

## Notes

1. Higher education across borders is a multifaceted phenomenon that includes the movement of people (students and faculty), providers (higher education institutions with a physical and/or virtual presence in a host country), and academic content (such as the development of joint curricula). These activities take place in the context of international development cooperation, academic exchanges and linkages, as well as commercial initiatives.

2. This group includes institutions and new types of higher education providers, whether they are public, private, or for-profit.

3. The following is a representative, but by no means exhaustive, sample of related existing instruments, policy statements, fora, and initiatives: UNESCO regional conventions on the recognition of academic qualifications and credentials (see [www.unesco.org](http://www.unesco.org)); UNESCO/Council of Europe Code of Good Practice in the Provision of Transnational Education (see [www.cepes.ro](http://www.cepes.ro)); OECD-UNESCO Draft Guidelines on Provision of Cross-border Education (see [www.oecd.org](http://www.oecd.org)); development of the European Higher Education Area (see [www.eua.be](http://www.eua.be) or [www.bologna-bergen2005.no](http://www.bologna-bergen2005.no)); Accra Declaration on GATS and Internationalisation (AAU, see [www.aau.org](http://www.aau.org)); Joint Declaration on Higher Education and GATS (ACE/ AUCC/ CHEA/EUA, see [www.unesco.org/iau](http://www.unesco.org/iau)).

4. The term “competent bodies” is used in order to take into account the fact that in any given country authority for higher education rests with different levels of government, nongovernmental organizations, and institutions.

5. This is particularly true given the fact that GATS, Article 1:3 is ambiguous and open to interpretation. It is this Article that is concerned with services “supplied in the exercise of government authority” where these services are defined as being supplied “neither on a commercial basis nor in competition with one or more service suppliers.” ■

## GATS and the OECD/UNESCO Guidelines and the Academic Profession

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One of the most dramatic developments within higher education in recent years has been the rapid expansion of the “international trade” in education services. Universities and colleges have always been international in scope. Students and faculty have for centuries crossed international borders as part of their academic pursuits. But what characterizes the current environment is not so much the international migration of students and faculty, though the sheer volume of this has increased. Rather, it is the increasingly market-oriented delivery of higher education and the prominent role played by for-profit providers offering services directly across borders.

The rise of the international trade in higher education has prompted several countries, including the United States, to push for the inclusion of education services in the current round of negotiations on the General Agreement on Trade in Services (GATS). The purpose of this, ostensibly, is to create a legally binding framework that would eliminate barriers to the trade in higher education services. For instance, some countries prohibit foreign education providers from establishing branch campuses while others require that a local institution must be a partner to any foreign educational venture.

However, faculty unions around the world have expressed grave concerns about the impact GATS might have on higher education. They have argued that GATS is hostile to public services like education, treating them, at best, as missed commercial opportunities and at worst as unfair competition or barriers to foreign services and suppliers. At its heart, GATS has the potential to lock in and intensify the privatization and commercialization of higher education by requiring countries that make commitments on education services to promote unfettered competition by opening up their markets to all providers, including for-profit enterprises. Subsidies and grants provided only to domestic providers would be in violation of GATS disciplines, potentially threatening public funding of universities and colleges.

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### QUALITY ASSURANCE IN CROSS-BORDER EDUCATION

In addition, serious concerns have been raised about the potential impact of GATS on the quality of higher education. GATS rules are designed to promote free trade in higher education services by guaranteeing market access for all providers. However, given the proliferation of diploma mills now operating internationally, there is real cause for concern that granting unfettered market access to all foreign higher education enterprises will usher in a flood of providers of dubious quality. Such worries have in fact been one reason why so many countries remain reluctant to make GATS commitments on education services.

At the same time, private education institutions operating internationally have recognized that, unlike their public counterparts, they desperately need recognized stamps of “quality.” This is because of the difficulties students, employers, and governments have in separating the diploma mills from those institutions providing a good standard of education. Not surprisingly, then, those providers and governments that have promoted free trade in education services have also been pressing recently for international rules on quality assurance.

Enter the OECD and UNESCO. The OECD has long been a champion of greater trade in higher education services and of a more market-oriented approach to its international delivery. Last October, the OECD, in partnership with UNESCO, unveiled a draft set of guidelines on quality assurance and accreditation in cross-border higher education. Immediately, the proposed guidelines unleashed a storm of protest from faculty unions concerned that the interests of academic staff had been ignored and that the guidelines were aimed at promoting private for-profit higher education.

What is astonishing about the first draft of the guidelines is that academic staff and their interests were completely left out of the mix. The draft identified six key stakeholders involved in quality assurance and accreditation—governments, higher education institutions and providers, student organizations, accrediting agencies, credential evaluation bodies, and professional bodies. Faculty did not even warrant a footnote. Academic freedom was not mentioned once. Yet, respect for faculty rights and academic freedom are key foundations of quality higher education. Without ironclad guarantees of academic freedom, the very cornerstone of critical thinking and inquiry, quality is simply impossible to establish.

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#### INDUSTRIAL DEFINITION OF QUALITY

There are other reasons faculty are concerned about the guidelines. In making the case for a new international quality assurance regime, the guidelines adopt an industrial definition of quality. This concept of quality—unlike the common understanding of the word as an indicator of how good something is—means a guarantee that something meets a certain basic standard or has gone through an appropriate process of “quality control.” In an educational context, checking for quality in this sense typically means assessing institutional processes and policies against a basic standard. It actually tells the “customer”—the student—very little about how good an education will be provided. Rather, it indicates only whether every student going to that institution will get the same “product.” This provides little assurance that a good, let alone excellent, education will be received.

In addition, the guidelines reveal their commercial bias through the close correspondence between the language in the draft and the language present in GATS. For instance, Part 1 of the guidelines for governments recommends that countries: “Establish or encourage the establishment of a system of fair, transparent and not administratively burdensome registration or licensure of all higher education providers operating in their territory including distance higher education.”

The words “fair,” “transparent,” and “not administratively burdensome” correspond directly to “fair and equitable treat-

ment,” “transparency,” and “least burdensome” provisions in GATS. That the registration or licensure system should be open to all providers, domestic or foreign, public or private, is essentially a market access commitment. In effect, such wording would require foreign providers to be treated at least as well as local ones and would prevent governments and accrediting bodies from discriminating against private and for-profit providers.

#### NEW GUIDELINES

Faculty unions oppose the inclusion of education services in trade treaties like GATS because the provisions in these agreements can have a powerful narrowing effect on public policies and promote the privatization of higher education. While the guidelines would not be legally binding in the same way as trade agreements are, it would nevertheless set a dangerous precedent if trade-like commitments were made and legitimated in any international instrument.

This is not to deny that rules are needed to protect students and to promote quality in international education. However, as opposed to the current draft guidelines and GATS, these rules must be based solidly on educational values, not commercial objectives. This would mean developing different quality assurance guidelines that respect academic freedom and collegial governance and that explicitly recognize the right of the appropriate national bodies to determine which institutions and programs are accredited and how they are assessed. ■

## GATS and Education: An “Insider” View from Norway

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Following the debate on the General Agreement on Trade and Services (GATS) and education over the last few years, you might think that education was a central topic in the GATS negotiations and that countries pursued their schemes and stratagems for the education trade with great determination. In fact, the view from inside provides a completely different picture: very few countries—about 40 in all—have made any commitments or demands regarding education, and only half of those have made firm commitments concerning higher education. In terms of trade liberalization, those who have made commitments generally promise less than the policies they already have in place and request little more from others. Broadly speaking, lobbyists and other opponents of including