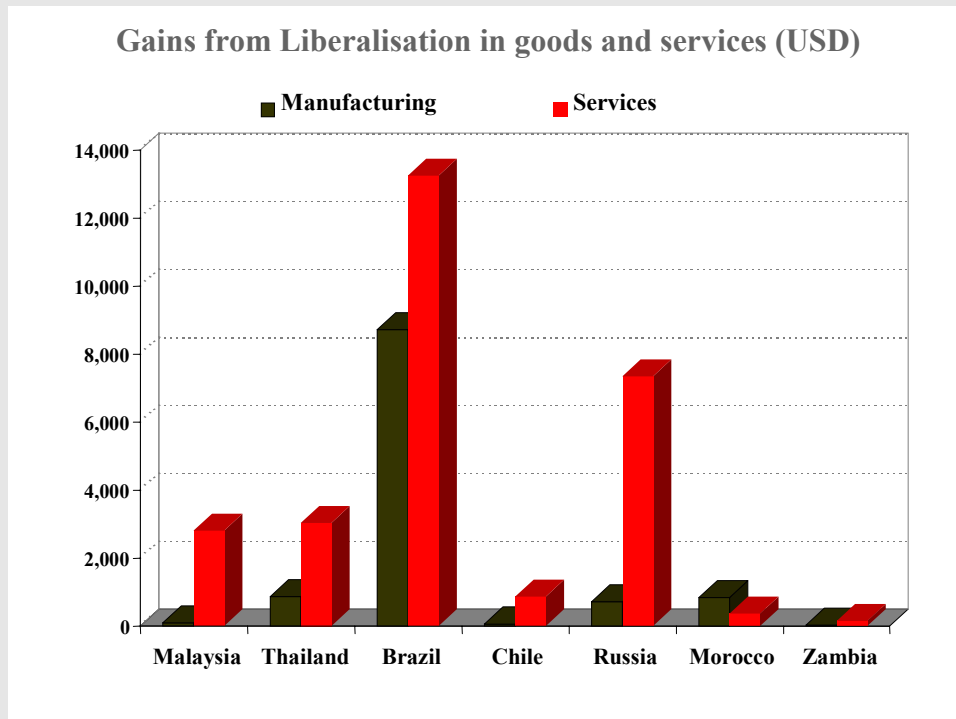
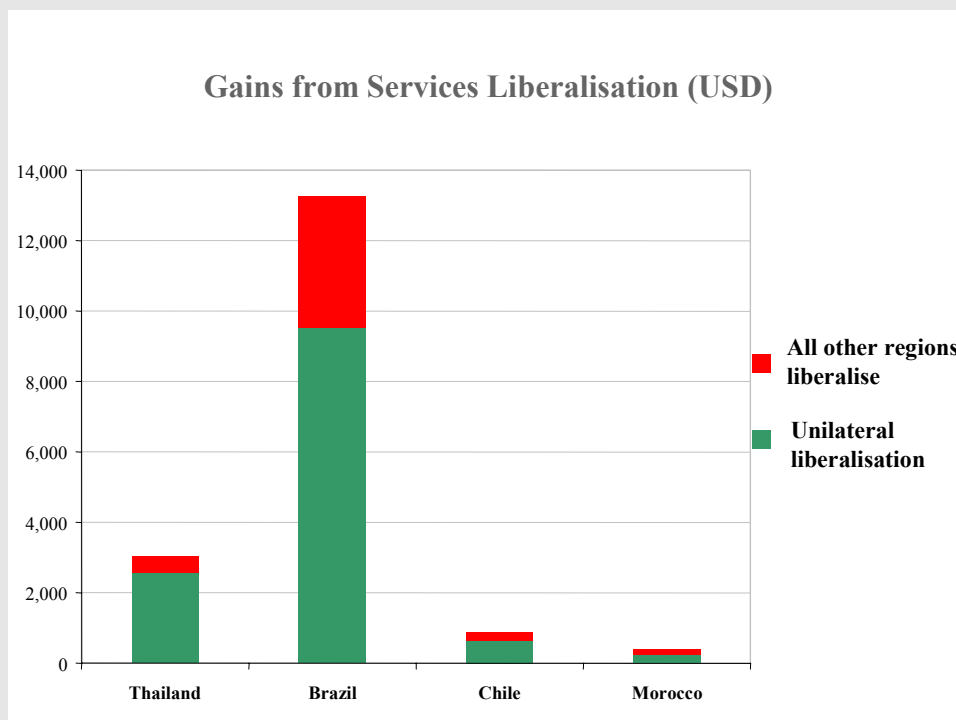


Figure 2



Source: OECD, 2005a; PPIAF and WSO, 2001; and ITU, 2003.

139. Programmes underway in East Asia show that widening access through trade and investment can work. But the growth of international trade in higher education services also raises a number of important questions. As governments move away from being the sole providers of tertiary education, their active oversight of the higher education system becomes ever more important. The key responsibility for the state is to provide an appropriate legal and regulatory environment for both public and private higher education institutions. Governments must ensure that the system continues to serve the public interest, promotes equity and provides quality assurance and recognition mechanisms for all types of institutions. Also very important is the establishment of remedial policies to minimise the negative consequences of brain drain, as is the availability of accurate information about the status of higher education institutions and programmes for students and other stakeholders.

140. It should be noted that there is no universal appropriate model for reform. Each country, province, or state must choose regulatory mechanisms consistent with the goals and priorities of its tertiary education development strategy and be prepared to make changes over time as these goals and priorities evolve (World Bank, 2002). Furthermore, the establishment of adequate regulatory instruments and institutions can be costly and may require sophisticated skills, and thus presents challenges that are likely to be most acute in emerging economies and developing countries. Provision of technical assistance and capacity building to support liberalisation are thus particularly important for these countries.

3. Regulation and remedial policies

Pursuing equity

141. In recent years, more countries and public institutions have introduced or raised user fees at the tertiary level in the developing world. This is seen as a way to reduce the burden on governments' budgets by mobilising a greater share of the funding by students themselves who can expect significant earnings from higher education and who typically come from families with the ability to contribute to the cost of tertiary education. Indeed, where public tertiary education is free, public expenditure at that level often represents regressive social spending in that the proportion of university students from upper income families is higher than their share in the overall population. Nevertheless, in the absence of public support, user fees may increase access disparities (World Bank, 2002).

142. Trade in higher education services can further exacerbate the inequity of tertiary education in developing countries, given that, whether provided via student or programme and institution mobility, it is generally more expensive than domestic education. Governments must thus play an even more critical role in ensuring that academically qualified students are not prevented from studying by lack of financial resources. Liberalisation needs to be implemented in parallel with the development of mechanisms that can guarantee the necessary support to deserving low-income or disadvantaged (for racial, religious or gender-related reasons) students unable to meet the cost of tertiary education (see Box 2). In addition, stronger equity efforts must be made earlier at the primary and secondary levels, so that all students have an equal opportunity to compete for entry into tertiary education.

Box. 2. Mechanisms for achieving equity

Mechanisms to reduce access disparities in tertiary education include so called *affirmative action* and various forms of financial aid from both the public and private sectors. Experience so far with *affirmative action* — in particular preferential treatment in university or college admissions for low income and disadvantaged students — seems to indicate that interventions at the tertiary level come too late to assist the majority of these students, in light of previous discrimination in access to primary and secondary education.

At the tertiary level, focusing on financial aid such as scholarships, grants, and student loans appears to be a more effective form of intervention for capable aspirants from lower socio-economic backgrounds. Among these, given that public funds for scholarships are limited, it seems that large-scale assistance affecting a broader segment of low income or disadvantaged students can be made more easily available through student loan programmes. However, administering student loan schemes is no easy task. Experience suggests that in order to design an appropriate student loan scheme several conditions need to be in place, including transparent systems for effective targeting of the most deserving students (academically and on social criteria); well-designed interest rate and subsidy policies to protect the financial viability of the scheme; and effective collection mechanisms to minimise default.

Two alternative schemes to establish large-scale programmes are *mixed-loan systems of private funding with government guarantees* and *income-contingent loan systems*. Under the first approach, student loans are administered and financed by commercial banks, with a government guarantee in case of default and an interest subsidy to keep the loans affordable. The second involves loan repayments as a fixed proportion of a graduate's annual income. Income-contingent loans can in theory achieve a better balance between effective cost recovery and risk to the borrower than mixed-loans. Administration is also usually simpler because loan recovery is handled through existing collection mechanisms such as the income tax administration or the social security system. These loans can additionally allow for better ability to pay, since repayments are in proportion to a graduate's income. However, their feasibility depends on the existence of a reliable income tax or social security system.

Source: World Bank, 2002.

143. The development of trade and investment in higher education also represents a new challenge for student financial aid agencies. Eligibility rules and loan features should be adjusted to accommodate the financial needs of the growing number of students who are enrolled in increasingly different activities, including distance education offered by foreign institutions.

Ensuring quality

144. Expanding enrolments in higher education in many developing countries are affecting their ability to continue to support their tertiary education systems, with the consequence of loss of educational quality. The introduction of market forces and trade in higher education can bring about the needed financial resources providing universities in developing countries with the means to improve the quality of their facilities, libraries and teaching staff — potentially enhancing the quality of their educational services. Market forces can also lead educational institutions to better adjust to students' needs and demands.

145. At the same time, the rise in trade in tertiary education services carries new potential quality risks for tertiary education. Existing national frameworks for quality assurance, accreditation in higher education are often insufficiently prepared to address the new challenges from trade and private provision. In many developing countries, such frameworks do not exist. Among the different forms of trade in tertiary education, programme and institution mobility carry the greater risk, because they are new, less stable and often do not fall within the scope of quality assurance and accreditation systems. In particular, distance education is potentially the most problematic given that quality assurance and accreditation systems are harder to adapt to this form of teaching and because this mode of trade can more easily escape the control of relevant authorities (OECD, 2004a).

146. At the national level, these policy challenges call for the establishment of robust and transparent systems of quality assurance and accreditation to protect students of transborder higher education. The key issue for current systems is how to cover foreign providers and programmes, by enlarging the scope of existing systems or by establishing new systems specifically for them (OECD, 2004b; see Box 3 for the case of Malaysia). National quality assurance and accreditation agencies also need to intensify cooperation at the international level in order to increase their mutual understanding. A recent example of cooperation is provided by the *UNESCO/OECD Guidelines on Quality in Cross-Border Higher Education*. The Guidelines set out good practice for a range of higher education stakeholders and call on governments to establish mechanisms for the accreditation and quality assurance of education for those institutions in their jurisdictions which provide cross-border higher education (OECD, 2005b).

Box 3. Quality assurance and accreditation: the case of Malaysia

The Malaysian government encourages private-sector investment in higher education, while strictly regulating private provision to ensure quality and meet the country's cultural and economic needs. Several bodies are involved in quality assurance and accreditation for higher education institutions. All higher education institutions are under the supervision of the Ministry of Education, whose Department of Private Education deals with private providers concerning issues such as establishment and registration. The main quality assurance body is the National Accreditation Board (NAB), which provides quality standards and guidelines for courses offered by private institutions and ensures that they are of quality comparable to those in the public sector. It also advises the Registrar General of Private Education on the establishment, registration and approval of courses of private institutions.

Universities in Malaysia can only be established in accordance with an Incorporation Order signed by the King and only on the invitation of the Minister of Education. The Private Higher Education Act requires all private education institutions to be licensed, based on the decision of the Ministry of Education following an evaluation by the NAB. When a private provider is granted a license to offer courses, the Ministry of Education then refers it to the NAB for assessment of its courses. Once approval to conduct courses of study is granted, the provider must ensure that the course of study meets the minimum standard in order to award a degree. For accreditation of courses of study, which is optional, the provider must apply for more detailed assessment. Once accreditation is granted, the public will be informed through the NAB's Website. Accreditation is necessary to be eligible for recognition as a basis for employment in the public sector.

All foreign providers are subject to the national quality assurance framework. Foreign providers can either apply to be licensed as private higher education institutions or deliver courses through a local partner licensed as a private higher education institution.

Source: OECD, 2004b.

Fostering recognition of qualifications

147. Closely linked to the issue of quality assurance and accreditation is the recognition of academic and professional qualifications. National systems for granting qualifications as well as the nature of qualifications vary significantly across countries. This means that when students or employees move to a foreign country they often have to repeat the same qualification requirements already completed in the home country. Enhanced trade in higher education and growing professional mobility have significantly increased the importance of academic and professional recognition of qualifications.

148. The international framework for facilitating the recognition of academic qualifications has largely been established by the UNESCO Regional Conventions on recognition of qualifications. The Conventions are the most significant instruments for governments and the international higher education community to address issues of recognition concerning the international mobility of students and skilled labour. Other international initiatives are intended to enhance the convergence of programmes and qualifications. The prominent example is the EU's Bologna Process, which aims to achieve comparable degree structures in member countries. As shown in Box 4, a similar initiative has also been launched by developing countries in the context of MERCOSUR (OECD, 2004b).

Box. 4 Harmonisation and recognition of academic qualifications in MERCOSUR

The Members of MERCOSUR have been working to develop agreed requirements and standards for the recognition of diplomas and the right to practice. A working group was established in 1998 to facilitate the development of a system of curricula accreditation aimed at facilitating the recognition of degrees. The group decided to form a Consulting Commission of Experts to support its work. The Commission, which embraced national experts, carried out two main tasks. It analysed the specific teaching content and method in each of the MERCOSUR countries; and explored the specific activities that professionals in each of the four countries could carry out after getting a university degree. On the basis of this preliminary work, the Commission started defining baseline Quality MERCOSUR Standards for three selected careers – agronomy, engineering and medicine. The draft standards were sent to the National Accreditation Agencies for evaluation and were subsequently modified to reflect the comments received.

In order to formalise and consolidate this process, the MERCOSUR Experimental Mechanism for Career Accreditation (MEXA) was established. The goal was to set up a mechanism for the recognition of the university degrees granted by those institutions whose curricula had been accredited on the basis of agreed standards. Accredited degrees would in turn be recognised in member countries making possible for professionals to move within the region. The overall process is coordinated by the Council of the Ministers of Education of MERCOSUR. The National Accreditation Agencies are responsible for carrying out the accreditation process in their respective countries and report to the Council on the implementation and evaluation of the mechanism.

In line with similar undertakings based on the harmonisation, the initiative is advancing at a slow pace and has only had limited practical results. So far, only a few curricula have been accredited and the recognition of the degrees does not imply an automatic right to exercise a profession. Nevertheless, the process is regarded as positive by participating countries, since it has facilitated an exchange of views and experiences among national institutions in charge of higher education, professional associations and public and private universities. It is also seen as a tool for enhancing the overall quality of tertiary education in the region.

Source: Zarrilli, 2005.

149. Professional mutual recognition agreements (MRAs) have also proliferated in recent decades to help avoid potential duplication of qualification requirements. The underlying assumption is that MRAs can lead to much faster and concrete results than harmonisation, which has been shown to be a long and laborious process requiring significant time and efforts. Free trade agreements have contributed to this development by encouraging MRAs among Members to facilitate trade in professional services. However, to date most MRAs have been concluded among developed countries, pointing to the need of real efforts to develop mechanisms to enhance developing countries' participation in these agreements (Nielson, 2002; and Zarrilli 2005).

Minimising brain drain

150. The unmet demand for higher education services in several developing and emerging economies is one of the reasons explaining the rising number of students from these countries going abroad for tertiary education. The benefits of this practice can be quite significant since students are exposed to new ideas, techniques and fields of study often of better quality than those available at home. Nevertheless, this form of trade can also lead to negative consequences. First, the cost of studying abroad in higher education, particularly in developed countries, is very high and can represent a fiscal drain on sending countries. In addition, students going overseas may not return to their home countries in the face of higher financial rewards abroad. This may represent a significant loss of investment in sending countries from the developing world.

151. Governments have used various policies to encourage students to return to their home countries, with various degrees of success. Some countries have tried restrictive policies, *e.g.* compulsory national service, in an attempt to render migration more difficult. These policies have not proven very effective since they represent only temporary deterrents for migration. Another dimension is the development of policies and incentives for the return of highly qualified migrants, including international students. This

requires a combination of better economic conditions at home (*e.g.* higher salaries) along with improved university and research facilities. A number of emerging countries have been relatively successful in this regard by opening their economies and through the use of policies, *e.g.* tax rules on remittances, which foster inward investment and R&D. This, however, requires that home countries are able to offer job opportunities and an overall infrastructure comparable to those in developed countries.

152. In the short-term, another possibility particularly for low-income developing countries is the so-called “diaspora option”. The main feature of the diaspora option is to set up a knowledge network among skilled expatriates linked to the country of origin, with the aim of mobilising their knowledge and expertise to the development of their country without physically relocating. The development of information and communication technologies has significantly enhanced the potential for this practice (see Box 5 for the South African example). Nevertheless, the diaspora option relies on an effective system for exchanging information between network members and their counterparts in the home country. Incentives and benefits can also be very important to bond members of the network (UNECA, 2000).

Box 5. Diaspora networks: the case of South Africa

The South African Network of Skills Abroad (SANSA) is a diaspora network comprising members located in 68 countries on the five main continents. The National Research Foundation (NRF) is responsible for the development of SANSA, which has also been formally endorsed by the Department of Science and Technology. Through its website, SANSA invites professional South Africans to sign up and become part of its network. It reports that at least 22,000 graduates from five major South African universities remain in touch with the universities. In the case of the University of Cape Town, 30% of contactable doctoral graduates are living overseas. They comprise significant proportions of the university’s graduates in medicine, commerce, education and engineering, all areas in which South Africa has an acute shortage of skills. A distinctive feature of SANSA is that it also includes members from other countries, with a representation of 57 nationalities.

Once professionals join SANSA, they can:

- Offer to train their South African counterparts;
- Assist them to initiate and conduct research;
- Transmit information and research results not available in South Africa;
- Facilitate business contacts;
- Disseminate cultural and artistic creation;
- Facilitate discussion fora;
- Transfer technology to South African institutions (*e.g.* through provision of software collected in industrialised countries).

Source: Mutume, 2003; and SANSA website.

Enhancing transparency

153. National students have better access to reliable information on educational institutions and have a better understanding of this information than international students. The relative opacity of information at the international level gives degree mills more opportunities in trade and cross border provision. Governments thus have a critical role to play in ensuring availability of accurate information, which is essential to the proper functioning of higher education systems.

154. Potential students need to have access to appropriate information in different countries and have a sense of reliability and status of information sources to make informed choices. Regulatory authorities

need information to make judgements about the quality of specific programmes and institutions or about the equivalence of foreign and domestic qualifications. Also very important is the existence of real opportunities to discuss concerns with the relevant authorities in foreign countries (see Box 6 for the case of Australia). Employers too need information about qualifications when making recruitment decisions (Thorn, 2005).

Box 6. Transparency in higher education systems: the case of Australia

Australian authorities attach great importance to the provision of information about the country's higher education system and the processes for quality assurance and accreditation. The Australian Department of Education, Science and Training has recently released a *discussion paper* outlining a strategy to clarify and simplify the country's approach to quality and quality assurance for transnational education and training. Three of the four principles contained in the strategy relate to the provision of information about the Australian system to students, governments and other stakeholders:

- **Principle One:** Ensure that Australia's quality assurance framework is well understood and well-regarded within Australia and internationally.
- **Principle Two:** Make clear to providers and consumers the accountabilities in offshore education and training.
- **Principle Three:** Ensure that accreditation and audit functions are undertaken transparently.

Australia also plays an active role in establishing dialogue with relevant authorities in foreign countries. It has a network of education counsellors at its embassies in those countries with which it has significant education links. The role of these counsellors includes bilateral contact with host country officials regarding education policy and regulation and issues of mutual interest such as the welfare of students studying in Australia. Furthermore, Australia has Memoranda of Understanding (MoU) regarding education with a number of countries. These often include a commitment to the establishment of formal processes such as joint working groups which meet on a regular basis to discuss issues of significance in the education relationship.

Source: Thorn, 2005; and DEST, 2005.

155. In this context, a potentially useful multilateral development is the proposed international information tool under discussion as a possible means to facilitate the implementation of the *UNESCO/OECD Guidelines*. The information tool is intended to provide a single point of access through an internet portal to the websites of quality assurance and accreditation agencies recognised by participating countries. It would provide an authoritative source of information for students and other stakeholders regarding the status of higher education institutions and programmes (OECD, 2005b).

4. Higher education services and the GATS

156. The preceding discussion has highlighted the strong public service aspect to the provision of higher education services and that they require an appropriate regulatory framework to ensure social objectives. In this context, concerns have been raised in relation to the potential effects of the GATS on governments' ability to ensure adequate provision of these services to the public. In practice, this refers to the possible impact of the Agreement on government's right to maintain public funding and subsidies and put in place needed regulation. These problems are intensified by the fact that the GATS is a relatively young agreement and some of its provisions remain to be tested in practice.

157. These concerns can partly explain the limited progress achieved so far on bound liberalisation of higher education services under the GATS. The education sector is one of the least committed sectors. Only 28 Members (counting the then 12 EU Members as one) have made commitments on education

services during the Uruguay Round¹⁰ and, of these, 20 schedules contain commitments in higher education services.¹¹ The notable exception relates to the 21 countries that have subsequently acceded to the WTO, which have all but three (Bulgaria, Ecuador and Mongolia) made commitments on higher education services (Bulgaria did commit to other education subsectors). Offers in the current round of negotiations also remain limited. Of the 33 initial and revised offers publicly available, only 11 (counting EU Members as one) relate to higher education services, some of which represent only technical changes or clarifications of existing commitments.

158. In light of the importance of these services for society and their highly regulated nature, governments are understandably cautious when agreeing to subject themselves to common rules. Nevertheless, opening up higher education services is largely a domestic issue. Many of the policies seen earlier that may be needed to manage liberalisation of trade in tertiary education services are not shaped by the GATS but by domestic factors. The WTO is not a standard setting body nor an institution for the substantive regulation of quality in higher education (or any other service sector). Policies regarding the recognition of qualification or measures to minimise brain drain are also largely unaffected by the GATS.

159. The GATS, like other international treaties, can affect the regulatory conduct of governments in some areas of higher education. This is particularly so in light of the Agreement's wide concept of trade in services (see below), which brings into its purview investment and immigration policies previously outside the multilateral system. At the same time, a thorough examination of GATS current provisions and functioning reveals that its framework can accommodate and even contribute to the advancement of the objectives of national policies. Some open questions remain with respect to ongoing work on rule-making, which require close monitoring and involvement by the education community.

Overview of the GATS

160. The GATS applies to any service in any sector, with two main exclusions, the most important of which in the context of higher education is the exclusion of services provided in the "exercise of governmental authority" (Article I:3).¹² It defines trade in services by reference to four modes of supply. The traditional concept of trade in goods is imbedded in "cross border supply" (mode 1), which refers to the supply of a service from the territory of one Member into the territory another Member. Mode 1 could include distance education and e-learning.¹³ "Consumption abroad" (mode 2) involves the supply of a service in the territory of one Member to a service consumer of another Member, *i.e.* students going overseas. Services supplied through the establishment of a "commercial presence" (mode 3) or through the "presence of a natural person" (mode 4) in another Member, would correspond to programme and institution mobility.

161. The GATS explicitly recognises in its Preamble "the right of Members to regulate the supply of services within their territory in order to meet national policy objectives". Market access (Article XVI) and

¹⁰ Australia, Austria, Congo RP, Costa Rica, Czech Republic, European Community, Gambia, Ghana, Haiti, Hungary, Jamaica, Japan, Lesotho, Liechtenstein, Mali, Mexico, New Zealand, Norway, Poland, Rwanda, Sierra Leone, Slovak Republic, Slovenia, Switzerland, Thailand, Trinidad and Tobago, Turkey and USA.

¹¹ Austria, Gambia, Ghana, Haiti, Mali, Rwanda, Thailand and USA did not commit to higher education services.

¹² The other exclusion relates to measures affecting air traffic rights or services directly related to the exercise of traffic rights.

¹³ There is debate among WTO Members on whether electronic provision of services would constitute mode 1 or mode 2. The recent US-Antigua Internet gambling case may have brought about some legal clarity in this regard (see Wunsch-Vincent, 2005).

national treatment (Article XVII) need to be granted only in sectors which a Member lists in its schedule of specific commitments. Members have also significant flexibility in scheduling as they are free to choose and define the sectors, and select the modes of supply for which they are ready to undertake specific commitments. Commitments can additionally be qualified with various types of limitations, thus allowing Members to tailor them to specific national policy objectives.

162. In the absence of specific commitments, the GATS imposes only limited obligations. The most important of these is the most-favoured-nation (MFN) treatment, a prohibition to discriminate among foreign providers providing the same service. Each member had the opportunity to seek exemption from the MFN obligation at the date of entry into force of the Agreement (an opportunity also afforded to subsequent acceding countries).

163. Even if regulations breach obligations under the GATS, they may still be allowed under the provisions of Article XIV on exceptions. These provisions can be invoked to protect major public interests, including public morals and public order or to prevent deceptive and fraudulent practices. The measures should not, however, be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail or a disguised restriction on trade in services.

The carve-out for “services in the exercise of governmental authority”

164. As noted, the GATS applies in principle to all services, except those provided in the exercise of governmental authority. GATS Article I.3 (b) states that, for the purpose of the GATS, “services” include “any service in any sector except services supplied in the exercise of governmental authority”. This exception is further defined in Article I.3 (c), which specifies that “a service supplied in the exercise of governmental authority” means “any service, which is supplied neither on a commercial basis, nor in competition with one or more service suppliers”.

165. In practice, since there is no single model of governmental provision of higher education services within WTO membership, as the concept varies according to different segments, national traditions and legal conditions, the coverage of the carve-out will vary depending on the country and service concerned. However, uncertainties remain about its exact scope (see Krawjeski, 2003¹⁴). This general definition does not allow to clearly determine whether and under what circumstances higher education services provided by public institutions would fall outside the scope of the GATS. Questions remain on the exact meaning of the definition of services supplied on a non-commercial basis, for instance. While services provided for free would fulfil this condition, the same cannot be said with certainty in the case of cost-recovery fees. Even equating commercial with profit-seeking would still leave some questions unanswered as to the exact concepts of profit that would be relevant. And what about an activity that fails to live up to the supplier’s underlying profit intentions? Or a service that turns out to be profitable unintentionally?

166. Similar questions arise with respect to the precise definition of the term “not in competition”. Would the provision of government subsidised higher education services alongside private training institutes represent a competitive relationship? If that were the case, the carve-out for services provided under governmental authority would have a limited effect in the case of higher education services, given that it is quite common for both public and private providers to co-exist. Or are there other criteria that would need to be met to deem whether services are in competition?

¹⁴ Other commentators have subsequently further discussed these issues in the context of a variety of service sectors which feature a strong public service aspect. See Chanda, 2003; Cossy, 2005; and Adlung, 2005.

Implications of misinterpreting the scope of the GATS

167. These uncertainties have given rise to genuine concerns by governments and other stakeholders in the education community on the possible impact of the GATS on higher education services. However, as pointed out by Adlung (2005), the key question is whether misinterpreting the scope of GATS provisions may lead to a loss of policy control over the provision of these services. As seen earlier, if commitments have not been made in a particular sector, only limited disciplines apply, the most important of which is the MFN principle (provided that countries have not included the sector in question in their lists of MFN exemptions). MFN treatment does not seem to impinge on governments' ability to retain control over higher education services, given that governments retain the right to exclude any foreign participation.

168. If a country has made a commitment, other more significant obligations kick in, especially on market access and national treatment. While commitments involve different levels of access depending on the limitations entered in the schedules, misinterpretation of GATS provisions may in such case have more important implications. A case in point is the national treatment obligation. The measures extended to public universities, should they unexpectedly fall under the Agreement, could trigger equal treatment of like foreign services and service suppliers. The government would then be required, in the absence of appropriate limitations, to extend financial and other benefits to the services and/or suppliers concerned. Otherwise it would need to renege on its commitment under Article XXI, which would entail paying compensation through trade concessions or retaliatory measures of commercially equivalent effect. As seen earlier, subsidies are frequently used for development strategies of tertiary education. Although it is difficult to see how foreign providers would be less suited than their domestic counterparts to meet the sector objectives, governments should be aware of unintended consequences.

169. Scheduling commitments on higher education services thus raises questions in relation to their nature. At the same time, GATS commitments can contribute to the advancement of national reforms and build capacity in tertiary education. By creating a more transparent and predictable legal framework, the GATS can improve the investment climate and help attracting foreign investment in higher education. This new investment can in turn provide capital and expertise to help expand capacity in tertiary education. Though relevant empirical research is still infant, there are early indications supporting the hypothesis that the private sector is more likely to invest in countries that have made GATS commitments (Bressie *et al.*, 2004).

Limitations on higher education services commitments

170. Pending a clarification of terms and establishment of objective criteria of the carve-out clause, there is however another option to avoid these concerns and facilitate the assumption of GATS commitment in higher education services for countries that so wish. This consists in scheduling appropriate limitations in commitments on these services. As shown in Table 4 below, WTO Members have wide flexibility in this regard. They can condition specific commitments to the private sector or exclude public funded institutions. Countries can also limit funds, subsidies and other public benefits to national institutions and citizens, and even reaffirm (for transparency purposes) their right to intervene to ensure quality and other public policy objectives.

Table 4. Examples of higher education services limitations on WTO Members' schedules

Member	Commitment	Offer	Mode	Limitation ***	Higher education services
Australia	X		1,2,3,4	Note	"Covers provision of private tertiary education services including at university level"
EU	X		1,2,3,4	Note	"Only privately funded services"
FYR Macedonia**	X		1,2,3,4	Note	"All education services included in this section. Subsectors listed below only cover privately funded education services. Educational services in investigation, security and defence areas and in history and culture of people and nationalities in FYROM are excluded"
Korea		X	1,2,3,4	Note	"Higher education services provided by private higher educational institutions, which obtained recognition from the government or public accreditation bodies, for the purpose of conferring degrees"
Mexico	X		1,2,3,4	Note	"Private education services"
New Zealand	X		1,2,3,4	Note	"Primary, secondary, and tertiary education in private institutions"
Pakistan		X	1,2,3,4	Note	"Excludes public funded institutions"
Panama**	X		1,2,3,4	Footnote	"National education is a public service. The State may intervene in private teaching establishments to ensure the fulfilment of national and social objectives as regards the education and intellectual, moral, civic and physical training of students"
Slovenia	X		1,2,3,4	Note	"Privately funded only"
Switzerland	X		1,2,3,4	Note	"Private education services"
United States		X	1,2,3,4	Footnote	"For transparency purposes, individual U.S. institutions maintain autonomy in admission policies, in setting tuition rates, and in the development of curricula of course content. Educational and training entities must comply with requirements of the jurisdiction in which the facility is established. In some jurisdictions, accreditation of institutions or programs may be required. Institutions maintain autonomy in selecting the jurisdiction in which they will operate, and institutions and programs maintain autonomy in choosing to rates vary for in-state and out-of-state residents. Additionally, admissions policies include considerations of equal opportunity for students (regardless of race, ethnicity, or gender), as permitted by domestic law, as well as recognition by regional, national, and/or specialty organizations; and required standards must be met to obtain and maintain accreditation. To participate in the U.S. student loan program, foreign institutions established in the United States are subject to the same requirements as U.S. institutions"
				National treatment	"The granting of U.S. federal or state government funding or subsidies may be limited to U.S.-owned institutions, including land grants, preferential tax treatment, and any other public benefits; and scholarships and grants may be limited to U.S. citizens and/or residents of particular states. In some cases, such funding, subsidies, scholarships, and grants may only be used at certain state institutions or within certain U.S. jurisdictions"

Notes: *The limitations include only those that define the scope of commitments as discussed in this section of the study.

**Post-Uruguay Round accession country.

***Footnote attached to the sector or sub-sector classification; Note: Note included under the sector or sub-sector classification; National Treatment: Limitation imbedded in the national treatment section of the schedule.

171. This flexibility can allow governments to design GATS commitments in a manner which supports sector and national development objectives. At the same time, it is important to recognise that the GATS cannot solve the issue of access to higher education services. It can only play a role in complementing policy decisions by enhancing investors' confidence when countries decide to allow private sector participation in tertiary education. Domestic factors including the state and features of the higher education system and the country's economic, social and political characteristics remain central. There are plenty of examples of countries that have made full GATS commitments during the Uruguay Round which have had no impact on their higher education system.

Additional disciplines on regulatory measures

172. Once commitments in a particular sector have been made, in addition to the market access and national treatment obligations (subject to scheduled limitations), other disciplines apply. The most significant of such disciplines relate to regulatory measures and are contained in Article VI, in particular Paragraphs 1 and 5. The question arises whether these disciplines can limit governments' ability to regulate higher education services.

173. Article VI:1 requires Members to ensure that regulatory measures are "administered in a reasonable, objective and impartial manner". Article VI:5 aims at ensuring that licensing, qualification requirements and technical standards are *inter alia* "based on objective and transparent criteria" (examples given are competence and the ability to supply the service) and "not more burdensome than necessary to ensure the quality of the service". These criteria are based on Article VI.4, which provides for a negotiating mandate to develop strengthened disciplines on these measures. The application of Article VI:5 is subject to two limitations, that the measures in question nullify or impair specific commitments and could not reasonably have been expected when commitments were made. The latter appears to exempt from the scope of Article VI:5 at least all those measures which were already in place in 1995 (WTO, 1999).

174. As noted by Adlung (2005), it is difficult to see how the provisions of Article VI:1 may impinge on governments' right to regulate given that they only relate to the "administration" of the measures and not their substantive aspects. Article VI:5 may have a wider impact on regulatory capacity since as seen above does contain substantive obligations. In this context, genuine concerns have been raised about the meaning of "not more burdensome than necessary" and its potential effects on governments' autonomy to regulate quality in higher education (see Chanda, 2003; and Knight, 2003). Another concern relates to the fact that this "necessity test" is linked only to the quality of service (see Trachtman, 2003). A narrow interpretation of the objective "quality of service" may leave out measures relating to other important objectives such as equity. In practice, however, the effects of Article VI:5 are likely to be limited given that its application is subject to the two limitations seen earlier.

175. Nevertheless, these concerns remain important in relation to disciplines to be developed under the Article VI.4 mandate. There are early indications that governments will not develop disciplines in this area that may limit their autonomy to regulate services provision. For example, in the Accountancy Disciplines,¹⁵ the one area where negotiations have been concluded under the mandate, the narrower quality objective has been replaced with a broader set of objectives, including protection of consumers, the quality of service, professional competence and the integrity of the profession. The Accountancy Disciplines also apply only in sectors (or segments) where specific commitments have been made. At the same time, in light of the importance of quality assurance and other social objectives in higher education, these negotiations require close monitoring and especially involvement by the different stakeholders of the education community.

¹⁵ The Accountancy Disciplines were adopted in December 1998 and are due to be integrated into the GATS at the conclusion of the current negotiations.

Mutual recognition and the GATS

176. Current disciplines regarding recognition in the GATS framework leave considerable regulatory flexibility to Members to accord recognition as they see fit. Recognising that in light of regulatory differences between Members it may be easier to achieve recognition among a smaller number of countries, and the ensuing benefits for those countries, the GATS (Article VII) allows Members to deviate from the MFN obligation and set up bilateral or plurilateral MRAs – or granted autonomously. Recognition may be achieved through harmonisation or otherwise.

177. Article VII contains also limited disciplines to protect third-parties. It requires a Member who enters into an MRA to afford adequate opportunity to other interested Members to negotiate their accession to such an agreement or to negotiate comparable ones (through there is no obligation to extend recognition). To facilitate this, Article VII requires Members to notify promptly existing and new recognition measures to the Council for Trade in Services. Article VI.6 further requires that when a Member undertakes specific commitments for professional services, it must provide adequate procedures for verifying the competence of professionals from all other WTO Members. Guidance, however, is not provided as to what might constitute “adequate procedures” (for an in-depth discussion of these issues see Nielson, 2002).

178. New disciplines on domestic regulation to be developed under the Article VI.4 mandate might assist in promoting recognition multilaterally. In particular, progress on talks relating to qualification requirements and procedures could prove very helpful in this regard. Issues under discussion include strengthening the provisions relating to the availability of mechanisms for verifying foreign qualifications as well as specification of qualification requirements and ways to meet any additional requirements or deficiencies. They also include a range of procedural issues (e.g. timeframes, documentation and fees) that could significantly increase the overall efficiency of qualification procedures. Nevertheless, delicate issues of necessity and regulatory sovereignty are relevant here as well and call again for active involvement of the education community.

5. Conclusion

179. The economic and social significance of higher education services means that they are high in the list of development priorities in many countries. Enhanced trade and investment in tertiary education services can help achieve these development goals. Liberalisation, however, is no easy task and requires sound regulation and effective institutions to address market failures and ensure public policy objectives. This is particularly the case in the areas of quality of service and recognition of qualifications, equity and potential downsides stemming from students going overseas.

180. If appropriately designed, bound liberalisation under the GATS can contribute to the advancement of national objectives by improving investor’s confidence when countries decide to allow private sector participation in higher education. While many of the policies needed to manage liberalisation of tertiary education services are not shaped by the GATS, the Agreement can affect the regulatory conduct of governments in some areas of tertiary education. This is intensified by the fact that the GATS is a relatively young agreement and some of its provisions remain to be tested in practice. It is thus crucial to carefully examine its provisions and tailor specific commitments to national policy objectives. Also critical for the education community is to remain actively involved in the negotiations of new disciplines in the area of domestic regulation.

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