

The great majority of the institutions in these other sectors are private institutions. In general, the institutions in these sectors have modest student-teacher ratios (on average 11 to 1), though many staff are part time, especially at those institutions specializing in business and fine arts. While many institutions have sought to improve their quality, some, especially in the associate sector, have experienced financial hardships and hence some quality downgrading. For example, full-time faculty in the associate sector declined 20 percent between 1994 and 2001, and the average admission rate at these institutions exceeded 80 percent by 2001; the average SAT scores of students entering these institutions are comparatively low and have in the 2001–03 period experienced a decline.

Most have modest total enrollments (1,000 to 5,000 students) and some have experienced dramatic ups and downs in

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overall enrollments. The average enrollment in the associate-degree institutions was 2,554 in 1994, but declined to 1,832 in 2003. Average enrollments in the other sectors have been more stable.

Interest in foreign students at these institutions varies and has changed over time. Liberal arts institutions tend to seek a certain representative participation of foreign students to enhance the diversity of their student body. Specialized schools such as business, engineering, and fine arts have sought foreign students as part of their overall strategy to expand enrollments (in 2001 foreign students made up approximately 20 percent of the enrollments in these specialized institutions, or nearly four times the average percentage for other institutions in these three sectors). Institutions in the associate-degree sector have sometimes turned to foreign student recruitment to make up for declining domestic enrollments.

Foreign student enrollments in the baccalaureate sector have been relatively stable. There was a slight downturn from 1994 to 2001 followed by a leveling off. Enrollments in the associate-degree group went sharply down after 2001—10 percent from the 2001 peak, though still above the 1994 level—before apparently recovering in 2004. Within the associate sector, the downturn was less substantial for the upper tier of this sector, only 5 percent. That is, those institutions that only offer associate degrees experienced a much sharper decline (14 percent) than those offering bachelor's and associate degrees.

Turning to the specialized sector, overall there was a modest increase in foreign student enrollments through 2001 followed by a 10 percent decline after 2001. But within this sector there is much variation. All parts, except specialized medicine, have experienced declines since 2001. Some specializations such as business, health, fine arts, and engineering are dramatically down (to their 1994 level or below). The average number of

foreign students enrolled in business specialty schools is down nearly 50 percent from its 2001 peak. Specialized engineering and fine arts both declined by about 15 percent.

A DUAL MARKET FOR FOREIGN STUDENTS?

For the university sector, we find there was essential stability in foreign student enrollments until the last two years. But in other sectors under scrutiny here we find a more complicated picture. The liberal arts sector is holding steady, but there have been ups and downs in the associate sector along with declines in several subgroups of the specialized sector.

Whereas in the university sector, private institutions experienced a larger drop in foreign student enrollments than public institutions, for the baccalaureate and associate-degree sectors the public institutions experienced a greater decline. This suggests a “dual” market—for associate and four-year-degree institutions, foreign students tend to be more price sensitive. For graduate studies, foreign students are prestige sensitive. Behind these differences is the reality that a greater proportion of foreign students in graduate studies receive financial aid than do those at the undergraduate level. ■

GATS: The Way Forward After Hong Kong

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The General Agreement on Trade in Services (GATS) negotiations during 2005 were basically in a logjam. The current round of negotiations, known as the Doha Round, was scheduled to end in January 2005, but there have been major delays and the end date is now set for October 31, 2006. It is important to realize that the Doha Round includes negotiations on three different aspects of international trade—two that deal with goods and one that focuses on services. The first is “agriculture,” with which the most contentious issue is the reduction of domestic support to farmers—primarily by the European Union and the United States. The second is “non-agriculture market access,” regarding which the reduction of tariffs is the key stumbling block, and the third is trade in services as enshrined in GATS. The first two issues created the paralysis, but the logjam has been loosened by agreements at

the December 2005 WTO meeting of trade ministers in Hong Kong. Some of the focus may now return to negotiations in the 12 service sectors of GATS, and the pressure will be strong to increase the breadth and depth of commitments. To date, there have been a disappointingly low number of commitments in GATS. As a result, WTO-member representatives in Geneva have made renewed efforts to develop new means of encouraging countries to improve their offers. These new strategies are the focus of this discussion.

As of January 2006, a total of 45 countries (the EU is counted as one country) have made a commitment to the education sector. Thirty-six of these countries have agreed to liberalize access to the higher education subsector. Education is one of the three sectors (health, education, and culture) that are often referred to as the “sensitive sectors” and seen to be undercommitted. They may well be targets for increased pressure. The major focus, however, will continue on the big sectors such as financial services, information technology, telecommunications, and others.

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It is important to remember some of the fundamental principles and rules of GATS to understand the implications of the proposed changes. First, the “bottom-up” nature of GATS allows any country to choose whether or not it will make a commitment in any of the 12 sectors and what degree of market access will be permitted. Furthermore, because negotiations are based on a bilateral request/offer system, any country is free to make a request of another, and in return any country is free to decide if or how to respond to the request. Thus countries, especially developing countries, are able to decide if, how, when, and under what conditions they will participate in the GATS negotiations. This bottom-up nature of GATS has provided a substantial degree of flexibility, but it is this flexibility that may be at jeopardy with the introduction of new negotiating strategies. There is also a “top-down” approach of GATS. This approach is the Most Favored Nation rule (all countries have to be treated the same) and National Treatment, which stipulates that where offers have been made domestic and foreign providers must be treated equally. These rules will not change.

NEW OPTIONS TO STRENGTHEN GATS COMMITMENTS

A number of developed countries, frustrated by the lack of increased access to trade in services, are proposing some new “complementary approaches” for negotiations. They include a variety of methods designed to push countries, especially developing countries, to commit to liberalization in a greater

number of sectors and, more importantly, to deepen market access by the removal of more and more barriers to trade. This is in line with the goal of progressive liberalization, but the options being suggested may be seen as a threat to some of the basic bottom-up rules and flexibilities built into the GATS framework. The proposed new approaches include the following options:

Plurilateral negotiations. This alternative would involve a group of countries, with common interests in a specific sector, making a *joint approach* to a country for market access in specific sector/s. This is very different from the agreed-upon “bilateral approach.” It puts increased pressure on a country to agree to the request, given the consequences of refusing a group of potentially important and powerful trading partners.

Numerical targets and indicators. This option would basically constitute a formula approach proposing that countries should include a minimum number of new or improved commitments in an agreed-upon number of subsectors. The number or percentage of subsectors would differ for developed and developing countries. This proposal is perceived by many countries as ignoring the fundamental principle that countries can choose the sectors to which they commit themselves. The education sector may be vulnerable given the low number of commitments to date.

Qualitative parameters for modes of supply. It is suggested that specific types of barriers be removed for all commitments to a particular mode of delivery, irrespective of the subsector. For example, one could take the often-used restrictions related to limited foreign ownership in mode three (commercial presence). The new approach would mean that any barriers related to foreign ownership for mode three would be eliminated across all sectors/subsectors.

These are three examples of the new “complementary approaches” being suggested. Others include reduction in the number of Most Favored Nation exemptions and benchmarking. They are labeled as “plurilateral, sectoral, and modal” approaches and will be the subject of much heated debate. The details of these new approaches are not known, but the position of many countries is that they will significantly erode the flexibilities available to them to liberalize in sectors they choose and to the extent that they wish.

THE MEANING FOR TRADE IN EDUCATION SERVICES

If these new complementary approaches are eventually implemented, it is likely that many countries will be making and/or receiving additional requests for access to their domestic education markets. For countries that have already made a commitment to higher education, there may be increased pressure to remove restrictions or Most Favored Nation exemptions that were detailed. Education may be seen as a useful “horse-trading” sector—meaning that commitments to education will be given to gain access to other key sectors.

It is important to emphasize that there will be great speculation and controversy on these proposed changes to the GATS

methods of negotiation. This means that education policymakers and senior leaders need to develop a close and ongoing relationship with the lead trade negotiators and GATS experts in their country to become better informed and to influence future trade negotiations that involve education. Trade negotiators cannot be expert in all sectors, and thus the education sector has a role to play in providing analysis of the potential opportunities and benefits and/or the potential risks and disadvantages of trade in education services for their national higher education system. ■

GATS and Education Services: The Fallout from Hong Kong

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After six days of intensive and often acrimonious negotiations, trade ministers from the 149 member countries of the World Trade Organization reached an agreement in December 2005 to restart stalled global trade talks. While the breakthrough in agricultural subsidies was clearly the centerpiece of the deal struck in Hong Kong, the final declaration adopted by the Ministerial Conference also has important consequences for ongoing negotiations on services, including education services.

The controversial section on services in the declaration—Annex C—will rapidly accelerate General Agreement on Trade in Services (GATS) negotiations over the next year. Responding to frustrations expressed by some developed countries about the perceived slow pace of GATS talks, WTO trade ministers endorsed a controversial proposal to transform the nature of negotiations in a way that will put new pressure on members to deepen commitments across all sectors. Of particular interest to the education community is the fact that the declaration calls on members to develop sweeping new disciplines on domestic regulation before the end of the current round of talks—disciplines that could have a profound impact on everything from accreditation procedures to quality assurance standards.

PLURILATERAL NEGOTIATIONS: INTENSIFYING GATS TALKS

The Ministerial Declaration calls for a major change in the way services negotiations take place. Instead of the traditional one-on-one bilateral GATS talks, the declaration gives a mandate to members to enter into “plurilateral” request-offer negotiations.

It is already an intimidating prospect for many nations to face powerful *demandeur* countries one-on-one as in the bilateral request-offer process. Now, under a plurilateral approach, individual members will have to confront a group of powerful countries that represent the most aggressive *demandeurs* in a particular sector. As intended, this will greatly intensify pressure on many countries to make GATS commitments in sensitive service sectors.

The essence of the proposed plurilateral talks is to give a free rein to the so-called “friends” groups. Until now, these groups have been largely informal, ad hoc, industry-driven coalitions of countries that are *demandeurs* in key sectors, including education. New Zealand, for instance, is leading a “friends of private education exports” group that is pressing for national treatment and freer market access for private providers.

With a mandate to undertake plurilateral negotiations, members of the friends of private education exports group will now work collectively to develop model schedules of GATS education commitments that they would like to see other countries adopt. These education schedules will form the basis for subsequent negotiations. The schedules will entirely reflect the choices and interests of the *demandeurs*, putting target countries in a difficult and largely defensive position. In effect, target countries will be forced to negotiate over exceptions for particular government measures affecting education, within a framework dictated by the *demandeurs*.

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DOMESTIC REGULATION: UNDERMINING REGULATORY AUTHORITY

The second key issue arising from the Hong Kong Ministerial Declaration is the decision to conclude new disciplines on domestic regulation before the end of the current round. GATS Article VI:4 commits members to develop any “necessary disciplines” to ensure that “measures relating to qualification requirements and procedures, technical standards, and licensing procedures do not constitute unnecessary barriers to trade in services.” The aim of these disciplines is to require members to prove that these regulatory measures are “not more burdensome than necessary to ensure the quality of the service.”

The proposed disciplines explicitly target nondiscriminatory measures—that is, regulations that treat local and overseas providers the same. In other words, even if a regulatory measure is consistent with the nondiscrimination rules of GATS and the GATS market-access prohibitions, it could still be chal-