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Report of the Fifteenth CCEM Preliminary Meeting on

Education and the General Agreement on Trade in Services: What Does the Future Hold?

**Compiled by
Pauline Rose**

**with the assistance of
Roy Carr-Hill, Keith Holmes and Thelma Henderson**

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INTRODUCTION

The General Agreement on Trade in Services (GATS) is a round of international trade negotiations by members of the World Trade Organisation (WTO) aimed at liberalising the world trading system. Intending to cover professional services such as architecture and financial services, GATS also proposes to liberalise social services, including health and education. This is, in part, recognition of growth in the international trade in education services which has already been taking place in recent years, particularly at higher levels. Under the GATS rules, a nation state that has “committed” its education sector (or part thereof) cannot discriminate in favour of national service providers, although there is debate over what this means in practice. Several countries have already agreed to commit parts of their education sector.

Due to its distinctive public role, the inclusion of education in GATS is proving controversial. On the one hand, supporters of the GATS claim that greater liberalisation of the education sector will produce efficiency gains and stimulate innovative practices through market competition. They argue that GATS will result in increased choice, opportunities for knowledge and technology transfer, and reduced prices. On the other hand, others, including some governments, civil society organisations, trade unions, academics, criticise GATS for compromising the democratic control of education and its public service goals. For example, under GATS, national education service providers may have to compete with transnational providers with implications for the integrity and future development of national education, training and accreditation systems. At the level of higher education, critics highlight implications for academic freedom, intellectual property rights and the future of research and knowledge production.

To date, relatively little attention has been given to the wide-ranging implications of GATS for education and development, although interest has begun to increase. It was, therefore, decided to hold a major professional one-day colloquium to investigate the issues. The overall aim of the colloquium was to engage members of the UK and international education communities with the debates surrounding education and GATS, by exploring the implications of GATS for all levels of the education system in the North and in the South.

The colloquium was designated as one of the preliminary meetings leading up to the Fifteenth Conference of Commonwealth Education Ministers to be held in Edinburgh in October, 2003. It was sponsored by the Commonwealth Secretariat, the Council for Education in the Commonwealth and the UK Forum for International Education and Training. It was hosted by the Commonwealth Secretariat at Marlborough House. The programme was prepared in consultation with Gari Donn, Chief Programme Officer Higher Education at the Commonwealth Secretariat, by Roy Carr Hill, University of London; Keith Holmes, International Institute for Educational Planning, UNESCO, Paris; Pauline Rose, University of Sussex and Thelma Henderson, UKFIET. The event was administered with generous assistance from Bobby Dohunso-Tettey, of the Education Section of the Social Transformation Programmes Division.

The colloquium aimed to bring together stakeholders from a range of perspectives, to ensure a balanced discussion of different views of the implications of GATS for education. A great many agencies were represented including High Commissioners, UK government departments (of trade, education, and international development), professional bodies and trade unions, NGOs, qualification suppliers, universities and other stakeholders in education.

The report that follows, compiled by Pauline Rose with the assistance of Roy Carr-Hill, Keith Holmes and Thelma Henderson, intends to provide some initial insights into a range of aspects of education and GATS. It includes papers presented by the plenary speakers and facilitators of group sessions, and summaries of the discussions that took place following presentations and in groups. While an attempt has been made to reflect accurately these discussions, inevitably some of the points made might have been lost in transmission. To preserve anonymity and avoid unintended attribution to particular agencies, the summaries do not identify those making specific points.

The opening remarks by Dr. Indrajit Coomaraswamy, the Director of the Economic Affairs Division, presented in the absence of the Deputy Secretary General of the Commonwealth, Mr Winston Cox, raised pertinent questions which were addressed throughout the day, including:

- Does GATS challenge the view of education, particularly higher education, as a public good?
- Given the flexibility of country choice of whether/what to opt in to, what is the cause for concern?
- Will GATS result in an asymmetry of trade in education services between the North and South, given differences in capacity and resources available?

During the presentations and discussions, a wide range of issues was raised out of which the following key points arose:

- Debates about the advantages and disadvantages of GATS for education systems have tended to be polarised between those who are anti-trade who believe that education is a public good and should not be treated as a commodity; and those who are in favour of trade, who argue that education has been traded for many decades, and cannot see the harm of formalising what is happening in any case.
- The debate is not as clear-cut as the ideological divide suggests, with a number of potential costs and benefits to countries of trade liberalisation. It is not necessarily the case that those who oppose GATS are against the internationalisation in education *per se*. The fear is, however, that GATS will give countries less control over choices with regard to the speed and extent of liberalisation. Once a country is signed up to GATS, it is virtually impossible to retract commitments.
- In governments, the motivation for signing up to GATS in education services might differ for departments of trade compared with departments of education. In practice, it is often departments of trade that have made the commitment, sometimes without consulting with those in education.
- Trade in education services is happening regardless of GATS, and a variety of bilateral and multi-lateral trade agreements related to education already exist, so it is not apparent what difference GATS is likely to make, or for that matter what purpose it might serve.
- At present, too little is known of the implications of GATS on education in practice. One reason for this is due to the general lack of good evidence on the size and scope of international trade in education services across borders, irrespective of GATS. It is important to get more information about this in order to examine the effect of GATS in practice.
- Some clauses in the GATS agreement are ambiguous and, until tested, the legal implications are not clear. This has been a major cause for concern, and has initiated much debate. For example, it is unclear what services are exempt under Article 1.3(b)

which states that: "services" includes any service in any sector except services supplied in the exercise of governmental authority; "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."

Does this include private not-for-profit quality assurance agencies, for example? The ambiguity of wording will potentially be left to trade lawyers to interpret if and when the time arises to challenge it. In addition, the general exception that foreign providers cannot expect to have the same public funding available to providers within a country has to be re-negotiated every 10 years, and could change in 2004.

- Given the ambiguity and confusion over the wording of the agreement, it is not clear what the implications of GATS would be for current Commonwealth activities, such as the Commonwealth Scholarships and Fellowships Plan.
- To date, the debate has mainly occurred in relation to higher education. Even less is known about the potential impact of GATS on other parts of the education system. Even if countries only commit their higher education sub-sectors, this will have potential implications for education lower down the system.
- Countries do have a choice about what to sign up to so, if they do not see it in their interests, they can choose not to. Indeed, education is the second least committed sector, after energy. However, some countries have apparently signed up without fully understanding the implications, and signing could be used as leverage for countries dependent on donor resources. The un-level playing field between governments in the North and South in negotiating such agreements needs to be considered.
- While there might be a need to regulate the private sector to ensure standards are maintained, questions were raised about why the private sector was more in need of regulation than the public sector. Even if it is possible to identify ways to assess quality that are commonly agreed upon, regulation is likely to be difficult in a liberalised system. This is likely to be even more apparent in low-income countries where there is extremely limited capacity to regulate. Even so, the discussions being held in relation to quality assurance and regulation are an indication of considerable progress since, ten to fifteen years ago, these issues were hardly discussed.
- With regard to skills development, it was suggested that there was a need for developing countries to have a strategic approach to skills formation linked with national and regional development priorities. This is even more important in the context of globalisation. Even though the private sector may play an important role in this, there is a need for leadership at the national level. GATS could be detrimental to this for low-income countries, until they themselves have become both producers and consumers of educational services.

A general conclusion of the presentations and discussions throughout the day appeared to be that, while it was recognised that trade in education services was happening in any case, and that this was not necessarily a bad thing, it was not clear what GATS had to offer for education systems in developing countries. While there was not unanimity on this conclusion, some of those supportive of trade liberalisation more generally were also guarded about the benefits of GATS for education in developing countries, and suggested caution in countries committing themselves until greater clarity of the implications became evident. It was generally agreed that there was a need for on-going monitoring of the implications of GATS for education, and for continuing the debate on the issues that arise.

SESSION 1
OVERVIEW OF THE DEBATE ON EDUCATION AND GATS:
WHERE DO WE STAND?

International trade in educational services: Good or Bad?

Kurt Larsen, OECD

This note is an extract based only on the Introduction and Conclusion of a much more comprehensive paper co-authored by the presenter. For any details of the argument, the reader is advised to read the full paper by Kurt Larsen and Stéphan Vincent-Lancrin called INTERNATIONAL TRADE IN EDUCATIONAL SERVICES: GOOD OR BAD? in Higher Education Management and Policy Vol. 14, No. 3

Introduction

Until recently, it was incongruous to refer to international student mobility as *international trade in educational services*. Today in some OECD countries, there are clearly commercial motives as well as the usual cultural and political rationales behind policies to internationalise higher education. The inclusion of “educational services” in the General Agreement on Trade in Services (GATS) negotiations now under way in the World Trade Organisation (WTO) has raised awareness of the trends and issues relating to international trade in educational services in higher and, more broadly, post-secondary education. Two separate but key policies to promote the internationalisation of higher education, one taking a cultural approach and the other a commercial approach, have fuelled the growth in trade in educational services over the past decade. International trade in educational services has accordingly increased substantially in the OECD area, and in some cases taken new forms.

The potential implications of this development of international trade in educational services are raising numerous concerns in the educational community. The recent Washington Forum on Trade in Educational Services, hosted by the OECD and the United States Department of Commerce (23-24 May 2002), showed that the debate on trade in educational services was less about conflicting country positions than about conflicting professional groups, each with their own culture and interests. Within a single country, private-sector providers of technical or vocational training (particularly in new technology), testing companies, quality assurance agencies and the business world viewed the liberalisation of trade in educational services in a fairly favourable light, whereas students, traditional universities and traditional educational circles appeared to be less in favour of such liberalisation, or the very idea of *trade* in education. To some extent, these differences of opinion reflect opposing interests.

Universities, for instance, may not be convinced of the benefits of liberalising higher education, yet it would probably increase the turnover of quality assurance agencies and create new opportunities for vocational training providers. But the differences of opinion also stem from a cultural misunderstanding: even when they do adopt business practices, universities – whose identity is usually based on non-commercial values – remain suspicious of trade, whereas private enterprise often finds it hard to view the culture and specificity of university services other than in a commercial light – or as protectionism.

The full paper analyses the beneficial and adverse implications that international trade in educational services might have for higher education systems in the industrialised and developing world. It argues that traditional higher education will be less affected by these

developments than lifelong learning, and that there will be more growth in this trade in developing countries than in the industrialised world. Although some of the arguments apply to all types of education, this paper is confined to educational services at post-secondary level. The first section looks at recent developments in international trade in education services, identifying the policies and factors that have contributed to it. Analysing the concerns raised by international trade in education services with regard to cost funding, educational quality and economic expansion, Section Two highlights the complexity of the issues involved in the internationalisation and liberalisation of the education sector. However, it does not specifically address the GATS, nor the cultural and pedagogical issues relating to internationalisation. Section Three takes a forward-looking approach to see what impact international trade in educational services will have on various types of economy (industrialised, emerging, developing), educational sector (traditional, lifelong learning) and service provision (involving some or no physical mobility). The conclusion summarises the leading insights set out in this paper and looks at some of the policy issues raised by the development of international trade in educational services.

Conclusion

The full paper concludes by asking whether international trade in education services is good or bad? The complexity of the issues and factors involved in the development of international trade in educational services rules out a definitive conclusion. International trade in educational services has its good and bad sides, and the issues vary substantially with the country, mode of delivery and sector of education (i.e. the traditional public sector or the generally private lifelong-learning sector).

The past ten years have been marked by substantial growth of trade in higher education services. This is attributable partly to increased demand, particularly in the emerging economies of northern and eastern Asia, and partly to active policies to promote the internationalisation of higher education, which take basically either a cultural or a commercial approach. In addition to traditional movements of students and academics, international trade in educational services increasingly involves new modes of supply that do not require student mobility (foreign investment and e-learning), and providers are increasingly private. Although few figures are available on the lifelong learning sector, there is considerable evidence of substantial growth in international trade.

This growth in the international market for post-secondary education services is expected to continue in the short and medium term, regardless of the outcome of WTO negotiations on trade in services. The political, economic and technological factors that have driven this expansion over the past decade continue to act as an engine for growth. On the one hand, the political consensus in favour of internationalisation programmes with a cultural approach should step up the internationalisation of higher education. On the other, demand from students in emerging economies should continue to grow, maintaining economic incentives for the universities and for-profit institutions that take a commercial approach. Consequently international trade in Modes 2 and 4, involving student and teacher mobility, should continue to expand, as should international trade in educational services not involving student mobility (Modes 1 and 3).

The debate on international trade in educational services is currently focusing on the inclusion of such services in the GATS negotiations. As international trade in educational services has had no need of the GATS to achieve high growth in the past, there is no certainty

that the WTO negotiations will have a major impact on its growth in the future. While the Agreement may accelerate or orient the development of international trade in educational services in Modes 1 and 3, it has little direct influence on trade in Modes 2 and 4. As the latter involve movements of natural persons, the potential barriers to international trade in educational services lie in host-country visa and immigration policies, but these do not fall within the scope of the Agreement. Nor does the quality of educational services, which is one of the major brakes on the expansion of trade. Furthermore, the issues at stake in the GATS negotiations remain very limited: most commitments merely confirm the status quo and most requests for market opening concern educational services in the private sector. The United States, for instance, has confined its request for market opening to private post-secondary education, making it explicit that it does not apply to public higher education¹. Emphasising that the opening of their private sector to foreign providers has had no adverse effect on their public system of higher education, the fifteen Member States of the European Union have recently asked the United States to open up its private post-secondary education sector². Thus the GATS negotiations do not closely concern the traditional higher education sector, and are more of a showcase than a driving force for international trade in educational services (Sauvé, 2002; OECD, 2002a).

It is therefore conceivable that international trade in educational services will to a large extent develop independently of the GATS negotiations. However, its expansion will differ across countries and sectors of education. International trade in educational services does not take every country inexorably down the same path. The development and implications of this trade will depend largely on the institutional context and government policy options in each country. In this respect the range of possibilities remains wide open.

In our view, the development of international trade in educational services should have a far deeper impact on the lifelong learning market than on the traditional higher education market. Whereas student mobility will probably remain the leading mode of international trade in higher education, such trade will probably take the form of foreign investment and e-learning in the lifelong learning sector, where it will make competition much keener. Three arguments may be briefly recalled to justify this assertion: first, in many countries the lifelong learning sector is already largely subject to market regulation; second, modes of supply that do not involve mobility are more suited to an active clientele who are usually less mobile; and third, market regulation here poses fewer problems than in the traditional sector, where independence from the market is more warranted. These developments may occur in any country – but may possibly be accelerated or facilitated by commitments made in the GATS negotiations.

One of the major problems raised by the development of international trade in educational services is the recognition of foreign qualifications, which depends on the quality of international education services. The problem is as relevant to student mobility as it is to foreign investment or e-learning. With a growing number of international providers in each country, governments and universities will have to find solutions to the problems of quality regulation, post-secondary funding (the access issue), and the continuity and diversity of educational service provision. And with a growing number of national (and international) students applying to have their qualifications recognised abroad (or at home), they will have to solve the problem of the international recognition of post-secondary education.

1. www.ustr.gov/sectors/services/2002-07-01-proposal-execsumm.pdf
2. http://europa.eu.int/comm/trade/services/gats_sum.htm

Possible solutions are very diverse. With regard to quality, for instance, governments and universities can rely on the good faith of international institutions accredited in their country of origin, quality assurance agencies in the country of origin, or international quality assurance agencies. Other solutions include extending their own quality assurance procedures to foreign providers. Although necessarily keener, the amount of competition that the traditional higher education sector will face depends on the institutional environment created by governments, in particular the level of public funding for education. However, keener competition with the presence of foreign private providers is not likely to have any impact on the degree of public funding for education. Depending on their needs and priorities, governments may also try to gain some control over the actual content of international provision, in order to offset the possibly adverse impact of greater market regulation on the educational sector. Finally, in the developing world, international trade in educational services raises further issues: what balance can be struck between assistance and trade in the field of education? Can trade be combined with new forms of assistance to develop educational service provision in a more innovative way? Settling all of these issues will require discussion and policy decisions at national and international level.

Debate on Education and GATS: Where do we stand?

Svava Bjarnason

*Head of Policy Research, Association of Commonwealth Universities and
Director, Observatory on Borderless Higher Education*

Acknowledgement: this paper draws substantially from the paper written by Dr. Jane Knight; “GATS, Trade and Higher Education Perspective 2003 - Where are we now?”, a report commissioned by the *Observatory on Borderless Higher Education* and available through subscription from www.obhe.ac.uk

Introduction

The Association of Commonwealth Universities (ACU) secretariat has been following the developments of the World Trade Organisation’s General Agreement on Trade in Services (GATS) for a number of years. This paper attempts to address the central question of this Colloquium, namely to identify where some of the key issues of the current debate stand.

The discussion and rhetoric surrounding developments in trade in education services globally has tended to be quite polarised. The anti-trade faction stridently puts forward the argument that education should not be considered a commodity and therefore should not be considered a service which can be traded. While the pro-trade faction argues that education has been actively traded across the world for decades, if not centuries, and questions the concern with formalising what has become general practice. The reality, if there is one, lies somewhere in between and will differ depending upon one’s context.

To provide some context to the paper, the ACU has some 500 member universities from 35 Commonwealth countries of which almost 60% are drawn from the developing Commonwealth. Thus, the ACU represents a highly diverse group of institutions from across the globe. There were two main challenges facing the ACU in endeavouring to assist our members in understanding the issues relating to GATS: firstly, to commission a paper that presented an informed ‘middle ground’ in the debate that provided the facts in an unbiased context, neither pro, nor con; and secondly, to find a vehicle that would disseminate such a paper as widely as possible so that university leaders, governmental policy-makers and other stakeholders would have access to a factual report which would underpin and facilitate a knowledgeable debate.

The Observatory on Borderless Higher Education (OBHE) was initiated in 2001 as a joint initiative between the ACU and Universities UK (the inter-university body for the United Kingdom). It was established to provide universities and policy makers worldwide with an ongoing intelligence service tracking the global developments of a wide range of activities in an increasingly ‘borderless’ higher education terrain. The notion of ‘borderless’ used in this context is not simply that of geography, but includes the ever more permeable boundaries around higher education (e.g. corporate education, further education and continuing professional development). Location of delivery is another border that is shifting rapidly, with developments in online provision, franchising of courses and ever-increasing private provision available to learners. These reflect just a few examples of borderless developments.

In 2002, the Observatory commissioned and disseminated a report by Dr Jane Knight, of the University of Toronto in Canada, as an introduction to the basic tenets of the GATS debate with a focus on higher education. This report was widely distributed and underpinned a number of international conferences across, and beyond, the Commonwealth. By 2003, the debate had moved on sufficiently that a second report was commissioned from Dr Knight – this latter report was to focus on the potential policy implications for increased trade as well as providing an update on key developments as of May 2003. This presentation draws significantly from both those reports and assumes a working knowledge of the basic elements of the debate surrounding GATS in education.

A Multitude of Stakeholders

One of the many difficulties in preparing a presentation on the GATS and education is that there are a multitude of stakeholders involved and each brings a particular perspective and agenda. Indeed, the whole notion of having a national perspective on the GATS is incredibly problematic as these stakeholders are not likely to easily converge in agreement on a trade policy. Stakeholders include, but are certainly not limited to:

- Academics
- Students
- Unions – of both academics and students
- Governments
- Departments of Trade
- Education sector representatives
- Institutional leaders

By way of illustration as to the complexity of this debate, one could develop a scenario of a meeting between such stakeholders. In this meeting, the ‘education sector representatives’ might be requesting the Government’s Department for Education to decline from putting trade in educational services on the schedule for the GATS negotiations, calling for protection under Article 1.3. Some institutional leaders present strongly support this position, while others feel that this might limit their institution’s ability to continue to develop franchise activities in certain countries or develop their online courses which they want to market overseas. The student union representative might take the position that education should not even be considered as part of the GATS debate, but should be considered a public good and therefore not a commodity to be traded. Meanwhile, the Department of Education will be endeavouring to ensure that their colleagues from the Department of Trade have a clear understanding of the issues across all five categories of education (i.e. primary, secondary, higher, adult and other) to enable them to trade knowledgeably on behalf of the education sector. The Department of Trade participants, while acknowledging the myriad of issues raised by the various stakeholders, may well be more concerned with developments in trade in agricultural services and quietly wondering whether they might gain a negotiating position by making an offer of trade in education services.

Indeed, to suggest that the GATS debate is complex, may well be understating the case.

Rationales for Trading Education Services

Just as there are multiple stakeholders involved in the GATS debate, there are multiple rationales that underpin the arguments of why governments may take a particular stance in

relation to trading education services. It is helpful to explore some of the possible rationales that different countries might consider in determining whether they might offer to trade in education services.

It must be stated that these rationales are clearly not 'value-free' and carry with them a tremendous potential for both negative and positive impact on the countries involved. Nor are they mutually exclusive, as there may be some combination of rationales considered depending on the national context. They are presented here by way of illustration and an attempt to understand why some countries might consider opening education services to trade while others might not.

a) Rationales for *Importing* Education Services

There are a variety of reasons for agreeing to open a country's market formally through trade in higher education services. These include (and again, are certainly not limited to):

- Increased capacity: some countries do not have the physical capacity or infrastructure to support or meet a growing demand for higher education. By opening trade in education services, and thus enabling foreign providers access to providing services in their country, there may be increased numbers of participants able to experience higher education.
- Access to specialised knowledge and skills: existing institutions of higher learning may be lacking specific expertise to teach specialised programmes of study. By opening the sector to trade, such expertise could potentially enter the country more easily.
- Development of human resource capacity: governments may have identified particular areas of knowledge and expertise that are lacking in the country in order to meet human capacity requirements (e.g. teaching skills or nursing skills). By providing access to the education sector, foreign providers may be able to provide the necessary training to build a critical mass of skilled workers at a relatively low cost to government.
- Increase competition among local Higher Education Institutions: in some instances, governments may choose to open their borders to other providers with a view to increasing the competition and potentially raising the standards of the local providers if they wish to compete for fee-paying students.
- Minimize 'brain drain': the loss of human capital from many developing countries (and increasingly from developed countries) presents tremendous challenges. By opening a country's education sector it might be possible to maintain a proportion of the skilled and knowledgeable people who might be employed by incoming providers.
- Improve quality through foreign providers: in some ways, this is allied to the point above on increasing competition. Governments may choose to actively recruit providers that have a known benchmark of high quality international provision, thereby increasing the general quality of provision available to learners in certain areas of study.

b) Rationales for *Exporting* Education Services

Just as there are rationales for importing education services, there are equally complex reasons for exporting services. Exportation of education services is not often the initiative of a national government, but more often an initiative of particular institutions or departments within institutions. There are exceptions to this. For example, UK e-Universities Worldwide has the expressed aim of marketing UK higher education provision globally and is funded primarily by the UK Government with UK universities as stakeholders in the holding company.

Some possible rationales for exporting education services include:

- Excess national capacity: some countries may find themselves in a position where the public and private sector provision in education has exceeded the local demand. Providers will then look beyond their geographical borders to gain access to other, possibly more lucrative, markets where demand outstrips capacity to deliver.
- Income generation: public funding for higher education (and indeed other sectors) is becoming increasingly stretched forcing institutions to find alternative sources of income generation in order to maintain standards and quality. Exporting education services through a variety of methods (e.g. franchising, online delivery, student mobility) has the potential to extend the reach of existing provision to markets that will often pay significantly more than institutions are allowed to charge students studying in their home country.
- Strategic cultural, political, economic or education alliances: the rationales here are not mutually exclusive, but often reflect an alliance of institutions with a particular similarity (e.g. research focus, regional or language groupings). Strategic alliances of institutions has increased considerably in the past five years providing an ever expanding global reach to those institutions able to participate in such alliances.
- Further internationalisation of domestic institutions: the ‘internationalisation’ of higher education can encompass any number of meanings – it can reflect the desire to have more international students and academics on campus in order to bring understanding and tolerance for other cultures or it could mean a focus on reflecting international issues across the university curriculum, or indeed many other manifestations. A more global movement of people and knowledge would lend itself to institutions having much greater access to different cultures and experiences on their domestic campuses.

Issues on the Table

The Doha Round of negotiations has seen an increase in the level of understanding of the issues relating to trade in education services, but despite this, education is still one of the least widely traded of the services open to negotiation. However, there are a number of issues that higher education leaders and governments – both pro and con to trade – have brought to the fore. These issues reflect some of the perceived underlying threats to an unfettered increase in trade in education services globally.

- Undermining of domestic provision: Article 1.3 in the GATS schedule states that “those services supplied in the exercise of governmental authority ... and not in direct competition . . . “ with other education services will be exempt from the GATS. There is a purposeful lack of clarity on the part of the WTO as to precisely what this entails in terms of what is often considered ‘public’ provision of higher education and whether it is then exempt from potential interference through the GATS.
- Jeopardizing quality of delivery: if governments are forced to provide open access to providers from a wide variety of countries there is serious concern about how best to monitor and ensure a high quality of delivery of the educational experience.
- Influx of private/for-profit providers: the worst case scenario envisaged by some is the dramatic influx of providers that would flood the education market in those sectors deemed to be most lucrative (e.g. business, IT, engineering). This would put considerable pressure on existing providers and may create a two-tiered system whereby only those

with the wherewithal to pay top prices have access to what is often perceived as the highest quality provision.

- Recognition of qualifications & accreditation: if GATS facilitates a bloat of student mobility, of knowledge mobility and of providers, the concern is how then can one manage the international requirement of recognising the qualifications gained from such a wide variety of providers? Furthermore, who is accrediting the various providers, and under which jurisdiction?
- Private versus public good: many academics and students would argue that education is a public good far more than a private good. If this is the case, then there is considerable danger in opening the whole of the education sector to the marketplace as it would not then enable governments to have any influence in shaping the size and scale of the various elements of the education sectors.

Issues *Not* on the Table

While it is recognised that education is not yet one of the most actively negotiated services through the GATS, there are some areas that are, perhaps surprisingly, not yet being widely discussed. These include:

- Input from other education sub-sectors: there are five different education sectors recognised in the GATS (i.e. primary, secondary, higher, adult and 'other'). At this stage in the negotiations there has been very little input or activity from any education sub-sector other than higher education.
- Clarification of issues for 'other services': another purposefully vague area in the WTO schedule is precisely what is encompassed in 'other' education services. Often activities such as language instruction and testing services are cited, but there are numerous other services that might be included, for example marketing education abroad including those services provided by the British Council and IDP Australia.
- Impact of the TRIPS agreements: Trade Related to Intellectual Property Services (TRIPS) has been part of the GATS negotiations for a number of years and effectively has been dealt with in previous rounds. This area, and the next, have potential impact particularly on the higher education sector in terms of intellectual property rights and research activities.
- Impact for research: to date the emphasis has been on student and knowledge mobility with little explicit mention of the potential impact of the GATS on research. This may well be that research has been seen to be international for decades and therefore there is little that might be considered new for GATS to bring to this aspect of the higher education experience. This may well be true in some ways, but the potential of widening access through the various modes of delivery may well impact upon research in unexpected ways.
- Potential impact on HE from negotiations in other service sectors: what we must not lose sight of in this discussion is that education is just one of 12 primary services under negotiation. The fact that it is one of the least actively negotiated should not give way to a sense of complacency as the negotiators have potentially much larger services on the table from a national perspective, for example agriculture and telecoms. It is possible that if the negotiators (usually departments of trade) are not lobbied persistently by education representatives to enable them to clearly understand the issues from the education sector, then the temptation might well be to make concessions in the education sector in order to gain a stronger position in what might be perceived to be some larger public issue.

Further Debate Required

At the end of June 2002, 34 out of 145 WTO countries tabled requests for access to foreign markets and by end April 2003 only 20 countries submitted their offers for providing access to their domestic markets. The 'request and offers' stage of negotiation in the Doha Round continue through to January 2005 and it is likely this deadline may well be extended given almost certain delays in the process. In the meantime, there is much to be done.

The level of awareness of the potential impact of increased liberalisation through the GATS is decidedly low amongst stakeholders. It is critically important that Vice Chancellors and government policy-makers become more aware of the detail of the negotiations and that a constructive debate be undertaken to ensure that the widest possible consideration is given to the concerns of various stakeholders.

Government negotiators need to push for more clarity on a number of different issues, including the need for precise definitions on 'other' services and a ruling on technical issues such as Article 1.3 (exemption of services in government authority) and Article 6.4 which deals with regulatory issues concerning qualifications, quality standards and licenses.

There is a dearth of sound empirical evidence on the actual size and scope of existing international trade. In some instances incredible numbers are quoted for the demand of higher education globally, but very little evidence is systematically collected to enable evidence-based policy making. The OECD and other international bodies provide some data but more is required.

Policy issues on access, funding and quality need to be seriously considered in each national jurisdiction to ensure that national regulatory measures are in place to enable the national governments to capably regulate not only their own national provision but also the potential influx of international providers.

The pace of developments in the GATS negotiations is likely to increase through to 2005. There are an increasing number of groups and international organisations that are endeavoring to lobby governments and to raise awareness of the potential impact of the GATS. Colloquia such as this play an important role in facilitating exchanges between and among the key stakeholders, but more needs to be done to ensure that as many voices – knowledgeable voices – are heard in the debate at all levels.

**SESSION 2:
WHO'S IN AND WHO'S OUT?
COUNTRY RESPONSES TO EDUCATION AND GATS**

South Africa's Response to education and GATS

*HE Ms Lindiwe Mabuzza
South African High Commissioner*

Our Minister of Education, Kader Asmal recently warned the South African parliament of the threats inherent to our nation's higher education system contained in the World Trade Organisation's General Agreement on Trade and Services. In the words of Minister Asmal: "We must avoid at all costs a GATS in education that puts our education, our culture and our future in peril...Trade considerations cannot be allowed to erode the public good agenda for higher education."

I would ask you all to dwell on these words just for a moment. Our Education Minister linked the education of our people directly with the very future (the peace, prosperity and happiness) of our nation. The stakes are, indeed, very high. I will return to Minister Asmal's warnings over the extension of GATS to education later, but first I would like to put into context the concerns that we South Africans have over this issue.

While universal access to education (at all levels) is taken for granted in many countries today, for South Africans this is a precious, hard-won democratic right, which until very recently was the preserve of a racial elite in our country. This is a right, along with all our other cherished democratic rights, that South African schoolchildren shed their blood for at Soweto in 1976 and other popular uprisings into the 1980s that brought apartheid crashing down. Education is not a right that we are prepared to toss casually to the whim of the global market.

Indeed, South Africans see education as an indispensable component part of the creation of the new post-apartheid South Africa. This is borne out in the sums invested by government in adult education in recent years, rising almost five-fold from R248 million (or £18.5 million) in 2001 to a projected R1.2 billion (£89 million) in 2004. This is far from mere small change. If it perhaps sounds to Western ears as such it is necessary to remember that the exchange rate between pounds sterling and the Rand is currently at a historically high rate and so the figures just quoted are far from inconsequential to the South African economy.

We are particularly concerned over the impact of GATS on higher education – as opposed to primary and secondary schooling for the following reason. Higher education in much of Africa has already suffered disproportionately due to previous World Bank policies stipulating that developing countries should concentrate on building basic and secondary education at the expense of other, usually adult, education sectors.

Time does not permit me to dwell on the ravages that the apartheid so-called education system dealt to my country and the legacy that the new South Africa inherited from the old. Suffice to say that the mess that once passed for an education system are long gone. Gone too are the days when our youth were forced by circumstance to sacrifice their schooling in pursuit of the immediate task of winning their freedom. "Liberation before education" was the township slogan of the 1980s. Today, happily, we are in a position where we can turn that

slogan on its head and say: “education *for* liberation.” We no longer need liberation from apartheid but from underdevelopment and the other ills we inherited from that vile system. And we need an educated, skilled South African population to achieve this.

It is those who made that sacrifice to whom we owe the debt of building a higher education system to transform our country as it faces the new challenges of today – the new struggles for the regeneration of our cities and towns and the development of our rural areas. South Africa’s higher education system is a key engine in driving and contributing to the reconstruction and development of our society. Because apartheid created massive social-structural inequities, far-reaching changes in higher education are essential if there is to be equity of access and opportunity for social advancement.

GATS has the potential to undermine this vision. The so-called liberalisation of education services proposed by the WTO threatens South African higher education because it aims to give foreign service providers the right to operate in our country on the same terms as our own. In the past there has been a proliferation of local and foreign private providers of sometimes dubious quality. Their unbridled growth, if not checked, could have a profound effect on the transformation agenda we have for education in South Africa. This is why we are calling for a fundamental rethinking of the inclusion of education in GATS. This is why we remain opposed to making a commitment in this sector. Once it is made it cannot be undone. Can I also add that we see the designation of education as a service as a problem in itself. As Minister Asmal made clear in Parliament: “A reductionist view of education as merely an instrument for the transfer of skills should have no place in our world-view. Education must embrace the intellectual, cultural, political and social development of individuals, institutions and the nation more broadly.”

Foreign private business investment in South African higher education threatens to distort what is offered to our students away from areas of greater need in favour of lucrative business and management courses. In these areas we have enough capacity already, but of course this is of no interest to a foreign provider seeking a large return on their investment. Even more worrying, one foreign investor has already targeted the recruitment of students from high-income groups and particularly white students. You can imagine the disastrous effect this could have on our new non-racial education system if such behaviour was repeated, unregulated across the country.

We are also concerned that GATS may bring us problems when we subsidise our own public sector educational institutions. Private foreign firms could argue, through the WTO, that such subsidies amount to unfair treatment against themselves. Movement of students and staff is generally from the countries of the south to the north while export of educational services are in the reverse direction. Developing countries such as ours are already suffering the effects of the “brain drain” of nurses, teachers and other skilled workers to foreign shores.

So what is the alternative? South Africa firmly believes in strengthening existing multilateral and bilateral arrangements made with our international partners through organisations such as the Southern Africa Development Community and programmes like the New Partnership for Africa’s Development – the continent’s very own recovery plan, which will feature high on the agenda at the G8 summit in Evian. We also, of course, remain committed to genuine international academic partnerships and collaborations between our universities and other educational institutions with their counterparts across the globe. These relationships include staff and student exchanges and other research links.

The response of Mauritius to education and GATS

*Summary of presentation by the High Commissioner of Mauritius,
HE Mr Mohunlall Goburdhun*

There are implications of the current trade for Mauritius, which has an open and diversified education system. There is already an inflow of trade in all modes. There is already a significant amount of trade, including an outflow of trade.

What are the implications for the tertiary education sector? There are a number of concerns, some of which apply directly to Mauritius, which will continue to receive education supplied from outside. A major concern is over the quality assurance mechanisms already in place and the issue of quality regulation. The commodification of Higher Education has several significant implications. It is squeezing out local providers by offering the same service at a lower cost and at a profit. It depends on what can be packaged for learning outcomes. There is a concern that the contribution of education to character formation, conduct and critical thinking would be lost.

Many developing countries perceive trade liberalisation as an attempt to Americanise higher education. The impact of for profit providers may be that developing countries seeking to develop Higher Education will see the middle classes enrolling in private institutions, leaving poor people behind. This is a particular concern for small Less Developed Countries.

Issues surrounding accreditation are really important, yet difficult to manage. The GATS encourages the movement of professionals, which may lead to brain drain. But many developing countries have invested so much in public services that the mobility of staff and academics presents a challenge.

The impact of GATS on developing countries is an issue for all, especially if trade rules are making poor countries poorer. Poor countries are often expected to reduce barriers to trade and commitments made within GATS can be binding. The issues are therefore complex and contentious and need careful evaluation. The issues differ within and between countries. In Mauritius there is a need to understand the complexity before making any commitment. There are issues surrounding funding, access, quality, and intellectual property. There are also broader issues, such as the moral and purpose of Higher Education and the right to cultural development.

Key issues for Mauritius include the future of higher education subsidies and the need to regulate those foreign providers who are already operating. In response to these issues the Government of Mauritius has established a working group on trade in educational services.

SESSION 3: THE IMPLICATIONS OF GATS FOR EDUCATION SYSTEMS IN THE NORTH AND SOUTH

This is What the Fuss is About! The Implications of GATS for Education Systems in the North and the South.

*Susan Robertson, Roger Dale
Graduate School of Education, University of Bristol*

Introduction

In an OECD/US Forum on trade in education services in 2002, Pierre Sauvé posed the question: “What is all the fuss about?” In this presentation we set out to explore some issues around this question on the implications of GATS for education systems. While there is a tendency to focus on one of two polarities—at one end a ‘who’s in, who’s out, what does it matter anyway’ dimension of the GATS (cf. Sauvé, 2002, LeRoque, 2003) and at the other GATS equals privatisation and commodification, we will suggest that while Sauvé’s question may—possibly—be a valid and useful one if we stick to the context of market regulation of higher education, and speculation about the interpretation of Article 1.3, the issues at stake are much broader and more serious in their implications. While the extent of state regulation of education varies across countries, the fact that not only ‘activists’ but many governments are concerned about the extent to which their education systems—in particular the compulsory sector—might be governed by rules of trade rather than norms of a public service highlights the importance of understanding precisely what might be involved in this shift. We will seek to discuss this by considering both ‘GATS’ and ‘education’ in rather broader terms than is usual in the discussions around these topics.

We argue that developed economies can only be considered in relation to the developing and least developed economies. We focus upon three key issues: what is special about GATS and how does it fit into the wider picture; what is special about education in this context; and the asymmetry between exporting and importing countries in negotiating and trading. We conclude by suggesting that other models be considered for regulating (global) education provision that might contribute to ensuring quality and flexibility, without undermining the social nature of education.

What is special about GATS?

GATS is very much what its name suggests. First, it is a ‘general agreement’, but of a very special kind, with two particularly important characteristics—that it operates through *rules*; and these rules effectively *lock in* those who sign up to them. This makes it potentially much more powerful than any other international organisation, or organ of ‘global governance’. This is the qualitative difference that making higher education services subject to GATS would mean over the present ‘market regulation’. More than this, however, it is a key element of what has been called ‘the constitutionalisation of the neo-liberal’ (Gill, 1995, 399). Economic constitutionalism has been defined by Kanishka Jayasuriya as ‘placing emphasis on issues of market transparency and the juridical limitations on the influence of rent-seeking coalitions or discretionary political intervention in the functioning of the economy’ (1999,109); in other words, minimising the scope of political intervention in the economy.

Second, it is about *trade*. This term is no more neutral or self-explanatory than ‘general agreement’. This has been argued in a very relevant way by Dani Rodrik. As he puts it,

‘It is widely accepted, not least in the agreement establishing the WTO, that the purpose of the world trade regime is to raise living standards all around the world—rather than to maximise trade per se. Increasingly, however, the WTO and multilateral lending agencies have come to view these two goals—promoting development and maximising trade—as synonymous, to the point where the latter easily substitutes for the former. The net result is a confounding of ends and means. Trade has become the lens through which development is perceived, rather than the other way round.’ (2001, Executive Summary).

We do not need to accept this argument wholesale to recognise that at least there are serious questions to be asked about the nature of ‘trade agenda’ and its consequences—and that hence it offers a rather flimsy basis on which to erect the apparatus of rules and surveillance entailed by the GATS. The rules themselves then have to be explained, beginning perhaps with the question **‘who benefits?’**

And finally, the GATS is about *services*. The idea of ‘services’ is premised on the notion ‘to serve’. They involve personal relationships that extend beyond the immediate contracting parties and are intrinsically social and cultural. Their form and content has been to deliver a range of functions: individual well-being, employment, training, regional development, cultural transfer and so on. For these reasons, such services have been, if not necessarily always provided, then extensively regulated (though not necessarily effectively or efficiently) by state governments even in the face of more recent shifts within the developed economies toward more market-based systems of education governance. This meaning is obliterated under GATS. No distinction is made between mortgage brokers, internet service providers, funeral directors, electricity supply and education. As Kelsey argues, ‘the most symbolic ideological device (in the GATS) is the categorisation of services under the UN Central Product Classification. The term ‘product’ classification, identified by numbers, is emblematic in itself. Division of all services into eleven categories...reflect(s) the perspective of the producer and deny any social context... (while) services are not only abstracted, they are fragmented.’ Thus an integrated service as experienced by a family, or provided by an education system is broken down into and allocated to a number of sub-sectors.

Thus, while we might agree with Sauvè (2002: 3) that “...trade agreements don’t come much more flexible than the GATS” and that it does not mandate compulsory liberalisation but rather, at least for the moment, institutionalises rules within which governments can selectively open up specific markets on a non-discriminatory basis, it is clear that such statements offer both only a far from complete, and a much less than impartial picture. We can see that far from it being non-ideological and an expression of objective rationality, the GATS has at its heart a particular kind of ideological and political project; the transformation of ‘services’ embedded in the social relations and relationships of communities to “commercialised commodities traded within an international marketplace” (Kelsey, 2003, 2). In order to make it more amenable to regulation from afar, it is subsumed under general trade rules that apply to all sectors (education, health, transport, postal, insurance) potentially denying that there are differences between goods and services, and, more importantly, that some services have significant public content and interest.

If we turn now to consider how this affects advanced countries, we can see that there is good evidence to suggest that any flexibility offered by the GATS is less to do with a concern on the part of the US for ensuring the national governments retain a degree of national sovereignty over their public services than the result of political compromises between the US and developing countries who have demanded a slower path to the liberalisation of services than initially proposed by the United States.

According to Mundy (2003, forthcoming: 6) it also “...reflects an ongoing tension between European and Japanese preferences for more managed forms of liberalism and the traditional dualism of American foreign policy, which idealises free trade but retains an important commitment to protectionism.” These, albeit important, matters aside, whose interests are involved, and what are the preferred outcomes? While for the moment we will focus on the centrality of the US in the genesis of both the WTO and the GATS, it must be noted that for broadly similar reasons to do with securing a comparative advantage in the knowledge service industry, developed economies like New Zealand (Lewis, 2003) and Australia (Ziguras et al, 2003, forthcoming) have sought to play a major role in the GATS processes.

The particular modality of the GATS was shaped by the strengthening view within the US from the late 1970s onward that it needed to overcome barriers to its international competitiveness presented by national regulatory environments. At the same time the US's assessment of its comparative advantage, recognising the strength of the newly industrialising countries in labour intensive industries and the domination of Germany and Japan in industrial products, saw it as lying in its knowledge based industries and services. However, its capacity to expand in this arena was blocked by domestic regulatory regimes (Hoekman and Kosteci, 1995: 127).

During the 1980's the domestic lobby in the US supporting liberalisation in the services areas powered the US Trade Representative through the Uruguay Road in arguing both for the establishment of the WTO and for the inclusion of a General Agreement on Trade in Services. While it would be wrong to view the WTO as the outcome of a single-minded and single-handed American grab at institutionalising its own interests in a new round of multilateral agreements (in that both Japan and Europe saw benefits in using trade rules to limit the unilateral stance of the US though they were much more reticent about trade in services), this should not obscure from view the profound shift that had taken place.

The inclusion of the GATS represents the ascendancy of a new group of service industries and multinational corporations over more traditional groups of producers within the US, allied in turn with a community of officials and experts who have supported a stronger regime of trade liberalisation—including education—and who regard all forms of national laws, administrative actions and regulations as barriers to trade. While we are yet to see how this powerful set of forces might realise its interests (though the contested and chequered nature of the negotiating rounds might give us some sense of its strength and reach), there can be little doubt that trade in education services represents big business not only for the US, but new traders in this marketplace, such as Australia and New Zealand.

A few figures here help make the point. In the case of the US, education is ranked 5th service export earner, accounting for 4 % of total service revenues in 1999, and over US\$14 billion of export revenues in 2000 (USITC, 1998). This is largely derived from students studying in the US (Mode 4 of the GATS).

These sorts of figures are paralleled by New Zealand and Australia – both of whom have rapidly been gaining a significant toe-hold in the education export industry. Describing them as ‘hardly neutral players’ Ziguras et al argue that these countries have a vested interest in promoting the conditions for the liberalisation of trade in education. In the case of Australia, Ziguras et al (2003, forthcoming: 2) report that education service exports grew by 2.9 % in the financial year 2002. It remains the 3rd largest export services earner, bringing in AUS\$4.1 billion each year behind tourism (\$9.3 billion). It is the country’s 14th largest export earner overall. For New Zealand, in 2000, export earnings from foreign students made up 4.7 per cent of foreign export earnings, making it around the 4th highest export earner (Larson and Vincent- Lancrin, 2002: 16).

What must be noted, however, is that in the case of the US, its position as leading education exporter declined from 40 % to 30 % in the 1990s (a mix of factors such as visa restrictions, cost of living in the US, Asian crisis, reduced government funding to US advising centres overseas, reduced state funding for exchanges).

At the same time, and given the need to shore up their diminishing position in the marketplace, education providers have shown an interest not only in setting up new outlets abroad or distant campuses (such as in China, under Mode 3 but where China does not recognise the qualifications awarded by some private providers like Jones International University) but in new modes of supply, in particular using the new technologies to enable distance learning (Mode 1 under GATS). However, many countries impose limits or restrictions on these modes of supply, (for example some countries tax CD-ROMS as if they were used for entertainment; Malaysia limits the establishment of antennae, telephone companies in Jamaica impose internet connections that exceed a \$1.00 a minute), shaped by their concerns for protecting their own education systems from foreign interests.

The question to be posed at this point is the extent of the threat of the GATS to national and international systems of education and education’s status as a public good and service. While it is widely recognised that the higher education sectors in many countries have been radically liberalised without the GATS, the result of complex combinations of supply and demand factors such as anticipated accession to the EU, other related trade treaties, the development of the higher education sector as a powerhouse of the knowledge economy, and structural adjustment programmes (see Schugurensky and Davidson-Harden, 2003; Ginsburg et al, 2003, forthcoming) the immediate question does centre around the ambiguous and uncertain wording around the GATS Article 1.3 and the GATS Preamble over “services supplied in government authority”. In other words, the exemption for education would apply on in those cases where there no competition or education supply does not operate on a commercial basis.

However, as many critics point out, the vast majority of countries have a mixed education system, in which the private sector also provides education and competes with the public sector. In this context, many aspects of public education services could be reframed as non-tariff trade barriers—for example, restrictions on the import of education materials including those provided through the internet, visa requirements for students or teachers, lack of government transparency about educational regulatory and funding frameworks, limits on ownership, and even government subsidies for students or educational services (cf. Robertson, et al, 2002; Mundy and Ika, 2003, forthcoming: 9).

While the ‘what’s all the fuss about’ critics argue that this concern over the status of the compulsory schooling sector is unfounded, we argue that there is good evidence that national governments should be concerned. For example, for exporting countries like New Zealand, there have been large profits to be made from establishing an industry in this sector (see Lewis, 2003, forthcoming), and indeed, the revenues from this industry have augmented declining state funding. It is notable here that in the case of New Zealand, this is a ‘state for profit’ model.

In the UK, however, the promotion of public-private partnerships under the PFI within the compulsory schooling sector (see Robertson, 2002a) has seen the growth of the ‘for profit’ industry across the governance spectrum, for example under ownership (e.g. school plant), provision (e.g. Local Education Authorities) and forms of financing (for example Education Action Zones, provision of IT hardware and software for schools). It is a model favoured by the EC for the development of its knowledge economy strategy following the Lisbon Declaration in 2000 (see Robertson, 2002c).

Putting aside issues around ‘quality’ (raised recently by the National Audit Office), the government-friendly public policy think-tank, the IPPR, has acknowledged the problems of regulating ‘for-profit’ interests in education. While suggesting that a crucial condition for involving the private-for-profit sector in education is that there are robust regulations in place, it would appear that this is difficult to enforce. In part, the fuss is about the evident ‘thinning of democracy’ that has accompanied this new model of governance (see Mahony, Menter, and Hextall, 2003), and the problems that surround the creation of markets in this sector. Indeed in New Zealand, whose compulsory education system is a global industry (see Lewis, 2003), it is possible to observe an increase in social polarisation (Robertson and Dale, 2002).

Education as a Public Good, and Nation Building Not Just Economy Building

In this section we want to stand back a little and ask questions around the nature of education itself as a public good, and the implications for governments when it is recast as an item of trade in ‘services’, largely negotiated by Departments of Trade. In other words, what we are asking is this: *when education, through the GATS process, is transformed into a commercial activity regulated by global trading agreements, are national governments able to ensure the ‘public good’ and ‘public service’ status of education and if not, does it matter, why and to whom?*

A very important argument around the implications of GATS for education is that education is a service unique in important and relevant ways. It is the one institution that societies require, expect (or hope) all their members to pass through, for at least a minimum number of years. This enables—or requires—it to provide key public goods (defined as non-excludable and non-rivalrous), that it is difficult to imagine could be provided in any other way. More than this, education plays an important role not only in economy building but also in nation building. In other words, education systems are bound up with the creation of citizens and the production of identities (local, regional, national), as well as acting as a means for distributing and redistributing cultural and social goods (Robertson, 2002). That education is also both a human right and a right and medium of citizenship is recognised in the Millennium Development Goals and the commitment to universal primary education.

Concerns about protecting the nation-building project are evident amongst the developed and developing countries; in the 'protectionist' aspirations within the US (see Mundy and Ika, 2003); the move to impose new forms of regulation on the higher education industry in Australia as a result of commercial private universities (Greenwich, Melbourne University Private) failing to comply with the national standards for universities (see Ziguras et al, 2003); the concerns expressed by South Africa that they want to discourage money making enterprises at a time when they are working to create a public education system that can redress the social ills and racial injustices within the system; to strong advocates within India (who have also led the Like Minded Countries opposition to GATS negotiations) who argue for the nation-building function of education.

There are important dimensions of nation-building that are connected to national economy building. The most important relates to problems of brain drain (Mode 4), a concern also of the House of Lords Select Committee on Globalisation (2002: 35). They argue that "...while significant benefits arise from labour mobility...To the extent that this impairs the development of these countries in relation to both their public and private sectors, we share that concern...Overseas aid policy should help to finance education and training in poorer countries, shifting the burden from taxpayers there to taxpayers in the countries of migration".

Asymmetries in Negotiating and Trading

While much of the attention by GATS advocates and critics focuses attention on the Agreement and its various schedules, we believe that it is important to look at the overall negotiating process and the way that this forum is used by the developed countries to promote the terms of trade that are more favourable to their own interests. This has a direct bearing on the ongoing negotiations surrounding service areas like education in that as Larson and Vincent-Lancrin (2002: 39) point out, the particularly vulnerable countries are the medium income emerging economies where there has been a tradition of limited state funding for education and who have a solvent middle class.

There are several points to be made here. The first is that while the WTO argues that it is a member driven and rules based organization, and that if it were not for these rules then the world would descent into anarchy and the poor would go to the wall, this view is not shared by the developing and least developed economies. Rather they regard the WTO as a fundamentally unfair organization whose rules are inequitable, and should be changed. They argue that the negotiation process is controlled by the developed economies, in particular the US, Japan, the EU and Canada, actively aided by those countries who have a large stake in the creation of a global service industry (e.g. Australia, New Zealand, Singapore, Chile) (see Kwa, 2002, Robertson, 2003).

Second, Kwa (2002) reports that the negotiators from the developing and least developed countries are variously excluded from key negotiations or bullied into accepting proposals that undermine their interests.

Finally, these countries point to the serious problems they face in monitoring and attending meetings in Geneva because of the costs imposed on them in maintaining a permanent presence there. Kwa (2002) reports that in 2000, 24 countries (out of some 144) had no permanent presence in Geneva. Further, the size of the delegations of the developed

economies (lobbyists aside) are twice as large as those from the developing and least developed countries (if they are able to establish a presence).

We believe that this highly uneven state of affairs represents a significant a significant shortfall in legitimacy for the WTO. This view is strongly put by the House of Lords Select Committee on Economic Affairs (2002: 47) on the management of the international trading system and is worth quoting in full. In their recommendations they state:

We recognise that member countries of the WTO vary in size and economic power. They vary, therefore, in their capacity to influence decisions in the WTO and more fundamentally to maintain a presence in the WTO. It would be naïve to believe that an organization like the WTO would not be dominated by a small group of rich countries. The important question, which applies to the International Monetary Fund and to the World Bank as well, is whether this domination is excessive. We believe it is in all three institutions, but the evidence we received placed most emphasis on the WTO. We urge the Government, with its European partners, to consider, first, how to improve the balance of power in the WTO, and, secondly, how to ensure that decisions are more transparent.

Alternative Solutions

One way that we might think of alternative solutions to GATS which, in the words of the Select Committee on Economic Affairs, does not “place unreasonable pressure on the governments of developing countries prematurely to introduce competition into their services sectors” is to ask the questions: If we wanted to meet the Millenium Goals in Education, where would we start? Our own view, which we do not confine to the developing countries alone but believe also applies to the developed countries, is that we need to conceptualise education as a global public good with the potential to contribute to the development agenda, rather than a narrow, instrumental agenda that serves the needs of transnational capital. These two quite different agendas, which we outline below have quite different implications to the North and the South and will not be realised through GATS. See Figure 1.

A second way is to look at Quality Assurance, as a key element of both national and international education (and we should emphasise that none of our reservations about the possible implications of GATS for education mean that we are opposed to any form of internationalisation in education; very far from it. Indeed we consider it crucial to the development of effective and humane national and subnational education provision as well).

Some form of QA is indispensable to both, but for significantly different reasons that enable us both to identify key features and limitations of GATS, and to highlight how and why alternatives are necessary. Very briefly, QA is essential to GATS as a means of providing information for the market without which it will be unable to develop fully. The pressure here is all in the direction of minimising transaction costs and simplifying the system. To put it at its simplest, the need is to broker a lowest common denominator that is acceptable across sufficiently ‘lucrative’ markets (e.g. ‘Business English’) rather than to demonstrate educational quality recognised as such by a wide range of interested stakeholders across whole systems. The distinctions implied here, such as that between Codes of practice and market information are central to the whole range of issues that can be subsumed under the heading ‘GATS and education’ and to the both finding alternatives and shedding light on the nature of what GATS implies.

Two Agendas for Education

THE 'TRADE' AGENDA	THE 'DEVELOPMENT' AGENDA
Driven by desire to maximise access to markets in education	Driven by need for provision of education as national investment and public good
Single (global) logic of Rationality	Multiple (local) logics of Appropriateness
Economic Constitutionalism	Political Constitutionalism
Constitutionalism as market transparency	Constitutionalism as democratic accountability
Cross-national relations are Rules driven	Cross-national relations are Code of Practice driven
Tied to freeing trade	Open to different and changing circumstances
Politics of procedure	Politics of Bargaining
Establishment of legal institutions and rules to order private economic exchange	Creation of Liberal democratic political structures
Quality Assurance as information for single purpose audience	Quality Assurance as serving multiple purposes/audiences
QA through minimal (single) criterion	QA through multiple criteria

Elaborated in part from Rodrik (2001); Jayasuriya (1999)

The Implications of GATS for Education Systems in the South

Ian Gillson

Research Fellow, Overseas Development Institute, London

Introduction

Services can be defined as being intangible, invisible and perishable requiring simultaneous production and consumption. They encompass a wide range of activities from traditional areas such as transport, communication and tourism to new areas such as software, environmental and educational services. The share of services in world trade and investment has been increasing. Services have been among the fastest growing components of world trade over the last 20 years. From balance of payments statistics world services trade has been estimated at being greater than \$2 trillion which represents over one fifth of trade in goods and services combined. In addition, there has also been considerable expansion in services sector investment flows. Today more than half of annual world foreign direct investment (FDI) flows are in services. In several service sectors, including education, developing countries have considerable export potential, due mainly to their availability of skilled and abundant labour.

The General Agreement on Trade in Services (GATS) entered into force on 1st January 1995, with a set of binding rules and disciplines to govern services trade. The GATS is a relatively new agreement, not yet complete, with a complex set of *à la carte* obligations and near universal coverage. Novelty, intricacy and variable geometry have led to misinterpretation of the GATS. The current negotiations take part not only against a milieu of a weak initial yield of liberalisation commitments, but also proceed with significant regulatory and political caution in the midst of a growing anti-GATS campaign, of which public sector unions are active participants.

Given, however, the importance of services in promoting economic development, competitiveness, and productivity, the GATS is of great significance. Trade liberalisation in services can result in increased competition, lower prices, more innovation, technology transfer, employment creation and greater transparency and predictability in trade and investment flows. But in addition to promoting efficiency, trade liberalisation in services (and in general as well) must be conducive to the realisation of other legitimate goals, including social, developmental and equity objectives. Trade liberalisation must be appropriately complemented by public policies that address market failures and provide an enabling environment that is conducive to both efficiency and social development. While the GATS may contribute to increased competitiveness and efficiency, there are concerns about its implications for equity, costs, availability of services, human development and the sovereignty of governments in defining and pursuing their national objectives and priorities in each sector. These apprehensions are predominant in social sectors such as education where there are recognised market failures and governments are heavily involved as regulators, providers and distributors of such services.

This paper discusses the structure of the GATS and commitments made to trade and investment liberalisation in the education sector. It also highlights the concerns of developing countries with respect to shortcomings in the existing GATS provisions and examines the implications of liberalising education services from a developing country perspective.

The Structure of the GATS

Article I of the GATS defines the scope of the Agreement and the nature of services trade. The GATS covers 161 service activities across 12 classified sectors (see box 1).

Box 1: Classified Sectors under the GATS

- | | |
|-------------------|------------------|
| 1) Business | 7) Financial |
| 2) Communications | 8) Health |
| 3) Construction | 9) Tourism |
| 4) Distribution | 10) Recreational |
| 5) Education | 11) Transport |
| 6) Environmental | 12) Other |

GATS excludes the greater part of the air transport sector and services which are supplied in the “exercise of governmental authority”, the latter being defined as services which are supplied neither on a “commercial basis nor in competition with one or more service suppliers” (Article I:3). This carve-out clause is not well defined in the Agreement.

The GATS, also in Article I, defines services trade as occurring through four modes of supply, namely:

- 1) cross border supply (mode 1): services supplied from the territory of one Member into the territory of another;
- 2) consumption abroad (mode 2): services supplied in the territory of one Member to the consumers of another;
- 3) commercial presence (mode 3): services supplied through any type of business or professional establishment of one Member in the territory of another; and,
- 4) presence of natural persons (mode 4): services supplied by nationals of one Member in the territory of another.

The GATS consists of three core elements. The first consists of general rules and principles governing trade in services. Among others these provide for disciplines on transparency (Article III) and most-favoured-nation treatment (Article II) although derogations are possible (under Article II Exemptions and Article IX:3 waivers). The framework is still incomplete, and modalities on certain issues such as emergency safeguard measures (Article X), subsidies (Article XV), domestic regulation (Article VI) and government procurement (Article XIII) continue to be developed.

Second, the GATS includes a series of specific annexes pertaining to regulatory principles agreed in specific service sectors (air transport, financial services, maritime transport and telecommunications) and decisions on specific issues (movement of natural persons).

The third element of the GATS consists of schedules of commitments which outline the liberalisation of each Member. Sectoral schedule commitments concern market access and national treatment *within* designated sectors. Such commitments identify the services (by mode of supply) for which the Member guarantees market access and national treatment and any limitations that may be attached. Members can also make market access and national treatment commitments *across* sectors (again for each mode of supply) in what are known as horizontal schedules of commitments. Members are free to tailor the sector coverage and substantive content of sectoral and horizontal schedules as they see fit.

Article XVI stipulates that measures restrictive of market access which a Member cannot maintain or adopt, unless specified in its schedule, include limitations on:

- 1) the number of service suppliers;
- 2) the total value of services transactions or assets;
- 3) the total number of services operations or the total quantity of service output;
- 4) the total number of natural persons that may be employed in a particular sector;
- 5) specific types of legal entity through which the service can be supplied; and,
- 6) foreign equity participation.

With the exception of 5) the measures highlighted above all take the form of quantitative restrictions. Fiscal measures are not covered: thus a Member could maintain, without being obliged to schedule, a high non-discriminatory tax on a particular service which severely limits market access.

Article XVII states the national treatment obligation. Unlike Article XVI it provides no exhaustive list of measures inconsistent with national treatment. Nevertheless it makes clear that all *de jure* and *de facto* limitations that favour domestic suppliers must be scheduled if they are to be maintained.

Within the sectoral schedules an entry of “none” indicates that a Member is bound to not having or introducing any measures which violate market access or national treatment for a specific sector and mode of supply (but any limitations set out in the horizontal schedule may still apply). The term “unbound” indicates that no commitment has been made for a particular mode of supply, and the Member is free to introduce limitations inconsistent with Articles XVI and XVII. “Unbound*” appears in sectors for which a particular mode of supply is not technically feasible e.g. cross-border supply of bridge building services. Finally, all other entries which include specification of some commitments and limitations are known as “partial commitments”.

Summing up, the GATS offers a number of options for developing countries that wish to exclude the education sector from the GATS or restrict the extent of its commitments. First a country can simply decline to make a commitment in the sector. Second, the country can apply horizontal restrictions to all services by mode of supply. Third, countries can make commitments in the education sector, for each mode of supply, subject to market access and national treatment restrictions. Finally, a country could ultimately withdraw its membership from the WTO and, therefore, the GATS altogether.

Assessing GATS Commitments in the Education Sector

The sectoral coverage of the many specific commitments on market access and national treatment that prevail in the GATS is limited. Industrialised countries have found it easier or more economically beneficial than the majority of developing countries to submit relatively extensive schedules. The commitments of one third of WTO Members (all developing countries) were confined to 20 or fewer of the 161 services sectors defined during the Uruguay Round. Another one-third scheduled between 20 and 60 sectors and the remaining Members included up to about 130 sectors. However the composition of the latter group is not uniform: it not only comprises virtually all OECD Members but also several developing and even a few least developed countries (Gambia, Lesotho, Sierra Leone).

The majority of country schedules also list a variety of measures that continue to restrict market access or national treatment. Only 25% of all service activities for high-income countries have no limitations on market access or national treatment. In the case of developing countries “free access” commitments were made, on average, for only 15% of the service sector. Moreover, where binding commitments have been made subject to limitations these are often less liberal than the *status quo*.

Education services rank alongside the least committed of all sectors subject to GATS coverage. Unbound (no) commitments are concentrated in mode 4. Most countries that have scheduled education under the GATS have chosen to schedule services such as adult training or language tuition. However, despite the GATS carve-out clause described above a number of WTO Members, including developing and least developed countries, have scheduled commitments in basic primary and secondary education services under the GATS (see Box 2).

Developing Country Concerns about Education Services under the GATS

Notwithstanding misplaced and, at times, exaggerated criticisms of the GATS and its *modus operandi* there are several issues which warrant genuine concern. The main basis for these apprehensions is the weak nature of the current GATS text which creates ambiguities in the interpretation of its key provisions. The root of the problem for social sectors, such as education, is the lack of clarity about the scope of the GATS and the interpretation of Article I:3 for publicly provided services. What do the exclusion clause for governmental services and the conditions of “non-commercial” and “not in competition with other suppliers” mean? For example, government provided education services in many developing countries include fees. If Article I:3 is interpreted narrowly, then this would classify such services as being provided on a commercial basis and thus falling within the scope of the GATS and negotiation of market access and national treatment commitments. A similar uncertainty regarding Article I:3 concerns the co-existence of public and private suppliers. Under the GATS exclusion clause the two are not to be in competition with each other if the service is to be defined as being provided in the exercise of governmental authority. In the case of education services in developing countries, fields such as medicine are often provided by governments at subsidised rates alongside private medical training institutions. Do these meet the criteria under Article I:3? Fears that national sovereignty over social service provision could be undermined in developing countries by the GATS could be justified to the extent that Article I:3 lacks transparency.

Box 2: Least Developed and Developing Country Market Access and National Treatment Commitments in the Education Sector Under GATS

<i>Sector</i>	<i>Primary Education</i>				<i>Secondary Education</i>				<i>Higher Education</i>				<i>Other Education</i>				
	<i>Mode</i>	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
<i>Developing</i>																	
Costa Rica	U/U	N/N	U/U	L/L	U/U	N/N	U/U	L/L						U/U	U/U	L/U	L/L
Ghana					N/N	N/N	N/N	U/U									
Jamaica	N/N	N/N	L/N	U/U	N/N	N/N	L/N	U/U	N/N	N/N	L/N	U/U					
Mexico	N/N	N/N	L/N	U/U	N/N	N/N	L/N	U/U	N/N	N/N	L/N	U/U	N/N	N/N	L/N	U/U	
Panama	N/N	N/N	L/U	U/U	N/N	N/N	L/U	U/U	N/N	N/N	L/N	U/U					
Thailand														U/U	N/N	N/L	U/U
Trinidad & Tobago														N/N	N/N	U/U	L/N
Turkey	L/N	N/N	L/N	L/N	L/N	N/N	L/N	L/N	N/N	N/N	L/N	N/N	L/N	N/N	L/N	N/N	L/N
<i>Least developed</i>																	
Congo										N/N	N/N	N/N	U/U				
Gambia	N/N	N/N	N/N	U/U										N/N	N/N	N/N	U/U
Haiti														N/N	N/N	N/N	N/N
Lesotho	N/N	N/N	N/N	U/U	N/N	N/N	N/N	U/U	N/N	N/N	N/N	U/U	N/N	N/N	N/N	N/N	U/U
Mali														N/N	N/N	N/N	N/N
Rwanda														N/N	N/N	N/N	N/N
Sierra Leone	N/N	N/N	U/U	U/U	N/N	N/N	U/U	U/U	N/N	N/N	U/U	U/U	N/N	N/N	U/U	U/U	

Market Access / National Treatment Commitments
 N – None (no limitations)
 L – Partial Commitment (bound with limitations)
 U – Unbound

Mode 1 – Cross-border supply
 Mode 2 – Consumption abroad
 Mode 3 – Commercial presence
 Mode 4 – Movement of natural persons

Even if there is a tacit understanding among Members as to which sectors are covered by Article I:3 the eligibility of such sectors could at some stage be challenged in the WTO, although the threat to Members will always be limited by the flexibility involved in scheduling commitments. The main issue to be resolved in all such cases is how to separate public and private participation under the GATS and development of objective criteria for this purpose. Much will depend on future discussions.

A related issue concerns the implication of GATS for the provision of subsidies in the education sector. Subsidy provision for education services plays an important role in addressing poverty alleviation, equity, social and distributional objectives in developing countries. Current GATS provisions for subsidies do not prohibit their use, also allowing them to be inscribed as limitations in the commitment schedules. The interpretation of Article I:3 and any disciplines that develop from discussions on subsidy provision could affect the use of subsidies in the future. As a result, developing countries may need to defend against this possibility by retaining the right to use subsidies in their current commitments on national treatment.

There is also confusion over the interpretation of Article VI on domestic regulation. Under this, Members have to regulate those services in which they have listed a commitment in a reasonable, objective and impartial manner. Article VI also requires countries to establish transparent domestic regulations that do not constitute unnecessary trade barriers. However, the meaning of the terms “impartial”, “objective”, “reasonable” and “unnecessary trade barriers” are not clarified anywhere in the GATS.

Finally, there is reason to believe that the GATS will not address the export interests in the education sector of many developing countries in one area: mode 4. At present movement of natural persons is the mode in which Members have made the most restrictive commitments. Moreover, the limited commitments that have been made in mode 4 are subject to numerous market access and national treatment conditions, including (but not limited to) quantitative restrictions on entry, economic needs tests, licensing and certification. The GATS therefore, as it currently stands, offers developing countries little potential to export labour-based education services in which they may have comparative advantage.

Implications of Liberalising Education Services for Developing Countries

Developing countries need to be prepared to address the issues discussed above in future education service negotiations and to shape provisions in line with their own interests. It is, therefore, important for developing countries to assess the potential costs and benefits of liberalising education services. Such an understanding will enable developing countries to improve their negotiating tactics under the GATS and to take necessary domestic measures to offset any potentially adverse consequences.

Developing countries are both important exporters and importers of education services. Exports are mainly in the form of mode 2 and mode 4, although some of the more advanced developing countries in Asia and Latin America are also beginning to enter into electronic delivery of mode 1 education services. Imports of education services are mainly in the form of mode 2 and increasingly via mode 3. There has been growing foreign (often developed country) involvement and collaboration in higher education services in developing countries over recent years.

There are benefits and costs for developing countries associated both with export promotion and import liberalisation of education services under each mode of supply (see box 3).

Box 3: The Costs and Benefits of Education Services Liberalisation for Developing Countries: Equity Versus Efficiency

	<i>Example</i>	<i>Potential Benefits</i>	<i>Potential Costs</i>
Mode 1	<ul style="list-style-type: none"> Distance learning 	<ul style="list-style-type: none"> Cater for remote segments Skills upgrade 	<ul style="list-style-type: none"> Absence of IT => cost ineffective Opportunity cost on primary education
Mode 2	<ul style="list-style-type: none"> Students studying abroad 	<ul style="list-style-type: none"> X: foreign exchange M: overcome domestic shortages 	<ul style="list-style-type: none"> Dual market structures Crowding out of local population
Mode 3	<ul style="list-style-type: none"> Satellite campuses 	<ul style="list-style-type: none"> Additional resources Reduced burden on government 	<ul style="list-style-type: none"> Opportunity cost of public investment needed to attract FDI “Internal brain drain”
Mode 4	<ul style="list-style-type: none"> Teachers working abroad temporarily 	<ul style="list-style-type: none"> X: remittances and transfers M: overcome domestic shortages of labour 	<ul style="list-style-type: none"> Brain drain if outflows permanent Loss of public resources invested in training

X: Exporting countries

M: Importing countries

Mode 1 imports of education services through, for example, virtual education institutions could enable foreign education providers to cater for remote segments of the population at low cost. However, given the absence of information and communications technology infrastructure in many developing countries mode 1 imports may not be cost-effective for exporting and importing countries. There is also a risk that virtual learning could channel government expenditures away from basic education services and lead to a concentration of technologies which address the needs of an affluent few.

Mode 2 trade in education services also has mixed implications. It may assist importing developing countries to overcome shortages of capital and labour. It may also enable exporting developing countries to improve their national education systems by generating foreign exchange and resources for investment. However, it may create or aggravate two-tier structures in education systems which crowd out the local population by creating a higher quality, expensive segment that caters to wealthy nationals and foreigners and a lower-quality, resource-constrained section catering for the poor.

Similarly, mode 3 investment in education services can benefit developing countries by generating foreign capital for investment in education systems (reducing the burden on government resources) and generating opportunities for domestic employment. However, these gains may be offset by the initial public investments that may be required to attract foreign investment. Internal brain-drain could also occur as better-quality education

practitioners flow from the public education segment to the foreign segment which offers better pay and working conditions.

Finally for mode 4 trade, from the exporting country's perspective, increased mobility of education practitioners could generate remittances and transfers back to the source country, promote exchange of knowledge and help upgrade skills and standards. For the importing country, movement of education personnel could provide an important means to overcome domestic shortages of labour and contain cost (wage) pressures. If these outflows are permanent, however, they may lead to shortages of trained education personnel in the exporting country and loss of public resources invested in their (often subsidised) training.

More generally, developing countries which promote exports of education services may be affected by higher prices domestically as demand for the country's education services increases. Any rise in domestic prices of education services could have a negative impact on the poor unless effective policies are in place to redistribute the income and balance of payments gains from exports to the affected groups in society.

At present, the GATS allows governments to introduce limitations in the commitment schedules (or to not schedule a sector at all) to address these concerns. However, adequate domestic regulation in education services is vital if developing countries are to enhance the benefits of trade liberalisation in education services while countering any negative effects. For instance, foreign investment in education services need not aggravate two-tier market structures if developing countries introduce measures to channel resources generated in the private sector (e.g. via taxes) towards the public education system. Provision of trade-related technical assistance and capacity building may be necessary for developing countries to develop (often expensive) domestic regulation where it is currently lacking.

Conclusion

Developing countries need to assess their strengths and weaknesses in the education sector, the potential costs and benefits of liberalising these services and the role of domestic regulations. They must also decide on their negotiating stance under the GATS in the education sector. In particular, they need to shape the discussion on key GATS provisions if they intend to or already have scheduled education as a sector subject to the market access and national treatment disciplines. In particular, there is a need for developing countries to clarify the scope of the GATS under Article I:3; to ensure subsidies under Article XV remain exempt from the application of national treatment; to clarify the meaning of Article VI on domestic regulation; and, to improve commitments on mode 4. The main challenge for developing countries is to balance the scope for increasing competition in education services under the GATS with the legitimate role of governments to intervene and offset market failures and address social objectives.

Discussion

The discussions following the plenary presentations included the following points:

- There is the issue of transparency at the World Trade Organisation. Often we do not know who has made offers or requests. However, for the education sector to become more involved in the negotiation process there is the need for greater transparency. There is otherwise the danger that departments of trade will put education on the table without having the same background experience. It needs to be clear that the GATS is something additional to and different from just trade in education or other services. GATS binds commitments into the future with little possibility of retracting them - and on a Most Favoured Nation basis. It is therefore necessary to ask why should a country wish to commit education services to GATS?
- It seems that on the whole, people are ignorant about the GATS and its possible implications for education. Questions should therefore be asked at the highest level. We have begun to think about what governments want. But we also need to understand what is in providers' interests. We haven't heard much about what students want and the nature of the demand, yet ultimately what the clients want will develop what Higher Education looks like. Perhaps the export of expertise from rich societies to poor societies is a way of avoiding social disorder in the rich countries. A big, unresolved question for the higher education sector is what is "public" or "private". The 'peril or promise' report, "Higher Education in Developing Countries" challenges developing nations to identify their needs. This makes assumptions about their autonomy and independence. In reality the tertiary sector is a combination of private institutions and chartered institutions. The traditional chartered university would presumably be outside GATS. Maybe it is outside GATS if it is becoming more public? Or if it is becoming more commercial does this bring it back into the GATS framework?
- All the people engaged in the debate about education and GATS seem to come with different perspectives and there are often diverse perspectives within institutions. There are various rationales for importing and exporting education, yet, there is little clarity on what countries are actually doing.
- Countries are actually making commitments in education that they don't need to make. Save the Children Fund is recommending that countries do not make any further commitments in this sector. Why should countries have to agree to this? Even UN agencies are asking why a country would want to do it.
- A governments' ability, capacity and political will should be taken into account. There may not be as much cohesion across government ministries as is often assumed.
- Suppliers of educational goods and services are targeting new, middle-income economies rather than low-income economies.
- It is necessary to look at different ways of dealing with Higher Education as a service. Rather than looking to the trade-led framework of the WTO and GATS, we should be looking to UNESCO's framework for Higher Education. This offers an alternative way of looking at the internationalisation of Higher Education. This would mean revising the UNESCO regional conventions that are already in place, to include quality assurance and accreditation within them. It is interesting to note that the same member states that are in

the World Trade Organisation are also in UNESCO. Given that the motivations of WTO are mainly commercial, whereas UNESCO's agenda is more cultural and rights-based, this raises the question of whether in the UNESCO forum states will have a more humane way of looking at higher education than in the WTO. The issues surrounding education and GATS raise a much larger set of questions about how to change the distribution of power and privilege.

- Trinidad and Tobago has signed, committing education to GATS. This is an example of schizophrenia, with different agendas of departments of trade versus those of education, indicating that negotiators in one forum are not necessarily speaking with one voice. In this case, those in education had little involvement in, or understanding of, what was happening. Countries might sign up without knowing the full legal and technical implications. There is a need to move gradually, to ensure that countries fully understand the benefits for themselves.
- The fact that developed countries are talking about education and GATS in the context of profitability needs to be deliberately addressed. Education is right. GATS will make it a privilege - and this contravenes the Convention on Human Rights.
- It seems that decisions about whether to sign up to GATS are often based on ignorance (including in countries such as the UK). There is a need to consider the restrictions implied in GATS before countries make a decision about whether to sign up. More affluent countries are also subject to pressures of GATS, as government capacities in the North are also limited in the longer term.
- WTO members have agreed to engage in progressive liberalisation. Indeed, the WTO arguably institutionalises the neo-liberal. By minimising the scope of political interference in the economy, it is necessary to ask who benefits from this set of rules. Education is being treated as if it were equivalent to a unit of electricity, with its own product classification numbers. The WTO reveals much about the US perception of itself - including its perceived comparative advantage. Trade in education can be seen as part of its knowledge economy strategy. At the same time, it is extremely difficult to penetrate the US market. The US consistently has double standards, by seeking to liberalise education and export education services while regulating its own education market. The imbalance of representations at the WTO is also revealing. Twenty-four WTO members are without delegations in Geneva, whilst the European Union, Canada, New Zealand, Australia and Singapore are extremely powerful. It seems that trade has come to lead development.
- If the provision of higher education is based on effective demand, there is also a need to consider what the labour market has to offer, otherwise educated labour will move out of a country, or expectations of those who have the opportunity to go to higher education will be disappointed.
- There might also be some 'predatory trade' including between countries in the South. The onus should be on the regulatory systems of the exporting countries to ensure that providers are behaving appropriately.

PARALLEL SESSIONS

1. Regulation, quality assurance, accreditation and finance

Facilitators: Carolyn Campbell, QAA and Pauline Rose, Centre for International Education, University of Sussex

Opening remarks

Viewing the impact of GATS on education in terms of a North/South divide is oversimplified. There are many countries who want and encourage foreign education providers in their countries, for example China and India. This has partly been a response to try and reduce the brain-drain, as well as to limit the drain on foreign exchange reserves as a result of students studying abroad. Some African countries export their higher education to other African countries. Countries such as Malaysia and Singapore see trade in education services as a major tool for social and economic advancement.

Initiatives which sought to encourage governments not to make further commitments to GATS still recognise that trade in education services exists, and that there is a need to have some kind of regulation.

Ambiguities within GATS (which some consider to be deliberate) has resulted in considerable debate, particularly in relation to quality assurance. One question that arises is whether quality assurance and accreditation agencies are included under 'other education services', along with testing services for example. Quality assurance does not necessarily fall within the ambiguous Article 1.3(b) which states that 'services provided in the exercise of government authority' are exempt, since some agencies are private not-for-profit organisations.

Another issue in cross-border education relates to the quality and relevance of education, whether offered on a commercial or non-commercial basis, and the standard and recognition of the qualifications obtained. Where quality standards in higher education within a country are neither transparent or implemented, regulating 'quality' of cross-border providers can be seen as protectionist and a barrier to trade. Alternatively, where well-known foreign providers work in partnership with local providers, this can be seen as a useful contribution to enhancing the quality of educational provision within a country. It is not clear what the implications of GATS on such arrangements might be.

An important question arises regarding whether GATS provides an appropriate framework for regulating quality in trade in education services, or whether there is an alternative within the international higher education community. This has led to proposals for mega-meta accreditation agencies which do not appear to provide real guarantees of quality. Alternative suggestions include QAAs working collectively towards recognition, to benchmark their processes, set criteria and standards and share information. The UNESCO's *Global Forum on Quality Assurance, Accreditation and Recognition of Qualifications* is an example of establishing an alternative legal framework in this regard. Although UNESCO might be highly regarded for its moral stance towards education, the World Bank and WTO have greater political power so it is not clear what affect the UNESCO initiative will have.

In relation to the implications of GATS for financing of education, it was noted that, at present, there is little evidence. However, some questions for consideration of the potential effects include:

1. issues for national budget allocations

Given that GATS targets the higher education sector in particular, where more opportunities are available for liberalisation, would this have implications for sub-sectoral allocations with the potential for public funding for post-basic levels being to be squeezed further. At present, the EFA and GATS debates are occurring independently of each other, but there is a need to consider whether the priorities of each are compatible or in conflict.

In addition, within education, consideration is needed for the most cost-effective forms of investment. Given the potential encouragement of GATS on distance education through using information and communication technologies (ICTs), investment in ICTs might be prioritised. This raises a question regarding whether this is the most cost-effective form of investment for low income countries. Some evidence suggests that investing in better quality teachers, in particular by improving teacher training, is more appropriate particularly given that the teacher: computer cost ratio in some countries is around 1:10 [source]. Since many children will not have access to computers, increasing investment in ICTs could widen disparities, and conflict with the intended pro-poor agenda of EFA.

2. Cross-subsidisation of different forms of higher education

Conventionally it has been possible for governments and universities to cross-subsidise areas which are not in a position to make a profit but are important both for maintaining academic expertise, as well as for strategic reasons (for example ensuring national expertise in the natural sciences). Liberalisation of higher education across borders, in the way promoted by GATS, could result in a polarisation between profitable parts of the service which are attractive to the private sector, and less profitable aspects which remain in the public sector with fewer resources available given that profits remain in the hands of the private sector rather than being re-invested across the system. This is likely to be reinforced by the motivation of the private sector to reduce costs of provision.

3. Relationship between trade and aid

Many education systems in low income countries are dependent on international aid which influences the direction of investment within a country. Attention is needed to investigate whether there is likely to be any link between donors to education and conditions they might place on trade in education in the light of GATS. Given previous experience of trade and aid relations (for example in agriculture), there is a danger that aid-giving countries might agree to providing aid in return for favourable terms for their trade of education services to the country. Although countries have a choice regarding whether to, and which aspects of, the GATS agreement to sign up to, their choice in reality might be restricted in situations where they are dependent on the resources of other countries to maintain their education systems.

Discussion

Rapporteur: Pauline Rose

The group comprised approximately 10 participants, all of whom contributed to the discussion. The coordinators began by introducing the topic, and this was followed by a discussion attempting to grapple with some of the implications of GATS for quality assurance and financing issues.

With reference to quality assurance, issues were raised both concerning whether quality assurance itself would be included under the GATS agreement under 'other services' and, if so, the implications of this; as well as the demands for quality assurance and regulation of the increased liberalisation of education services. This is complicated by the wide range of possibilities of different forms of liberalisation which might range from, for example, a foreign provider buying up an existing national one, to provision by distance outside the country in which the services is being offered. Questions arise of who is responsible for quality assurance and regulation depending on the country in which the certificate originates. In many cases, there are already examples of this diversification of provision occurring which the Quality Assurance Agency (QAA) already has to deal with (irrespective of GATS).

Different members of the group noted the considerable emphasis that was being placed on quality assurance as a way to reassure critics that their concerns were being addressed.

However, some concerns were raised by different members of the group in this regard:

- Emphasis on quality assurance assumes that all that needs to be done is to put in place quality assurance without questioning the fundamental values that competition places (for example, in relation to prioritising the survival of the most profitable, rather than allowing cross-subsidisation evident in a publicly-financed system).
- While it might be possible to assess quality, it would not be possible to regulate unless the quality assurance agencies have some form of control which, in a liberalised system, is not necessarily the case – and is even more difficult in low-income countries where in any case there is extremely limited capacity to regulate.
- If tight regulations are imposed, private sector providers will soon move to another location where regulation is less strict.

Questions also arise about how quality can be assessed in practice. It was noted that monitoring of quality assurance is very difficult – even in supposedly more developed systems, quality assurance of higher education has been heavily criticised partly because it is unable to investigate in-depth what is actually going on in the classroom, and much of it is self-reported. In the UK, trade is very uncoordinated, and the overall impact of the impact on trade in education services is not known.

In Uganda, for example, two people are responsible for registering all private schools (approximately 2000) – so it is unlikely that it is possible to assess quality before registration. In such situations, regulation is merely payment of a registration fee. It is also difficult to separate out fraudulent behaviour from real quality issues. This can become even more complex in a liberalised system – in principle, the market should regulate, this will depend on the availability of information. In addition, this raises questions about whether it is appropriate to wait until poor quality is exposed by the market, or whether preventative steps should be taken through regulation.

The example of China, which has signed up to GATS in education, was also raised. China wants to attract foreign partners to work with national bodies to address the huge unmet demand for higher education. Signing up to GATS was felt to provide a clear signal to other countries of their desire to work together, although it is not clear to what GATS contributes to stimulate that investment. Other countries have successfully mobilised such arrangements without locking themselves into GATS.

It was proposed that attempts that are being made to get international standards of quality should help. However, it was also noted that transaction costs and rigidity for poorer countries could be problematic (the example of hairdressers in Uganda requiring sophisticated qualifications was cited). This is likely to result in either the standards being ignored, or being used as exclusionary mechanisms to the benefit of those who already have some market power – as a result, competition would be stifled rather than promoted.

Although these issues raised cause for concern, it was also pointed out that 10-15 years ago regulation and quality assurance were not even discussed. As such, considerable progress has been made in this area.

In relation to financing, it was noted that while emphasis is being placed on distance learning as a cost-effective alternative, research indicates that it is not in fact ‘cheaper’, particularly when including consideration of the need to put up satellites etc. Concern was also raised that under the GATS agreement, foreign providers might be able to draw on public resources resulting in even fewer resources available for local providers. It was noted, however, that the 1994 agreement specified as a general exception that foreign providers should not have access to public funding. Since exceptions have to be renegotiated every ten years, this could change (and would presumably need to be addressed next year).

In addition, public-private partnerships (of the kind promoted in the UK) do not imply that there is a smaller pot of money available for education, but rather that it is a competitive pot, putting private and public providers on a level playing field rather than favouring public ones. Furthermore, this is an issue for national consideration, not GATS. Moreover, in considering public-private provision and financing issues requires unpacking of what the ‘state’ is – in some countries the state and private sector are in fact the same people, and the ‘state’ has vested interests in what type of services are prioritised.

A concern was raised that, since GATS is not only about providers but also services, it is possible that universities could be accused of anti-competitive behaviour on the grounds of cross-subsidising less profitable aspects of the service.

In conclusion, it was felt that little was known about the potential implications of GATS in practice. The reality would only become apparent if/when a challenge is made to a country’s competitive practices in education, and evidence were then available on how such issues were resolved. In addition, discussions regarding the implications of GATS often assume that trade in services is coordinated. However, information on private providers is not always readily available and even in countries such as the UK, there is extremely limited information of the overall impact of the involvement of foreign providers. Moreover, many of the points discussed did not refer specifically to GATS, but were relevant to the trend that was in any case occurring in many countries in relation to increased liberalisation of education. This is particularly the case given the range of bilateral and multilateral agreements that are in place, irrespective of GATS.

2. Intellectual property rights and GATS: The knowledge divide³

Facilitator: Roy Carr-Hill, University of London

Intellectual property rights are governed by the Treaty on Intellectual Property Rights (TRIPS). These are not specifically addressed in GATS but rather obviously the opportunity to develop and exploit intellectual property rights depends on the level and distribution of higher education. One of the implicitly presumed advantages of a market in higher education is that developing countries will benefit from the services provided, and will therefore be able to move to a competitive situation vis-a-vis other developed countries.

However, the presumed benefits are not always self-evident from the other (recipient) side. For example, the TRIPS treaty has already been heavily challenged by developing countries wanting to manufacture generic medication to fight epidemics of HIV/AIDS, malaria, tuberculosis etc. This short note develops this point in the context of liberalization of tertiary educational services by looking at the way in which Arab States have attained relatively high standards in higher education but have not only failed to develop any 'intellectual property', but also do not appear to have reaped the presumed economic benefits of highly educated society/workforce

Higher Education

In nearly all the countries of the Arab region, the levels of higher education are substantially higher than those in other low-middle income developing countries; indeed, in some countries of the Arab region, the gross enrolment rates in tertiary education⁴ is substantial: for example, Egypt 39%, Lebanon 31% and Qatar 28%. But this does not appear to have been translated into corresponding levels of research and development or of technological development. In particular, the options for networking are low.

Research and Development

R & D expenditure in Egypt from 1992 to 1996 stayed about the same at the low level of 0.21% of GDP, in Jordan about 0.27% of GNP between 1985 and 1989, in Kuwait it dropped from 0.27% of GNP in 1993 to 0.16% of GNP in 1997 and in Qatar hovered only around 0.05% between 1982 and 1986; and in Syria it was 0.20% in 1997 (Table A1).

Table A1: R& D Expenditure (% of GNP)

Country	Year	Expenditure (%)
Egypt	1992-96	0.20-0.22
Jordan	1985-89	0.28-0.26
Kuwait	1993-97	0.27-0.16
Qatar	1982-86	0.07-0.03
Syria	1997	0.20

Source: UNESCO, Statistical Year Book 1999, UNESCO Publishing & Berman Pres

³ A discussion on these issues did not take place, due to insufficient numbers in the group.

⁴ Defined as the total enrolment divided by the population of the five year age group immediately following the completion of upper secondary education.

Similarly, in the Arab region, patenting is hardly used - few Arab countries have more than a dozen or so patents a year which compared with European countries such as France or Germany whose patent awards number in the five *thousand* range while Japan has upwards of 40,000 a year. Patenting is a way of converting innovation into a cash return and this can even be as simple as a new way to water plants. So, another example of the poor level of networking in the Arab region and the lack of capitalizing on what they actually do innovate.

The Technological Gap

The technological gap between the Arab countries and many other parts of the developing world is growing. But paradoxes exist. For instance, in a comparison of the output of scientific papers, in 1981, China was producing 1 paper per million inhabitants - half the output of the Arab world and grew to 11 papers per million by 1995; whilst the Arab world grew from 11 papers per million in 1985 to 26 papers per million in 1995. Yet, China is in a top group among developing nations that also includes Brazil, and India. The paradox can partly be explained since it is quality that counts. The number of citations is a measure of quality: the US has 43 highly cited papers per million, Israel 39 Korea 0.12 and Egypt 0.02. But even though Kuwait 0.5 and Saudi Arabia 0.07 did better than Korea, Arab countries are not receiving the returns normally expected from current investments because their S & T systems are rudimentary with extremely weak connectivity.

Networking

As part of both social capital and the development of intellectual capital, networks of people are crucial. Most of us know that the results of intellectual effort are increased significantly when two rather than one person is working. This is also so at national, regional and global levels. Clearly, the internet has helped this process. But to network one must have the resources and the necessary occasions. Recent statistics of Internet access by regions of the world shows that the share of Arab countries in Internet access is 0.5% of the total world access, for a population total of 4% of the world population. However, growth of new services for mobile cellular and the Internet have witnessed impressive growth in the Arab Region between 1996 and 1999, though growth has not been as high as other countries and regions of similar economies⁵. Egypt, as an example, achieved a 115% compound annual growth in Internet users, and 287% growth in mobile subscribers. However, per capita, the resulting densities are still well below world averages. Face-to-face networking is stimulated through research meetings which occur occasionally in the Arab region but less so at the regional and global levels; and out of the 46 'locations that matter in the new digital economy' based upon skill networks only El Ghazala, in Tunisia was included from the Arab Region.

Why are there no Economic Benefits?

Although the MENA region has a GDP per capita in real dollars is four times higher than that of both South Asia and Sub-Saharan Africa, its population growth rate is second only to Sub-Saharan Africa and its adult illiteracy rate is the same (Table A2). Public consumption at 18% of GDP is the highest of all the world regions, although that does not appear to be spent on the usual public services.

⁵ Dewachi, Abdulilah, 'Trade Efficiency in ESCWA Member Countries: A Comprehensive Study – Telecommunications' UN-ESCWA, 2000.

Table A2: Income and Social Development Indicators : World Regions

	Population (mn)	ACGR* of population		Dollars 1998	PPP (current \$) 1998	Life expectancy at birth 1997	Adult Illiteracy (%) 1997
		90-98	97-2015				
Low & Middle-Income	5,011.0	1.8	1.3	1,250	3,150	65	-
East Asia & Pacific	1,817.0	1.5	0.9	990	3,400	69	-
L.America & Caribbean	502.0	1.9	1.3	3,940	6,780	70	13
MENA	285.0	2.6	1.9	2,050	4,220	67	41
South Asia	1,305.0	2.1	1.4	430	1,610	62	48
Sub-Saharan Africa	628.0	3.0	2.3	480	1,430	51	41
World	5,897.0	0.7	1.1	4,890	6,200	67	22

Notes: * ACGR : is the Annual Compound Growth Rate; 1 : 1997 figures. 2: 1996 figures

Sources: World Development Indicators, 1999 ; World Development Report, 2000; World Economic Outlook , October 1999,IMF ; International Financial Statistics, 1997; Unified Arab Economic Report, 1997; several Economic Intelligence Unit Country Reports, Human Development Report , 1999; International Financial Statistics , 1999; Unified Arab Economic Report , 1999 1: 1995 figures. 2: 1994 figures. 3: 1993 figures.

There are of course, all kinds of reasons that one can advance for the apparent lack of ability to translate higher education into economic benefits: the content and pedagogy of education provided; the extent to which creativity and diversity are encouraged rather than discouraged; a relationship culture that impedes the adoption of innovations (although that is not of course unique to Arab countries); and the inefficiency of the market for skilled labour and technicians in the Arab region. But, whatever is the right combination of factors – that will of course differ from country to country – the proliferation of higher education does not appear to be very helpful unless many of these other infra-structural factors can be addressed.

It is not clear that opening up the market would make any difference: the issue here is whether the development of a knowledge economy will lead to an even greater divide than the physical economy.

3. Skills for development

Facilitator: Leon Tikly, Graduate School of Education, University of Bristol

GATS, Globalisation and Skills for Development in Low Income Countries

Leon Tikly

Graduate School of Education, University of Bristol

Introduction

This paper discusses the implications of the General Agreement on Trade in Services (GATS) for skills development in low income countries. Although an overall argument is developed the aim is to provide a framework for discussion rather than to be prescriptive. The decision to focus on the situation in low income countries is taken because it is precisely these countries that are often considered to be most 'at risk' from GATS. In particular the paper draws on recent empirical research into skills development priorities in two countries of sub-Saharan Africa (Tikly et al, 2003). A key assumption in the paper is that GATS cannot be understood outside of an appreciation of the broader processes of contemporary globalisation with which it is inextricably linked and the implications of globalisation for skills development priorities in low income countries. Although in the short term it is argued that there is little incentive for low income countries to sign up for GATS, it is also suggested that in the longer term governments and regions must develop strategic responses to GATS that are appropriate for their own contexts and situations.

Globalisation and its implications for low income countries

Globalisation involves the growing interdependence and interconnectedness of the modern world across a range of spheres including the economic, political, cultural, military and environmental spheres as well as the advent of mass media (see Tikly et al, 2003). Of particular relevance here, however, are the implications of economic globalisation. Here, globalisation has involved greater integration between those countries of Northern America, Western Europe and the Pacific Rim that are at its core as well as the 'newly globalised' countries and regions of Eastern Europe, Thailand, Vietnam, parts of China and of India (Collier and Dollar, 2002). It has involved the spread of neo-liberal economic principals and an ever tightening system of trade regulation instituted first by the Bretton Woods institutions and subsequently by the World Trade Organisation. These have included the development of the General Agreement on Trade (GATT), Trade Related Aspects of Intellectual Property Rights (TRIPS) and, of central concern to this paper, the GATS.

Globalisation has, however, not been experienced evenly. For those countries that have globalised there is contradictory evidence concerning the extent to which globalisation has contributed to poverty alleviation if at all. Thus whilst researchers associated with the World Bank (see Collier and Dollar, 2002, for example) argue that it has, their evidence is contested by other researchers (Gordon et al, 2002; Wade, 2002). There is consensus at least, however, that there has been an ever increasing polarisation in wealth between those countries that have globalised and those countries that have not and that this has led to an increase in absolute and relative poverty in these countries which include those of sub-Saharan Africa. There is also a growing recognition by organisations such as the World Bank and DfID that these countries face an uphill struggle to globalise and that existing terms of international

trade currently benefit wealthier nations (see DfID, 2001; Collier and Dollar, 2002). It is this inequality that lies at the heart of many of the concerns about the implications of GATS.

Globalisation poses specific challenges for low income countries. On the one hand they must deal with growing levels of poverty whilst simultaneously seeking to liberalise their economies and to find a niche within an increasingly competitive global economy. Although poverty reduction may ultimately depend on achieving sustained economic growth through global competitiveness these dual goals do provide a source of on-going policy tensions. Part of the so-called post-Washington consensus that has emerged recently amongst multilateral and donor agencies involves a recognition that unfettered economic liberalisation during the 1980s and 1990s actually contributed to increased levels of poverty in many poor countries (see, for example, Fine, 2001; Sogge, 2002). The tension between alleviating poverty and creating the conditions for sustained economic competitiveness are writ small in relation to skills development priorities as we will see below.

Secondly, low income countries must also face the dilemma of which development path to follow in relation to globalisation. Whereas many of the 'first wave' of globalising nations followed a classic developmental path from agrarian through industrialised and then post-industrial economies, some newly globalising nations are seeking to 'leapfrog' the industrial stage of development with implications for short term skills needs.

Finally, economic globalisation has different implications for women than it does for men. Women have often had to bear the brunt of neo-liberal policies and to 'take up the slack' left by cuts in government expenditures. Privatisation programmes have often threatened women's traditional employment opportunities, particularly within the agricultural sector. On the other hand, women in Africa as elsewhere in the low income world have had some new employment opportunities created within the expanding service sector, including tourism and financial services and in the garment manufacturing and other industries involving new technologies where manual dexterity is valued. Women have sometimes found new opportunities within the niche agricultural market such as the emerging market for exotic flowers and fruits. Even here though, women continue to have to endure traditional prejudices and inequitable levels of remuneration and in the case of some industries, such as the garment and tourism industries, have often been subject to exploitative working practices (Keller-Herzog, 1998; Chinkin, 2002; Joekes, 1995; Fontana et al, 1999; Tikly et al, 2003).

Skills for development in the global era: priorities for low income countries

So what are the implications of this view of globalisation for skills development in low income countries? Our own recent research in Rwanda and Tanzania has revealed that the needs of the two countries, although overlapping, are in some ways very different. For example, whereas Tanzania has chosen a 'classic' development path, Rwanda has opted for a 'leapfrogging' model and, partly through demographic and geographic necessity, has opted to emulate Mauritius and some Indian states in bypassing the industrial stage of development and moving towards becoming a communication and ICT hub for the region through developing its service sector. Both countries, however, require a range of skills in order to meet the dual challenges of alleviating poverty and creating greater economic competitiveness.

The difficulties of addressing the tension between poverty alleviation and economic competitiveness are often not appreciated by donor and multilateral agencies and are sometimes obscured by a sole focus on the millennium development goals in education at the expense of other considerations. Eliminating poverty does require an emphasis on basic education as the millennium goals prescribe, yet our research also reveals that addressing poverty also requires the development of new vocational skills as well as higher order and technical skills if the indigenous capacity for tackling disease and malnutrition through medical and agricultural innovation is to be developed. Extending basic agricultural skills to include those required to process, package and market produce would provide new opportunities for peasant farmers who currently survive through subsistence farming. The goal of achieving global economic competitiveness also requires fostering business and commercial skills as well as a range of generic and transferable skills. International evidence suggests that creating the capacity for innovation and technological development demands a national emphasis on secondary and higher education as well as on primary education. Economic growth also depends on good governance which in turn depends on developing public sector skills. A basic categorisation with some examples of different kinds of skills required by low income countries based on our research is given below.

Diagram 1: Skill categories and specific skill examples

Basic Skills:

functional literacy and numeracy, basic health knowledge and skills (including hygiene and HIV/AIDS prevention), child rearing skills, domestic skills, simple psychomotor skills, 'basic education'.

Generic and Transferable Skills:

problem solving, reasoning, creative thinking, analysis of information, attitudes (such as 'a respect for time' and 'a spirit of inquisitiveness'), communication and language skills (particularly bi- and tri-lingualism), basic computer skills, social skills of interaction with others.

Private Sector/ Business Skills:

entrepreneurial skills (and attitudes), management, marketing and trading, packaging, dealing with banks, book-keeping and accountancy, micro-enterprise management.

Public Sector Skills:

policy making skills, project design and management, including specific technical skills such as planning and management uses of ICT.

Vocational Skills:

building and construction, electrical installation and maintenance, electronic equipment repair, handicrafts and pottery, baking, car mechanics, painting, tailoring, carpentry, ICT skills for secretarial work.

Agricultural Skills:

improved agricultural techniques and technologies, improving soil fertility, food preservation and storage, weaving and making products from hides and skins, diversification of crops.

High Skills:

science and technology skills, advanced technical skills (computing, laboratory technicians, etc.), engineering, research, agronomy, botany and biochemistry, teaching and education.

Service Sector Skills:

accountancy, the servicing of contracts, banking, tourism-related skills: hotel management, skills for guides, cooks, waiters, etc.

Political and Citizenship Skills:

moral and values education, Rwandan culture and history, participatory citizenship education, political awareness and critical thinking, attitudes to authority, human rights, unity and reconciliation.

(Tikly et al, 2003)

Whilst the millennium development goals are important for focusing attention on the immediate needs of the poor, a dogmatic adherence to these goals at the expense of other areas is likely to keep African countries in a state of poverty and dependency.

A similar argument could be advanced with respect to meeting the skills needs of women. The millennium goals emphasise equal access to education and training for women. Whilst this is to be welcomed, women's empowerment cannot simply be achieved through a focus on equality of access. More careful analysis is required of the specific skills needed by women in order to take advantage of any opportunities that globalisation may have for them. This should extend to skills that will enable women to resist and manage the worst effects of globalisation. Significantly, however, attention to skill development priorities for women needs to take account of the broader social relations within which women's skills are embedded, in a way that challenges patriarchal cultural norms and values (see below), builds on women's traditional strengths and custodial roles (Mazrui, 1999), supports women's economic empowerment and financial independence and provides a protective framework of enabling legislation in the workplace and the home.

What our research suggests is a careful and nationally specific *balance* to be struck between investment in different levels and sectors of education and training. Central to this view is the idea that rather than being left to chance or to the vagaries of market forces, skills development actually requires a strategic approach that explicitly links skills formation to national and regional developmental priorities. Although the private sector has a key role to play in developing and meeting these priorities, the leading role must inevitably be taken by national governments.

The implications of GATS for skills development in low income countries

So how is GATS likely to impact on these skills requirements if at all? In considering this question, it is important to bear in mind a few caveats. Firstly, GATS is really an 'agreement-in-the-making' rather than a finished product. So far, only a handful of countries have made commitments to include education and training under GATS. As other contributions to this volume point out, there are also serious ambiguities concerning, for example, the way that the role of states and markets are defined in relation to the provision of education and training services that will only become clearer once GATS becomes subject to more detailed legal interpretation. (This is the case, for example, with respect to whether or not state subsidies for education and training that are currently used to support existing national providers may be interpreted as constituting an unfair barrier to trade. If this were the case then subsidies would either have to be withdrawn or extended to other, foreign, service providers). Thirdly, GATS also continues to be subject to significant political contestation that is likely to shape the final nature of the agreement. Finally, the internationalisation of education and training represents

a dynamic and changing process and hence something of a moving target for policy makers and analysts. This is true, for example, in relation to the four modalities recognised by GATS, namely, online learning and distance education; student mobility; foreign investment by overseas institutions; and, teacher mobility. Having stated these caveats, however, it is possible to identify a few key issues around which the ongoing debates on the implications of GATS for skills development are likely to centre. Discussion of these issues at this stage of the GATS process is necessarily tentative and exploratory.

The first issue is concerned with the danger that GATS will compromise efforts to strategically link skills development priorities with national development objectives and specifically with the dual goals mentioned above of eliminating poverty and achieving global economic competitiveness. The potential danger is two fold. The first is that GATS will contribute to a general process of privatisation that will increasingly redefine education and training as a private rather than as a public good for meeting national development priorities. Related to this is the danger that foreign providers will flood the market with courses and programmes that are not related to national priorities. The dangers posed by privatisation would be greater still were governments in low income countries to relinquish control of state education to private companies as has happened to a more limited extent in the UK and the USA. Within the schooling sector, this could potentially jeopardise, for example, the provision of relevant political and citizenship skills. At higher levels of the system, greater liberalisation could lead to a skewing of provision of other skills such as technical, vocational or even language skills towards meeting market demands rather than nationally defined priorities. The success of some of the 'tiger' economies lay in their ability to enter into bilateral agreements with foreign governments and companies to provide specific skills training opportunities either in country or overseas. The purpose of these agreements was to meet nationally defined needs rather than simply to rely on market forces. It is specifically this kind of favouring of certain foreign providers that GATS would seek to challenge.

Supporters of GATS argue that education and training currently involve a balance between state and private provision and that where education and training is considered to be defined primarily as an area of governmental authority then states will not be obliged to privatise further than is currently the case or to open up to foreign providers. Through maintaining governmental authority over large parts of the primary, secondary and even tertiary sectors, governments would be able to maintain control over the content and balance of the curriculum and would not be forced to open up or to subsidise provision. It is really only in areas of vocational, technical and higher education and training where a substantial private market already exists, that a GATS would seek to institute a more open and transparent system. Even here, so it is argued, governments could still set limits on what areas of education and training to subsidise in a way that did not jeopardise national interests. In this respect, national governments could, in theory at least, place restrictions on what they chose to fund or subsidise and in such a way continue to target strategically important areas of skills development relevant for their developmental path.

As noted above, however, the future implications of GATS remain shrouded in uncertainty. In this case it may be that there is simply too much at stake for low income countries at this early stage of the GATS process for them to risk making commitments with respect to education and training, especially when it is not necessary or in their immediate interests to do so.

A further key issue is concerned with the implications of GATS for the quality of provision. Space does not allow for a full discussion of this issue which is covered in greater depth by other papers in this volume. Of significance here is that if governments wish to ensure that their students are exposed to skills opportunities of a necessary quality then they ought to have in place a rigorous set of national and international quality assurance mechanisms relating to each of the four modes of delivery of international education mentioned above. It is true that some countries do have such systems in place. There is also an emerging framework of global quality assurance mechanisms, for example those governing the accreditation of higher education programmes within the EU under the Bologna agreement and those being implemented by the United Nations, that are potentially significant in the ongoing internationalisation of education (Larsen, 2002). It is not clear, however, that these mechanisms have been developed to a sufficient extent to protect low income countries which often lack the capacity to implement and enforce their own mechanisms. It is also unclear the extent to which existing mechanisms which have been built on international trust and co-operation between countries are compatible with the more market and competition-oriented mechanisms implied by GATS.

A third set of issues relates to who will benefit from GATS. Proponents of GATS argue that the agreement will provide an open and transparent system of trade in services from which poorer and well as wealthier nations will benefit as they develop their own regional and global markets in education and training. This is a significant issue because the potential to internationally market skills is not confined to wealthier nations although they currently have by far the largest market share within each of the four modes. Some middle and low income countries are also increasingly exporting education and training services and attracting foreign students to their institutions (South Africa is a good example here). However, these developments need to be seen in relation to the account of globalisation given above and the fact that the international trade in education and training is not taking place on a level playing field. In this respect certain countries look set to increase their historical advantage in the education and training market place whereas lower income countries do not. (Notably, the South African government which might be perceived as a potential beneficiary of GATS at least as far as the export of its own educational services are concerned, has taken a stand against GATS because of the dangers posed to its own education and training system by an influx of foreign providers). The potential problems created by the existence of an uneven playing field are exacerbated in relation to the danger of the so-called 'brain drain'. One area where low income countries *are* globally competitive is in relation to the export of skilled personnel including educators although this is an area where there is little benefit to the country concerned. The danger is that governmental initiatives and incentives to reverse the effects of the brain drain could be interpreted under GATS as a barrier to trade.

Related to the question of which countries are likely to benefit from GATS is the issue of which groups within society might potentially benefit. A key concern here is that the further marketisation of education and training implied by GATS will affect the ability of governments to redress past inequalities in education and training such as those relating to gender, class or ethnicity. If GATS did lead to the further privatisation of primary and secondary education then this might negatively impact on access, particularly if user fees are involved. In the short term, however, this may mean a proliferation of courses in certain areas of skills shortage (such as ICT, for example) that are only accessible to wealthier students and to which historically marginalised groups such as women might also fail to gain equal access. It might also limit the ability of governments to develop gender sensitive skills development strategies in line with the analysis developed above. In this respect more research is required

into the effects of the internationalisation of education and training on equity before the likely impact of GATS can be ascertained.

Conclusion

The view taken here is that it is too early for low income countries to commit themselves to GATS without knowing more about its likely implications. In the current context, it has been suggested that signing up for GATS will not help governments achieve either of the twin goals of poverty elimination and economic growth and are more likely to hinder them in this regard. Rather, the skills training needs of low income countries are probably best served at least in the short term, through more traditional regional and bilateral agreements. This is not to argue that low income countries ought to rule out the possibility of signing up to GATS in the future. Indeed, there may even be benefits in the longer term for low income countries as they themselves become providers as well as consumers of educational services and as their capacity to put in place the necessary regulatory and quality assurance frameworks improves. Of greater importance in the short term is that low income countries develop the capacity to put in place a coherent skills development strategy linked to nationally defined objectives. Only this, together with the creation of a more level playing field in international trade and efforts to reduce the debt burden will provide the necessary conditions under which low income countries can begin to enter the global market place in skills training on their own terms and potentially become beneficiaries of a GATS in the future.

Discussion

Rapporteur: Keith Holmes

Following Leon Tikly's presentation which highlighted the issue that, if education and training were included in the GATS, countries, such as Rwanda and Tanzania, might have difficulty pursuing different development paths, despite differences in their human and natural resources. The risk for low-income countries is that over time they will become less able to harness education and training to their national goals. The presentation raised specific questions: about the gender implications of trade in education and training services; about the implications for quality; and about impacts upon indigenous cultures and languages.

The group discussion that followed revealed significant ideological differences, particularly in relation to the changing roles of governments and the relative contributions of public and private providers. The discussion raised a number of serious concerns, ambiguities and queries about how the GATS rules might be applied in the arena of education and training.

A participant from a private sector provider questioned the implicit assumption that greater regulation was necessary for the private sector than the public sector. He expressed the view that the main policy consideration should be whether the education and training is "fit for purpose", not whether it is provided by public or private organisations. He felt that some governments, including South Africa, are in danger of over-regulating education and training. He wanted to see the creation of mixed economies for skills development with the emphasis placed on markets and individual choice.

Another participant noted that the day's discussions had been using a very individualised notion of skills. Interestingly, the World Bank and the OECD are increasingly talking about "social capital". They are suggesting that as well as individual choices, it is necessary to

consider how people with qualifications communicate with each other. It might therefore be wise to interpret skills and skill needs in national and local contexts.

The majority of participants shared the grave concerns expressed by the South African High Commissioner earlier in the day, that liberalisation in the education and training sector could threaten efforts by the Government of South Africa to address historical inequalities and that the GATS might lead to increasingly fragmented provision along racial lines.

One participant noted that historically there had always been a mix of public and private training provision. She felt that the debate about private versus public provision is not really the main issue. More important, in her view, is the issue of an emerging set of trading rules that lock in a particular mode of provision. These rules often seem ambiguous and even contradictory. For example, what would a “full commitment” in education and training really mean? In reality the supply of education and training is fractured across many areas. What, for example, would be included in the category of “adult education”?

Participants identified several important questions about what would or would not be allowed by the GATS rules that deserve further exploration by legal experts.

- Would governments be in a position to address social and educational inequalities through the use of subsidies or vouchers?
- How might current Commonwealth activities, such as the Commonwealth Scholarships and Fellowships Plan (CSFP) and the work of the Commonwealth of Learning (COL) be affected?
- What are the implications of GATS for the provision of in-service training and continuing professional development?
- Could a cross-border supplier claim that a certain national education and training system is effectively a barrier to trade?
- What if a government won't recognise a certain degree? Is this considered a barrier to trade?
- How will a state be able to stimulate areas of the economy, or regions within the state, so as to lead to a comparative advantage?
- How could small communities with precarious sorts of skills be protected?
- How can skills that may be specific to a region within a state be protected if national authorities conduct negotiations at the WTO?
- Would a government be able to prescribe specific educational textbooks in, for example history or political science, without infringing GATS rules?
- What do less developed countries hope that the GATS will achieve?
- Is it, or is not, desirable for the World Trade Organisation to be regulating and deciding education rules?

Leon Tikly concluded that whilst a rule based system to enable fair transparent terms of trade between countries is not necessarily a bad thing in principle; the problem with the GATS is the unequal relationship between rich and poor countries in the negotiating process.

4. Social cohesion, poverty alleviation and sustainable development

Facilitator: John Hilary, formerly Trade Policy Adviser, Save the Children; now Trade Policy Analyst, ActionAid

The adoption of the General Agreement on Trade in Services (GATS) in 1994 marked a dramatic expansion of the world trade agenda into sectors which had previously been untouched by global trade rules. While those rules had long dealt with trade in goods, GATS opened up the service sectors of individual economies to a programme of 'progressive liberalisation' under the auspices of the World Trade Organisation (WTO).

That liberalisation programme is now beginning to take effect across the wide range of services covered by GATS – from accountancy, construction or maritime services to sectors of direct and immediate importance for poverty alleviation such as education, health and water. In addition, the latest round of GATS negotiations has now entered its most intense phase, with WTO member countries engaged in a 'request-offer' process to open up more sectors to competition. The threat which this new round of liberalisation poses to development efforts has given rise to a growing sense of alarm around the world.

Many countries have already liberalised a wide range of service sectors in their economies, often under pressure from international financial institutions such as the World Bank and IMF. Yet the 'lock in' mechanism of GATS makes any GATS commitment effectively irreversible, and thus requires a far higher threshold of certainty than liberalisation alone. For key sectors such as health, water and education, in which experiences of liberalisation to date have often proved negative, that degree of certainty is clearly absent. Countries should therefore refrain from making any GATS commitments in such sectors during the current round of negotiations at the WTO.

GATS: Pro-development or anti-development?

At a time when many developed country governments are trying to present the WTO's Doha work programme as a 'development round', GATS is often cited as one of the most development-friendly agreements. The architecture of GATS, it is argued, allows developing countries more flexibility than many other WTO agreements – indeed, developing countries made clear during the original negotiation of GATS that they would only accept an agreement based on a 'positive list' approach, whereby each country can determine which sectors it is ready to commit to liberalisation, and under which conditions. In addition, the needs of developing countries are specifically identified as priorities in Articles IV and XIX of GATS, and again in the negotiating modalities agreed for the current round of GATS negotiations in March 2001.

Yet the reality of the GATS negotiation process undermines the development-friendly architecture of the GATS agreement. The 'progressive liberalisation' of trade in services which GATS requires is achieved through successive rounds of market access negotiations, in which WTO member countries engage in secret discussions with each other in order to open up new service sectors to competition from foreign service providers.

While developing countries formally retain the right to choose which services they will offer up to GATS, they come under intense pressure in these negotiations to meet the demands of

more powerful WTO members. The fact that the negotiations are held on a bilateral basis, and in secret, sets the weakest countries against the strongest on a wholly unequal footing. The negotiation process thus turns the 'development-friendly' architecture of GATS against developing countries, and exposes them to exactly the type of bilateral pressure the WTO was supposed to avoid.

No one disputes that power politics play a major role in the WTO. Former WTO Director General Mike Moore himself acknowledged that, despite formal equality between WTO members, "there is also no denying that some members are more equal than others when it comes to influence" (Moore 2000). As well as enjoying far greater negotiating capacity, in terms of both material and human resources, richer countries have in the past exerted extra pressure on poorer WTO members by raising the prospect of loss of aid or trade preferences if they do not drop their opposition to rich countries' positions (Jawara and Kwa 2003).

In the context of services negotiations, experience has shown that the overwhelming bargaining power of rich countries can pressure developing countries into surrendering key service sectors to GATS even when it is not in their interest to do so. UNCTAD's recent survey of developing country trade delegates confirms that the process of services negotiations is itself hampering their ability either to benefit or protect themselves from GATS:

Of particular concern to developing countries is the lack of transparency of the ongoing request/offer process within the GATS, which hinders their capacity to evaluate the requests submitted to them by developed country trading partners, and the formulation of their own requests and offers, which is a particularly complex task. (UNCTAD 2002)

Partly as a result of this imbalance of power at the WTO, developing country representatives point out that there has been little progress towards realising the pro-development objectives of Articles IV and XIX. Article IV of GATS sets the goal of increasing the participation of developing countries in services trade, but WTO statistics reveal that their share in both exports and imports of services remains substantially the same today as it was when GATS came into force in 1995 (WTO 2002). The global services market itself has expanded significantly over the past eight years, and developing countries' trade in services has grown accordingly in absolute terms, but there are concerns that these economic benefits have largely been limited to increased participation by certain Asian economies.

In addition, there are concerns that GATS commitments have not led to any rise in the overall level of foreign direct investment (FDI) in services to developing countries. This prospect of increased FDI flows is still cited as a primary reason why it should be in the interest of those countries to make GATS commitments rather than simply to undertake liberalisation of service sectors and use other channels to signal their openness, independently of GATS. As revealed by UNCTAD's assessment of developing countries' experience of trade in services, this signalling through GATS commitments has not had the desired effect:

There is no empirical evidence to link any significant increase in FDI flows to developing countries with the conclusion of GATS. (UNCTAD 2000)

In frustration at the lack of progress in realising development objectives in respect of services trade, a group of Latin American and Caribbean countries has now put forward a proposal to the WTO's Council for Trade in Services that a new mechanism should be established to monitor achievements in advancing towards the goals set out in Article IV, with a stocktaking of progress to be held at the WTO's Cancun Ministerial Conference in September 2003 (Bolivia et al. 2002).

In order to minimise the negative effects of GATS, Article XIX establishes that developing countries are to be granted greater flexibility in the GATS liberalisation process in order to respect their level of development. As a means to identifying what flexibility is needed, Article XIX also stipulates that there should be an assessment of the impact of services liberalisation prior to each new round of negotiations in order to inform the guidelines and procedures of that round. Yet this latter requirement was not honoured in the current round, and assessment has instead become a standing item on the agenda of the Council for Trade in Services.

Developing country representatives and civil society organisations have united in calling for assessment as an essential precondition of making offers in the current round of services negotiations (Mashayekhi and Julsaint 2002). This call for an evidence-based approach to the negotiations stands in contrast to the accelerated negotiating timetable engineered at the WTO's Doha Ministerial Conference – in the face of opposition from many developing countries – which sought to rush through the tabling of initial GATS offers by the end of March 2003.

In addition to this failure to realise the pro-development elements of GATS, there are also provisions within the agreement which have a negative impact on national efforts to maximise the developmental benefits of foreign investment. Many countries welcome foreign investment in individual service sectors, and employ a range of measures to ensure that this investment contributes to economic development and other policy objectives. Such measures include: requirements that foreign investors establish a joint venture with a domestic partner; equity ceilings on foreign capital participation; conditions of minimum capital investment; performance requirements in areas such as technology transfer, public service provision, employment or training of local staff.

Yet these standard methods of managing foreign investment in services to the maximum benefit of the host country are threatened when a sector is bound under GATS. Article XVI of GATS prohibits WTO members from using requirements on type of legal entity (such as joint ventures) or limitations on foreign capital participation, unless such measures have already been specified in that country's national schedule of GATS commitments. Article XVII prohibits WTO members from employing any measures which favour domestic over foreign service providers – either explicitly (*de jure*) or in practice (*de facto*) – unless those measures have already been specified in the country's national schedule. This would include many of the performance requirements listed above (Hilary 2002).

Even when countries have specified these requirements in advance, their very presence in national GATS schedules sets them up as targets for removal in the services negotiations at the WTO. This is well demonstrated by the requests submitted by the EU to 109 other WTO members in the current round of negotiations, which were leaked and published online in February 2003 (see www.gatswatch.org). These documents request the removal of joint venture requirements and limitations on foreign equity participation in countries such as

Indonesia, Pakistan, Thailand, China, Cuba, the Philippines, Egypt and India – as well as a host of performance requirements on investors in these and other countries. All these countries must now expend precious negotiating capital in trying to protect their own pro-development policies from elimination.

The need to protect those policies in the present, however, is made more urgent by the fact that GATS makes it effectively impossible to reintroduce them again in the future, should it be considered prudent or necessary to do so. The ‘progressive liberalisation’ programme of GATS allows only for the removal of access conditions and performance requirements on foreign investors, not the restoration of old ones or the introduction of new, while the disciplines on modification of national schedules (Article XXI) require countries to provide acceptable compensation to any WTO member whose benefits “may be affected” by the proposed modification before it can be introduced. In practice, these terms are so punitive that GATS commitments are – to quote David Hartridge, former Director of the WTO’s Trade in Services Division – “irreversible” (Hilary 2001).

The impact of GATS on public services

Committing a service to GATS means assenting to competition in that sector in accordance with GATS disciplines, and binding it for the future. When a country binds liberalisation of a service sector in its national schedule of GATS commitments, there is no requirement that it should distinguish as to whether the service is currently provided as a public service throughout that country, whether it is exclusively the domain of the private sector, or whether – as is the case in many services – public and private provision coexist, either in different localities or side by side. It is the sector itself which is committed to liberalisation under GATS.

This approach has fuelled concern that public services which have a direct significance for poverty reduction might fall under GATS disciplines when a particular sector is bound under GATS. While Article I:3 excludes “services supplied in the exercise of governmental authority” from the provisions of GATS, its definition of those services is a narrow one, requiring that they be supplied “neither on a commercial basis, nor in competition with one or more service suppliers”. It has been widely accepted that such a definition has very limited application in today’s world, where almost all public services are supplied either in competition with other suppliers or on a commercial basis, or both (see further Krajewski 2003). Indeed, the act of liberalising a service sector introduces competition by definition.

There is already broad consensus that some public services do fall under GATS disciplines. Peter Carl, Director General for Trade at the European Commission, provided confirmation of this in his statement to the European Parliament’s public hearing on GATS in November 2002 when he noted that: “Many public services are not subject to the GATS” – a significant shift from previous claims that all public services were excluded (Carl 2002). Similarly, UK Government trade negotiators have acknowledged that many public services provided in the UK with the increased participation of the private sector would already fall under GATS.

Liberalisation of a service under GATS thus represents a binding commitment to permit competition in that sector, irrespective of how the service might have been provided in the past. This competition allows for the continued presence of public services, but in cases where the service has previously been provided by the public sector alone, the process of liberalisation will lead to a transfer of at least part of the service into the private sector. As

noted by International Financial Services London, one of the most active lobbying groups promoting services liberalisation:

[O]pening service markets to foreign providers is self-evidently inconsistent with retaining public monopolies. (IFSL 2002)

Irrespective of whether they have held a monopoly in the past, public services face new challenges once the sectors in which they operate have been opened up to competition through GATS – in particular, the challenge from some of the world’s largest multinational companies. Even for countries in which the public sector has long faced competition from domestic providers, the strength of this foreign challenge can be a direct threat to the very existence of public services. As noted by a group of developing countries in a key submission to the WTO Council for Trade in Services:

For developing countries, privatisation by foreign companies is very much a ‘natural’ consequence of service sector liberalisation, since the government and local suppliers will not be able to withstand the competition. (Cuba et al. 2001)

This tendency for multinational service companies to undermine the public sector has been documented across several service sectors of direct importance for poverty alleviation. In the case of health insurance, for example, which has grown into a multi-billion dollar worldwide industry, competition from multinationals threatens the viability of state social insurance programmes designed to spread costs across society and provide affordable health care for all. Fragmentation of the sector as a result of greater competition “segments and destabilizes the market and undermines the ability to build larger, more equitable risk pools that spread costs between rich and poor, healthy and sick” (Lipson 2001; see also WHO 2000, chapter 5).

Perhaps the best example of the close connection between liberalisation and privatisation of services can be found in relation to water (Hilary 2003). The special status of water services as a natural monopoly means that liberalisation to secure private sector involvement entails privatisation of the service in the locality in which liberalisation has taken place, as there is no possibility of competition in the physical delivery of the service through the one network. While the public sector may continue to provide water in other localities, therefore, opening up the service to the private sector automatically entails privatisation in the locality concerned.⁶

Crucially, too, the attempt to increase the involvement of the private sector in the provision of basic services such as health, water and education in developing countries has become a high priority of donor and lending agencies at the start of the 21st century. The World Bank’s Private Sector Development Strategy, approved in 2002, identifies increased private sector involvement as a priority across its lending bodies, and sets out the mechanism whereby future lending will be tied to a country’s attractiveness to private investors. Individual arms of the World Bank Group have developed their own plans for increasing private sector involvement in social services: also in 2002, the Bank’s International Finance Corporation

⁶ ‘Privatisation of the service’ in this briefing refers to the private sector’s assumption of responsibility for service provision, whether through a transfer of ownership of public assets or through a concessionary or contractual arrangement. This standard understanding of the term is in contrast to the World Bank’s current attempt to restrict the word ‘privatisation’ to mean only the divestiture of public assets.

published its strategy for extending private sector involvement in social sectors which have traditionally been free of private investment (Save the Children UK 2002).

GATS provides both a formal framework for registering the liberalisation of services and a process for securing the liberalisation of more sectors. More importantly still, committing a sector to GATS binds a country or locality to that liberalisation in the future. Thus any liberalisation undertaken as a result of pressure from donor or lending agencies becomes effectively irreversible, even if the decision to involve the private sector turns out to have been a mistake.

Conclusion

The most important point on which to conclude is that liberalising a service sector is not the same as committing it to GATS. Many countries have chosen to open up individual service sectors to foreign competition without committing them to GATS, and have adopted a variety of other means to signal their openness to investors around the world.

Indeed, many countries have taken deliberate decisions to liberalise certain service sectors and not commit them to GATS, precisely in order to maintain policy control free from the threat of challenge through the WTO. Mike Muller, Director General of South Africa's Department of Water Affairs and Forestry, has repeatedly stressed the importance of this distinction in relation to water. South Africa has engaged the private sector to help with water provision in several cases, but Muller is adamant that the country should not commit its water sector to GATS, and argues further that water should be removed from the GATS bargaining table altogether (Muller 2002).

Committing a service sector to GATS closes down the policy space needed by countries seeking to manage foreign investment in services to their maximum development advantage. In addition to the problems of GATS disciplines on market access and national treatment described above, the lock-in clause of GATS Article XXI makes it effectively impossible to retract liberalisation commitments once they have been made. Similarly, WTO negotiations on domestic regulation, subsidies and government procurement of services are still in their earliest stages, and thus threaten to expose any sector committed to GATS to future restrictions which are as yet unknown.

As a result, committing a service to GATS requires a far higher threshold of certainty than deciding to open that service to foreign competition through liberalisation alone. For sectors such as health, water and education, in which experiences of liberalisation have often proved negative, that degree of certainty is clearly absent. In order to defend against the prospect of those negative experiences becoming irreversible catastrophes, countries must protect their ability to take back services into public ownership or otherwise limit foreign intervention as future need dictates. For this to be possible, the sectors must not be committed to GATS.

Discussion

Rapporteur: Rosemary Preston

There were some sixteen people at the meeting, the majority of whom participated actively in the discussions. Apart from necessary explanations of the logic of neo-liberal economics as the basis of GATS, the tenor of the debate was extremely critical of WTO/GATS procedures.

None of the participants foresaw anything but increasing US/multi-national corporation domination and poverty everywhere on hitherto unprecedented scales. At several points care was taken to deconstruct the positivist discursive strategies of current development rhetoric and the ways in which it masks the political and economic restrictions being imposed on the majority world.

1. There are particular implications for well-being within states when more and less coercively they apply GATS criteria to:
 - invite competition into established systems, without subsidy loss
 - create parallel sub-systems that (i) attract personnel away from statutory sectors (ii) and undermine the capacities of hitherto well-resourced public sub-sectors.
 - The case of water was cited as a sector attracting major debate under GATS regimes. There is evidence that tariffs rise when water is privatised and that powerful institutions are pressuring less powerful governments to privatise access to water, but refusing to do this themselves. The EU regional authority was mentioned as an example.
2. In effect the above processes are powerful mechanisms for closing down policy spaces and, in the process, restricting government ability to regulate foreign investment. This is in spite of Article 16, which refers to the regulation of requirements to set-up joint venture partnerships. Theoretically, it provides for the protection of local organisations' capacity to develop skills and share profits, preventing the wholesale loss of these to international partners.
3. Such provisions appear to make the architecture of GATS development friendly, because countries are free to choose to lock into it, or not. The language of Dohar is consistent with this upbeat discursive strategy. In contrast, the process is often development unfriendly. To negotiate accession, government representatives attend closed bi-lateral meetings to discuss their individual case and accommodations to the proposals that will be required before they are accepted. Many report being subjected to significant coercion. *Behind the Scenes at the WTO* (Zed, 2003 forthcoming) addresses these issues.
4. Article 19 requires sector by sector agreement to accede to the GATS process. However, its principles are being eroded. There is pressure to push through agreements to contract, before specifications and conditions are confirmed. Deadlines set for proposal submissions in 2002 were not postponed, even when there were significant delays in completing the terms of reference and, for example, before the definition of the repeated term 'liberal' was finalised. States were induced to sign on, before clarification of such terms. Maybe this is irrelevant given that the commitment is to changeable terms of agreements signed, in perpetuity, without being able to know what the changes might imply and without any mechanisms for future withdrawal.
5. The path to development and poverty eradication is to be a commercial process. In terms of mode 4, low income states:
 - might benefit overall from the export of labour and so encourage it for trade gains as part of national strategy
 - might suffer when selected categories leave in sufficient numbers, with adverse immediate and longer term effects.
6. The conditions set by GATS are justified from a neo-liberal economic perspective by member state choice of whether to subscribe or not. Under these terms (and others) which also have implications for declining social well-being, questions arise as to why any state should want to sign up to GATS. The WHO is already asking this.

- Balancing the rights of individuals to choose where they will work is inconsistent with those of states to retain them in national political, social and economic interest.
 - In the end, the fact that rich countries derive benefits from poor country income to subsidise the public good interests of their own education systems becomes a National Treatment issue.
 - Similar issues have to be addressed in respect of migrant skill, occupational levels and employment in destination labour markets. However, there is often a surplus professional capacity to demand in low-income states. (teachers, nurses) .
7. GATS is a liberal approach to regulating market failures. There is no way that it can be in the interests of low-income states to sign up, since they have the freedom to choose to liberalise in their own way, without being locked into international regulatory strategy into an unforeseeable future. In the 1970s the world wasn't interested in such schemes. By 1990s, things had changed. Prices and output were dropping on a global scale, to a considerable extent attributable to the profound income failure of low-income states. This has led rich states to protectionism and regulation of what low-income states can do. GATS is oriented at facilitating MNCs seizing profitable market niches in low-income states. It is not about support to the poor and marginal, the unskilled and illegally resident. On the contrary, the GATS authorised introduction of Tesco to Thailand continues to mean the death of many small businesses, but there is no reneging on the agreement.
 8. Many of the GATS PPP and PFI requirements in education require revisions of public service provision and states are becoming resistant. Several are seeking ways to change the terms of their agreements without paying penalties: France insists that its audiovisual market remain outside GATS; Belgium is resistant to further implementation of GATS and is seeking a revision of terms; Brazil likewise is seeking ways to retract.
 9. It is well-known that the US Financial Services Institute regularly succumbs to pressure from organisations such as IBM and Pfizer in the furtherance of these organisations' corporate strategy in low-income states, protected by the terms of GATS.
 10. In many ways GATS is reproducing a model imposed during World War I, when the US took over the role formally held by Western Europe. We are even revisiting the British-Arab history of the period. Within the UN, global liberalisation and economic reform has seen an increase in the power of the International Financial Institutions (the World Bank and the IMF), and a transfer of authority from other multilaterals. This has gone hand in hand in all countries with increased impoverishment. How can a global market be sustainable when the health of 40 per cent of the population of the world's richest and hegemonic state is unprotected, when 30 percent of the children in the rich countries of western Europe are living in poverty and when far greater proportions of most of the rest of the world are living in far worse conditions?
 11. How can those of us who are concerned use our knowledge to raise awareness of what is happening. We must also teach people to read carefully the trails that are laid auguring such major policy initiatives before they become part of an agenda orthodoxy. The World Development Report of 1994, came out in September before the Cancun meeting. The Bank was portraying itself as wholly committed to participatory democracy, but included in a single box the tenets of GATS. Thereafter, when challenged and to our cost, it remained dismissive of the concerns that were raised about it.

Session 4: What does the future hold? The implications of GATS for education

Tim Emmett, CfBT

CfBT is a not-for-profit education services provider. It has a strong interest in liberalising the provision of education services and widening access. The company's Trustees have sponsored several pieces of research and presentations on liberalising education and we are working closely with the International Finance Corporation (IFC) on defining new modalities for involving the private and not-for-profit sectors in education market reform with a particular emphasis on creating opportunities in developing countries.

For CfBT it is not about a polarisation between the public and private sectors; it is about challenging monopolies that can exist in the interest of the producers or bureaucracies rather than providing high quality accessible education for beneficiaries - for children in classrooms or university students. The notion that emerging and developing nations should be providing entirely publicly financed education systems must be challenged and, indeed, is being challenged by the vibrant markets one finds in these countries. The distinction between who pays and who provides is becoming evermore important. The emergence of a vibrant private sector and the demand for English medium school level education is evidence of middle class dissatisfaction with what the State may be offering and for which they may also have to pay a contribution. Consumer pay models of school education should be considered an entirely pragmatic and appropriate way depending upon countries' capacity to de-regulate; to encourage enterprise; and to recognise that easing pressure on the State system should provide room for wider access for the poorest and most disadvantaged communities.

Their ability to choose could be assisted by voucher schemes or various types of credit. Critics always seek refuge in the tired response of a two-tier 'system'. The real issue is affordability, equity and access. Going to school is better than not having the opportunity to go at all. GATS provides the opportunity for alternative providers to work in partnership with emerging nations to show what they can do. It provides the opportunity for new technologies to be made available and to lower the cost of provision and to find innovative ways of producing and sourcing textbooks and school equipment. For example, the opportunity for educational entrepreneurs at local level in many countries is better than it has ever been and companies such as CfBT and its associated investment forum, Edinvest, provide the opportunity to offer choice and innovation, both key attributes of forward looking education systems.

Major criticism levelled at the developed world by developing nations is the brain drain; that they are losing good teachers to prop up dysfunctional education systems in wealthy nations. One answer to this could be greater structural and systemic reform both in the developed world and in developing countries as to how teachers might be employed, not with a view primarily to stemming the exodus, but allowing teachers to have a greater stake in the educational enterprise as an incentive and motivating force.

Greater regulation is quoted as a necessity for the private sector; it should be argued that the public sector requires regulation and transparency just as much. Poor quality exists in both sectors and the density of education finance is not exclusively the realm of PFI. Understanding public sector school finance, even in a country like England as recent events have shown, is far from straightforward even amongst those who are the supposed custodians of the system. A key value for CfBT is the recognition of the distinction between the client

and the beneficiary in any educational enterprise, particularly schools, and the fact that the needs and agenda of client and beneficiary do not always coincide. Education, whilst being a right, is also a good and this good has a tradeable value in terms of what the outputs can do for the beneficiary.

Aligning beneficiaries' and society's needs is never easy, but in the general culture of globalisation it is now desirable to include beneficiaries and to ensure that their voices are heard and acted upon. This may require the State to admit what it can provide and also to admit what it cannot provide, thereby creating the climate for others to make proposals and to create a market.

Steven Kelk, University of Warwick

With regard to GATS, three key themes were highlighted in particular: 'legal' dimension, the 'political' dimension, and the 'structural' dimension.

Regarding the legal dimension, there are a number of critical points to remember. Firstly, we do not actually fully understand what the *existing* GATS text means; this is a separate issue to the problem of there being unfinished rules within GATS, which will be discussed shortly. We have already discussed uncertainties surrounding (for example) Article I.3 and Article VI.4, but if you look at WTO negotiating documents you will see that trade negotiators are quite open in acknowledging that there are consistency problems to be resolved with regard to critically sensitive articles such as Market Access (Article XVI) and National Treatment (Article XVII). One such problem concerns unresolved ambiguities in scheduling those restrictions that are violations of both Article XVI and XVII, and another worrying concern is whether National Treatment commitments might in fact apply equally to all modes of service delivery, despite a prior belief by WTO members that they could tailor their commitments differently depending on whether a service is delivered by "cross-border" supply (such as a virtual university) or "commercial presence" (an offshore campus), and so on.

Given that these two articles are the "engine room" of GATS, where most of the liberalisation occurs, it is worrying in the extreme that negotiations continue without resolving them.

Secondly in the legal context, there is the fact that GATS is not actually a finished text: there are new rules to be developed, where necessary, on issues such as Subsidies, Domestic Regulation and Government Procurement. We have already heard how the evolution of such disciplines could have a profoundly negative impact on higher education, potentially impacting on commitments that were made prior to their completion.

Finally on the issue of legalities, it must be said again that GATS is progressive (in the sense that it mandates an ever-higher level of liberalisation) and that, once commitments have been made, they are effectively irreversible.

In terms of the political context, despite our academic instincts to focus intensely and dispassionately on only one area of study, we cannot ignore the politics and linkages of the wider WTO negotiations. GATS commitments are not made in isolation from other WTO agreements. In addition to issues such as TRIPs and agriculture (and the trade-offs that can occur), I say pay particular attention to the possibility of the EU and Japan (in particular)

forcing the launch of negotiations on a new WTO investment agreement, at Cancun. Given that GATS has some of the hallmarks of an investment agreement, it is far from clear how GATS and a new investment agreement would co-exist, and this could lead to unpredictable outcomes.

Structural issues refers to the issue that (higher) education stakeholders should analyse critically the social/economic problems associated with core articles like Market Access and National Treatment. We tend to focus on the perilous uncertainties surrounding Article I.3 and Article VI.4, and as a consequence we sometimes forget to undertake the analysis of what is potentially dangerous about a radical level of market opening accompanied by a radical interpretation of non-discrimination, which is what GATS promotes. Indeed, many analyses by the higher education sector seem obsessed with the topic of quality assurance, betraying an implicit assumption that trade in education will be just fine as long as we can appropriately supervise the quality dimension. Yet this misses some major points. For example, we know from investment discourse that inward investment (FDI) to a nation only fully serves the local population if it can be regulated appropriately to encourage the formation of wealth-transferring and capacity-building links with the local economy. Yet, if appropriate restrictions are not scheduled at the time of liberalisation, GATS Article XVI outlaws some key instruments that are of use in this regard, such as mandating incoming companies to form partnerships with local companies, use local labour, adopt not-for-profit status, and so on.

And, perhaps more important, we need to analyse what "non-discrimination" really means. What is wrong with the "choice" that non-discrimination / National Treatment helps facilitate, through the requirement that foreign and domestic market operators be treated equally? The answer, I believe, can be found by analysing our experiences with public services marketisation. As mentioned earlier, this involves understanding how fragmentation of the service supply through excessive marketization can cause equity and access problems owing to the diminished viability of progressive mechanisms like cross-subsidisation and the escalation of predatory tactics like cream-skimming. The idea that public principles can be recreated through the "contracting" in of private sector capacity (as happens with Public-Private Partnerships) can also be very dangerous, not least because of the "dynamic of dependence" that this process cultivates.

In response to the comments by Tim Emmett of CfBT who spoke of the benefits of GATS, in terms of consumer choice, it is illuminating in this regard that the Transatlantic Consumer Dialogue (TACD) - a body representing consumers in Europe and America - is very concerned about GATS. And this brings us to the point made earlier. They recognise from experience that, without appropriate interventionist regulation, service liberalisation can have very negative effects on the wider consumer body. And they recognise that GATS (through Article VI.4 in particular, but by no means exclusively) could potentially restrain precisely those kind of interventionist regulations.

Finally, with regard to responses to GATS, it is not enough, in my opinion, to simply request a 'carve-out' of public education. This is because gradualism in liberalisation can reinforce a political tendency towards further liberalisation at a later date: what is not politically possible "today" may well become politically possible "tomorrow", after the experience of liberalisation has become socially normalised. Additionally, a well-recognised tactic of the predatory end of the private provider spectrum is to chew away at public services from the extremities i.e. arguing for market access in 'non-core' aspects of provision. Yet as soon as

you start to pull bits off public services (and I am definitely of the opinion that higher education should be a public service!) you can lose the lucrative and cost-effective bits that, through cross-subsidisation, can be - and invariably are - used to preserve the financial viability of the whole, and thus support activities that are worthy in some sense other than their attractiveness to the market. (In this context, we need to consider fragmentation along axes such as course cost and student wealth.)

Summary of Keith Lewin's presentation, Centre for International Education, University of Sussex

GATS was likened to a multi-headed animal looking in different directions and speaking in different tongues. It is complex and ambiguous. GATS itself is a market which countries can buy in to, although more countries seem to fear it than see it as beneficial. It is evident that trade in services is already happening, which raises a question about the potential effect of GATS on future developments.

It was noted that most of the debate around GATS relates to higher education rather than other sub-sectors. However, it is important to note that what happens in higher education affects what occurs lower down in the system. If GATS results in more convergence is apparent in higher levels, this will have an effect on examinations (and therefore the curriculum) in secondary schooling, where convergence is also likely. This raises questions about what connection there is (if any) between the Education for All (EFA) agenda and GATS. What is being traded that might be liberalised as a result of GATS and, therefore, influence EFA? What might be the effect on textbooks, for example? In terms of content, what is being traded – learning and teaching, or the qualifications?

Discussion

- There has been little discussion about what GATS can actually add, and confusion is evident about its remit.
- Although there is no formal link between GATS and TRIPS, GATS raises a question about intellectual property – who owns what knowledge?
- GATS is still under-developed. The rules are still being worked out.
- Even the Head of Services in the WTO has said that it is not possible to say what the benefits to education and health will be.
- Although concern is raised about the different agendas of departments of trade and education, this has not been the case in the UK. The Department for Education and Skills was involved in writing the section on trade in education services for the Department of Trade and Industry.
- While there is concern about what is being *done* to developing countries, each country is able to decide about its own commitments to GATS, and do not have to make any. The EU, for example, has decided not to.

- There is, however, a need to understand how agreements to commitments are made. In donor-dependent countries, pressure can be put on countries to sign up to agreements of this kind, particularly given the strong links between trade and aid.
- The potential benefits of GATS need to be recognised. For example, under mode 1, distance education could cater for segments of the population who would not otherwise have access. Without GATS there is likely to be less liberalisation, and trade could break down. GATS can also make it easier for teachers to move across borders as the costs of barriers declines.
- This however raises a paradox for some countries where, on the one hand, aid is provided to promote teacher training for example, and on the other hand, teachers are encouraged to move to work in other countries (including the UK).
- This raises questions about the role of donors in the debate. It appears for example that DFID is not comfortable about linking trade and aid.
- It is possible to be in favour of competition and choice, without seeing GATS as being necessary. For example, it is evident that higher education in many African countries has collapsed, but it is not clear what GATS would offer. There could be other ways of provide support to these systems which need to be considered.

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APPENDIX 1

Profiles of speakers, facilitators and panel members

Svava Bjarnason is Head of Policy and Research at the Association of Commonwealth Universities (ACU) based in London, UK. As Head of Policy and Research she provides leadership and management for a small team of research staff undertaking comparative policy-oriented work, as well as consulting in the higher education sector. Ms Bjarnason also fulfils the role of Director of the Observatory on Borderless Higher Education – a joint initiative of the Association of Commonwealth Universities and Universities UK. The Observatory is an international strategic information service that tracks developments and provides analysis of activities in ‘borderless’ education. Ms Bjarnason plays an active role on numerous UK and international committees. She is Canadian and has been resident in London since 1990. Email: s.bjarnason@acu.ac.uk

Carolyn Campbell is Assistant Director (International) in the Chief Executive’s Group at the Quality Assurance Agency for Higher Education (UK). My current activities in international quality assurance include membership of the UNESCO-CEPES/EC South East Europe Regional University Network on Governance and Management in Higher Education project team, researcher for the Council on Higher Education Accreditation (USA) project on mapping International Quality Review, and, as the rapporteur for the first UNESCO Global Forum on Quality Assurance, Accreditation and the Recognition of Qualifications, leading a Working Group developing Principles for responsible partnerships in cross-border education. In addition, I have co-authored a number of recent studies on transnational education and quality assurance published by UNESCO-CEPES and by the European Commission. Email: c.campbell@qaa.ac.uk

Roy Carr-Hill is Professor in Health and Social Statistics at the Centre for Health Economics, University of York (50%) and Research Professor in Education at the Institute of Education in London (also 50%). He is most well-known in the UK for the part he has played in introducing more consistent resource allocation formulae in the health and social sectors; and for the work he has done on assessing the potential for skillmix among health care workers. He also has an international reputation as a pragmatic and realistic evaluator of complex interventions and programmes, and the report on the evaluation of literacy programmes in Uganda that he designed last year has been published by the World Bank Knowledge Development Network as an exemplar of it's kind. Originally trained as a mathematician, he also has degrees in Philosophy, Social Administration, Criminology and Penology. In this specific area, he has written a report on intellectual capital development for UNDP. Email: Irss23@york.ac.uk

Professor Roger Dale is Research Professor at the University of Bristol and Professor of Education and Sociology at the University of Auckland, New Zealand. His research work is in the area of state policy formation, governance, Europe, and globalisation. He is the Academic Co-ordinator of the EU funded network Globalisation and Europeanisation Network in Education, and co-editor of the journal *Globalisation, Societies and Education*. Email: R.Dale@bristol.ac.uk

Tim Emmett has worked in education at all levels since studying at Warwick University. He has been Development Director at CfBT since 1991 and is responsible for identifying new markets for education services and developing them. CfBT's turnover has grown from around £7 million in 1991 to £95 million in 2003. As an active player in the global market CfBT is well-placed to comment on market trends and the impact of GATS on the provision of education services. Email: temmett@cfbt-hq.org.uk

John Hilary has led research into GATS and services liberalisation as Trade Policy Adviser for Save the Children, including: *The Wrong Model: GATS, trade liberalisation and children's right to health* (2001); *Globalisation and Children's Rights: What role for the private sector?* (2002); and *GATS and Water: The threat of services negotiations at the WTO* (2003) - all of which are available at www.savethechildren.org.uk. In April 2003, he gave evidence as an expert witness on GATS to the House of Commons International Development Committee's inquiry into trade and development. He has recently been appointed as Policy Adviser on trade and investment at ActionAid. Email: jhilary@actionaid.org.uk

Keith Holmes is a Resident Fellow at UNESCO's International Institute for Educational Planning (IIEP), where he is working with the higher education and specialized training unit. He is currently developing a programme of research on the reform of public technical and vocational education and training (TVET) institutions in the context of lifelong learning. He is the co-author, with Michael Crossley, of *Educational Development in the Small States of the Commonwealth*. Keith Holmes is on the Executive Committee of the Council for Education in the Commonwealth and he has a doctorate from the University of Bristol Graduate School of Education. Email: k.holmes@iiep.unesco.org

Ian Gillson is a Research Fellow at the Overseas Development Institute with experience on regional and preferential trade with developing countries and trade in services. A selection of his major research studies include 'Endogenous Determinants of Sensitive Product Restrictions Under the EU's GSP' (1999), 'The Income Distribution Impact of Trade Facilitation Measures in Developing Countries' (2003) and 'The Trade and Poverty Content of PRSPs' (2003). He has recently worked as an economist for the Malawi Government on trade and tax policy. Email: i.gillson@odi.org.uk

Steven Kelk is a fourth-year PhD student at the University of Warwick. He is the GATS policy advisor for the national student campaign group People and Planet, and was co-author of the P&P report "Trading It Away: How GATS Threatens UK Higher Education." Currently he is a researcher with the Amsterdam-based campaign group Corporate Europe Observatory, focussing on WTO issues such as WTO-Investment and GATS. He moderates the GATS-critical email list GATSEducation@yahoogroups.com, which everyone is welcome to join: email GATSEducation-subscribe@yahoogroups.com. Steven Kelk's email: steven@corporateeurope.org

Kurt Larsen has a masters degree in geography and a bachelor degree in mathematics from Aarhus University, Denmark in 1984. He has an international degree in public administration from Ecole National d'Administration, France in 1992. He has worked seven years in the

Danish Ministry of Education holding different posts latest as a private secretary to the Minister of Education. He was then appointed to an adviser for the Danish Prime Minister in the areas of education, research and social affairs for three years. Since 1997 he has worked as a principal administrator at the Organisation for Economic Development and Co-operation (OECD) in the Centre for Educational Research and Innovation (CERI). His areas of work include internationalisation and trade in education, knowledge management in education, investment in education and regional development, and the consequences of information and communication technologies on education and learning. Email: kurt.larsen@oecd.org

Keith Lewin is currently Professor of Education at the University of Sussex and Director of the Centre for International Education. He has worked extensively in Asia and Africa over the last 30 years on aspects of education and development. This has included work on the MUSTER Project and, currently, on the cost and finance studies for the Secondary Education in Africa programme. He has acted as a special advisor to several Ministries of Education on the development and implementation of national plans at both primary and post basic levels, contributed to both Jomtien and Dakar World Conferences, and has worked widely for multi-lateral and bi-lateral development partners, most recently on the development of Uganda's post basic education framework. His latest books include *Science Education and Development, Planning and Policy Issues at Secondary Level*; *Financing Secondary Education in Developing Countries, Strategies for Sustainable Growth*; and *Researching Teacher Education: New Perspectives on Practice, Performance and Policy*. Email: k.m.lewin@sussex.ac.uk

Dr. Susan Robertson is Reader in the Sociology of Education at the University of Bristol. Her research specialisms are in the area of state policy, globalisation, teachers' labour and ICT and the knowledge economy. She is Coordinator of the Centre for Studies of Globalisation, Education and Societies, Coordinator of the EU funded network Globalisation and Europeanisation Network in Education, and co-editor of the journal *Globalisation, Societies and Education*. Email: S.L.Robertson@bristol.ac.uk

Pauline Rose is Lecturer in International Education at the Centre for International Education, University of Sussex Institute of Education. She is particularly interested in the implications of globalisation for education systems in the South. Pauline works and publishes on issues related to the impact of the international development agenda on national education policy and practice in sub-Saharan Africa. Her recent research has involved an investigation of the implications of World Bank economic and educational priorities, with specific reference to the costs and financing of education. She has also explored the implications of the recent expansion of privatisation of education within East and Southern African countries in the context of the Education for All agenda. Email: p.m.rose@sussex.ac.uk

Dr Leon Tikly is a lecturer in education management and policy at the University of Bristol. He has worked as a science teacher in London and Tanzania and as a policy researcher for the South African government. As director of a team of researchers he has recently completed a project funded by DfID on globalisation and skills for development in Rwanda and Tanzania. Email: Leon.Tikly@bristol.ac.uk

APPENDIX 2

List of Participants

Dr. E.O. Akinluyi

Dr. Hugh Atkinson, Division of Social Science, Faculty of Humanities, South Bank University.

Email: atkinsh@sbu.ac.uk

Svava Bjarnason, Head of Policy and Research, Association of Commonwealth Universities. Email:

s.bjarnason@acu.ac.uk

Nick Butler, Exports Manager, Education and Training Group, The British Council. Email:

nick.butler@britishcouncil.org

Carolyn Campbell, The Quality Assurance Agency for Higher Education.

Email: c.campbell@qaa.ac.uk

Pr. Roy Carr-Hill, Lifelong Education and International Development, Institute of Education,

University of London. Email: Irss23@york.ac.uk

Richy Carrothers, Regional Support Officer, Association of University Teachers. Email:

richy.carrothers@aut.org.uk

Dr. Indrajit Coomaraswamy, Director of the Economic Affairs Division, Commonwealth Secretariat.

Chris Cotton, Assistant Director, Sales and Marketing, Cambridge International Examinations, Cambridge, UK.

Pr. Roger Dale, University of Bristol. Email: R.Dale@bristol.ac.uk

Dr. Roli Degazon-Johnson, Chief Programme Officer, Commonwealth Secretariat. Email:

R.degazon-johnson@commonwealth.int

Dr Gari Donn, Commonwealth Secretariat. Email: DONNG@commonwealth.int

Tim Emmett, Development Director, CfBT. Email: temmett@cfbt-hq.org.uk

Pr. Ann Floyd, Vice-Chancellors Representative for International Academic Partnerships, The Open University. Email: a.r.floyd@open.ac.uk

Dr. Roger Garrett, Graduate School of Education, University of Bristol.

Email: r.m.garrett@bristol.ac.uk

Dr. Ian Gillson, Overseas Development Institute. Email: i.gillson@odi.org.uk

HE Mr. Mohunlall Goburdhun, High Commissioner for Mauritius

Tony Green, School of Education Foundations and Policy Studies, London University Institute of Education. Email: anthony.green@ioe.ac.uk

HE Mr. Antonio Gumende, High Commissioner for Mozambique

Michael Haigh, Head of Quality and Standards, NCC Education. Email: anthony.green@ioe.ac.uk

Thelma Henderson, UK Forum for International Education and Training. Email: thson349@aol.com

John Hilary, ActionAid. Email: jhilary@actionaid.org.uk

Dr. Keith Holmes, IIEP, Paris. Email: k.holmes@iiep.unesco.org

Dr. Henry Kaluba, Commonwealth Secretariat. Email: H.kaluba@commonwealth.int

Steven Kelk, University of Warwick. Email: steven@corporateeurope.org

Georgina Kemp, Department of Trade and Industry.

Dr. Terri Kim, Department of Education, Brunel University. Email: Terri.Kim@brunel.ac.uk

Pr. Kenneth King, Director, Centre for African Studies, University of Edinburgh. Email:

Kenneth.King@ed.ac.uk

Dr. Kurt Larsen, CERI, OECD. Email: kurt.larsen@oecd.org

Pr. Michael Lee, Emeritus Professor of Politics, University of Bristol. Email: lee@courtyard-cottage.fsnet.co.uk

Pr. Keith Lewin, Director of the Centre for International Education, University of Sussex. Email:

k.m.lewin@sussex.ac.uk

Dr. John Lowe, Department of Education, University of Bath. Email: j.a.lowe@bath.ac.uk

HE Ms. Lindiwe Mabuza, High Commissioner for South Africa

Catherine Marston, Universities UK. Email: catherine.marston@UniversitiesUK.ac.uk

Pr. Richard Mawditt, University of Bath. Email: r.m.mawditt@bath.ac.uk

Marie Niven, Joint International Unit, Department for Education and Skills/Department for Work and Pensions.

William Ozanne, Secretary, UK Forum for International Education and Training. Email: wozanne@cix.co.uk

Amanda Pitt, Consultant, Raddington Ltd., 71 Hawk Hurst Close, Weston, Southampton, SO19 9AX. Phone: 0207 794 0278

Dr. Rosemary Preston, Director, International Centre for Education in Development, University of Warwick. Email: R.A.Preston@warwick.ac.uk

Bandie Ramathibe, Education Attache, High Commission for Botswana.

Dr. Naz Rassool, Institute of Education, University of Reading. Email: n.rassool@rdg.ac.uk

Dr. Susan Robertson, Graduate School of Education, University of Bristol. Email: S.L.Robertson@bristol.ac.uk

Pr. Alan Rogers, Uppingham Seminars/Nottingham University. Email: alan.rogers14@btopenworld.com

Dr. Pauline Rose, Centre for International Education, University of Sussex. Email: p.m.rose@sussex.ac.uk

Leah Rotich, Education Attache, Kenyan High Commission. Email: lkrotich@aol.com

Dr. W. Bonney Rust, Director of Research, Association for Vocational Colleges International. Email: William.rust@ukonline.co.uk

Dr. Yusuf Sayed, DFID. Email: sayed@dfid.gov.uk

Pr. Tom Schuller, Dean, Faculty of Continuing Education, Birkbeck College, University of London. Email: t.schuller@fce.bbk.ac.uk

Helena Sharp, Assistant Director Commonwealth, The British Council. Email: Helena.Sharp@britishcouncil.org

Pr. Mala Singh, Council on Higher Education in South Africa, and CHERI, Open University. Email: singh.m@che.ac.za

Nancy Spence, Director, Social Transformation Programmes Division, The Commonwealth Secretariat.

Dr. Leon Tikly, Graduate School of Education, University of Bristol. Email: Leon.Tikly@bristol.ac.uk

Mrs. Sandra McIntyre Trotman, Acting High Commissioner, Trinidad and Tobago. Email: thc.info@virgin.net or sandravmcintyre29@hotmail.com

Dr. Ros Wade, Division of Social Science, Faculty of Humanities, South Bank University.

Christine Whatford, Chair of the UK UNESCO Education Committee and formerly Director of Education for Hammersmith and Fulham. Email: chris@whatford.demon.co.uk

Peter Williams, Council for Education in the Commonwealth. Email: peterrcwilliams@onetel.net.uk

Dr. Zhang Wenjun, University of London Institute of Education. Email: w.zhang@ioe.ac.uk