



**Asia-Pacific
Economic Cooperation**

**Measures Affecting Cross Border
Exchange and Investment in
Higher Education in the
APEC Region**

APEC Human Resources Development Working Group

May 2009

APEC Project HRD 02/2008T

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[APEC# 209-HR-01.5]

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Executive summary

More open exchange and investment in higher education can contribute greatly to economic growth and development. This study is designed to facilitate cross-border exchange and investment in higher education by identifying positive and negative measures affecting that exchange. It offers:

- a survey of actual policy measures affecting cross-border exchange and investment in higher education services across all modes of supply for APEC economies;
- a comprehensive and up-to-date reassessment of policies and practices affecting cross-border exchange and investment in higher education services;
- recommendations for facilitating the expansion of free and open cross-border exchange and investment in higher education services in the APEC region.

The study has used the Education Network of the APEC Human Resources Development Working Group, with support from the APEC Group on Services, to complete a survey of actual regulatory policies currently affecting the delivery and exchange of higher education services in a number of APEC member economies. Reasonably complete responses have been received from nine of the 21 APEC economies — Australia, Chile, Indonesia, Japan, Mexico, New Zealand, Peru, Chinese Taipei and Thailand. Incomplete responses were also received from Brunei and Canada.

The survey questionnaire goes further than previous surveys by covering some of the newly emerging methods by which higher education services are being exchanged. These include the twinning and other partnership arrangements that have developed, partly as a response to the bans or foreign equity limits placed in the establishment of foreign campuses in some economies.

The survey also goes further than previous surveys by including more detail on measures that inhibit exchange and investment, measures that facilitate it, and measures that constitute part of the general regulatory environment governing the provision of higher education in each economy. In this respect, the survey goes further than measures that would be regarded by trade experts as trade barriers, in a narrow sense.

The survey results suggest that the economies with the highest recorded restrictions on institutions are those that do not allow private for-profit or foreign-invested institutions to

establish at all. Economies with the most liberal regimes include major exporters of higher education services. They also include economies that do not have any legal restrictions on foreign-invested institutions, other than those that apply to local institutions, although they do not yet have any such institutions operating in their economy.

The types of institutions where restrictions are most prevalent are private for-profit and foreign-invested institutions. Nevertheless, government institutions also face relatively frequent restrictions. This is evidence of the phenomenon that institutions that are in receipt of significant government funding are likely to face relatively high standards of scrutiny and accountability, some of which will be manifest in regulatory restrictions.

The institutions facing the lowest prevalence of regulatory restrictions are private non-profit institutions, those in a partnership arrangement with a foreign institution, and institutions delivering online and distance education. The education authorities in some economies do not recognise online and distance education institutions, and their regimes are accordingly relatively restrictive. Others, such as New Zealand, take a relatively relaxed approach to such institutions. Lack of recognition appears to be the main barrier affecting online and distance education.

There is an interesting relationship between the prevalence of restrictions on higher education institutions and the breadth, depth and transparent of quality assurance processes. Some economies use bans on certain institutions instead of quality assurance processes for them, even when their quality assurance processes for other institutions are relatively extensive, at least in terms of process.

Across all the responding economies, restrictions on the movement of individual students are about as prevalent as restrictions on institutions. Restrictions on the movement of instructors are notably less than on students.

Among the various types of restrictions, the broad pattern seems to be that regulatory restrictions on establishment are more prevalent than regulatory restrictions on ongoing operation. But some are associated with regulations that are applied to all institutions by the government education authorities, and rarely operate on a discriminatory basis.

The most prevalent discriminatory restriction is on the ability of foreign institutions to access government funds and/or support normally given to institutions. There are similar restrictions on the ability of the students of foreign institutions to access government funds and/or support normally given to local students. In many cases, both these restrictions are at least partly for budgetary reasons.

Another common restriction is a requirement that institutions must establish in a particular form, reflecting those economies that require higher education institutions to be non-profit. Arguably, in some cases this restriction has the effect of offering protection for domestic institutions, even if the stated rationale is philosophical.

The most common restriction on operation is limits on the number of students that can be enrolled. Mostly, this is for budgetary reasons. It is also relatively common for there to be restrictions on the ability of institutions to charge fees. But in some economies, there are fewer restrictions on charging international students than local students, reflecting the growing commercialisation of cross-border exchange.

Licensing conditions apparently vary enormously from one economy to another, and different economies take different approaches. Some respondents provided very little information, perhaps reflecting a lack of transparency in their licensing regimes.

There is also noticeable variation in the breadth, depth and transparency of quality assurance regimes. But most go beyond assessing inputs and processes, to also assess outputs and outcomes.

According to the survey, there are relatively few restrictions on the recognition of qualifications for the purposes of employment or further study. However, this is one of the most unsatisfactory parts of the survey, because of limited responses.

In a situation where at least some regulatory restrictions cannot be removed completely, because they are required to meet legitimate regulatory objectives, economies need to ensure that their regulatory regimes, in the words of the GATS, are ‘not more burdensome than necessary to ensure quality’, and are ‘not in themselves a restriction on the supply of the service’.

A key conclusion of this report is that, to make further progress in opening up higher education markets, the APEC member economies should work to strengthen quality assurance processes. This will be a key prerequisite to dismantling the bans and other regulatory restrictions that, while having a possible rationale in quality assurance, are either more discriminatory or more burdensome than necessary.

In the case of higher education services, one way to operationalise the necessity test is to develop quality assurance frameworks that define *minimum acceptable standards*. Economies could choose to adopt standards in their home economy that were higher than the minimum acceptable standards. But having a ‘ladder’ of quality standards across the region would help to do two things:

- it would put a floor under standards, providing a benchmark for standards that were not more burdensome than necessary; and
- it would also provide a viable alternative for the replacement of standards or regulatory restrictions that were discriminatory against foreign providers, particularly the bans on entry.

Recognising that achieving any agreement about content is difficult, an important first step would be to facilitate further information-sharing among quality assurance agencies about the content of current standards. In this respect, the diversity of the APEC region is a strength rather than a weakness. The range of current standards may itself span what many could agree to be *minimum acceptable standards*. The discussion may then be able to define a ‘ladder’ of quality standards, giving economies a clear and feasible path of improvement over time.

There are no moves to operationalise a necessity test for higher education within the WTO. To date their work on domestic regulation has focused on the procedural and administrative aspects, rather than content. In many respects, the APEC forum is a more natural home for such an endeavour.

In addition to information-sharing among quality assurance agencies about the content of current standards, a complementary effort would be capacity-building initiatives in those economies whose quality assurance frameworks are still fragile or under-developed. Such capacity building could be accompanied by awareness raising about the general benefits of international exchange.

The survey of measures affecting international exchange and investment did not have great success in documenting restrictions on the credit transfer and the recognition of qualifications for the purposes of employment or further education.

This lack of success in itself suggests that problems with credit transfer and recognition may be best dealt with indirectly, by promoting quality assurance among the higher education institutions, and by promoting the transparency of those quality assurance processes. The above suggestions for facilitating further information-sharing among quality assurance agencies about the content of current standards, and not just the processes, would contribute greatly to this transparency. This is because cross-border recognition requires an understanding of foreign quality assurance standards, not just having good quality assurance processes at home.

Another approach is to work at establishing a ‘ladder’ of qualifications (not all equivalent) across the Asia-Pacific region, similar to the above suggestion for a creating a ‘ladder’ of quality assurance standards. As a first step, National Qualifications

Frameworks could be developed in each APEC economy. These provide a single metric against which all the qualifications within a given economy are judged. They would then provide a mechanism for benchmarking higher education qualifications and the quality of education outcomes across borders.

Another tool to promote recognition is to encourage higher education institutions to issue a so-called Diploma Supplement — a document issued with a degree/diploma that describes the qualification in an easily understandable way and relates it to the higher education system in which it was issued.

A final impediment to international exchange is a lack of transparency in some economies about the regulatory requirements that need to be satisfied in order to provide higher education services. There is scope for mechanisms to encourage economies to develop packages of information that can be available to prospective higher education providers, whether domestic or foreign, about the regulatory requirements to enter a market. Developing such packages may also require some capacity-building assistance.

The above general recommendations suggest the following initiatives for the APEC Human Resources Development Working Group:

- facilitating further information-sharing among quality assurance agencies about the content, not just the process, of current quality assurance standards;
- using such exchange as a basis for developing *minimum acceptable* quality standards, thus providing a benchmark for standards that were not more burdensome than necessary;
- facilitating capacity building among quality assurance agencies, and awareness raising about the general benefits of international exchange;
- promoting the use of recognition tools by higher education institutions, and the establishment of National Qualifications Frameworks in each APEC economy, to provide a single metric against which all the qualifications within a given economy are judged;
- promoting these national qualifications frameworks as a mechanism for benchmarking higher education qualifications and the quality of education outcomes across borders; and
- facilitating the development of information packages that can be available to prospective higher education providers, whether domestic or foreign, about the regulatory requirements to enter a market.

Abbreviations

APEC	Asia Pacific Economic Cooperation forum
ASEAN	Association of Southeast Asian Nations
CPC	Central Product Classification
DEEWR	Department of Education, Employment and Workplace Relations
ECOTECH	APEC Economic and Technical Cooperation
EdNET	APEC Education Network
FTA	Free Trade Area
GATS	General Agreement on Trade in Services
GOS	APEC Group on Services
HRDWG	APEC Human Resources Development Working Group
OECD	Organisation for Economic Cooperation and Development
PTA	Preferential Trade Agreement
WTO	World Trade Organisation

1 Introduction

1.1 Meeting the education challenge

The economic resources devoted to education are significant. The APEC economies spend around 6.7 per cent of their GDP on education, equivalent to around US\$ 1,600 billion, and currently provide tertiary education to around 70 million students (CIE 2008).

The resource requirements are growing. The number of tertiary students has increased by around 4 million a year since around 2000. Between now and 2025, it is likely to increase by at least 2 million a year (Banks, Olsen and Pearce 2007).

The growth in demand for tertiary education is being driven by a number of factors. Within individual economies, these include changing demographics, greater numbers of secondary school graduates, the growth of the knowledge economy, and the associated movement to lifelong learning (OECD 2007).

Global demand is also being driven by the growth of large, dynamic Asian economies. China and India alone may account for more than half of the global demand for higher education by 2025 (IDP Education Australia 2003).

The links between education and economic growth work both ways — while growing economies demand more education, education also contributes to economic growth. For example, it has been estimated that 44 per cent of Australia's economic growth is education-related, while 56 per cent is linked to capital and productivity (Matsushita, Siddique and Giles 2006). Within the education component, 14 per cent of economic growth comes from improvements in the quality of labour, and 30 per cent comes from the provision of technical and higher education. Of course, there are also indirect links between the provision of higher education and productivity.

Governments cannot, or choose not to, provide all of the resources needed to educate their populations. Within APEC, economies such as Indonesia, Japan, the Philippines and the Republic of Korea have more than two thirds of tertiary education privately provided (CIE 2008). Chile, Mexico and Peru have well over a third of their tertiary enrolments privately funded. Economies such as Hong Kong, Australia and New Zealand have very low levels of private provision.

While private provision can increase the resources available for higher education, so too can international exchange. International students movements are by far the most important method by which higher education services are traded, and the numbers are still increasing. In 34 economies, domestic students studying abroad now represent over 20 per cent of domestic tertiary education enrolments (OECD 2007).

International exchange occurs not just through student mobility, but increasingly through program and provider mobility (OECD 2007). The bulk of cross-border post-secondary education delivered through program and institution mobility occurs in the Asia-Pacific region. For example, China has 165 foreign educational institutions operating within its borders. In Hong Kong, the number of non-local courses stood at 1,100 in March 2007, of which Australian educational institutions provided 308 or 28 per cent (AEI 2007a). Indonesia allows foreign vocational institutions to partner with local institutions in five cities (AEI 2007b). In Japan, the Education Minister can designate an educational institution as a 'Foreign University Japan Campus', and there are four foreign entities operating under this structure (AEI 2007c).

Furthermore, Lasanowski and Verbik (2007) report how, by importing institutions and programs, economies such as Singapore, Malaysia and Hong Kong are becoming emerging contenders to export higher education services via the inward movement of foreign students.

The exponential growth in cross-border education is being driven not just by governments, but also by the institutions and students themselves. Factors include the need for English language skills, the growing mobility of students and workers, the mobility of education providers as a result of economic integration and reduced operating costs, and the acknowledgement by governments that a substantial economic benefit exists in having a 'knowledge economy' (Table 1.1).

Removing impediments to international exchange in higher education services can contribute to economic growth and development. For example, barriers to importing education services via the inward movement of foreign campuses appear to boost the number of students seeking enrolment in overseas universities (Dee 2008a), one reason being that these barriers reduce the technical efficiency of the local higher education sector (Dee 2008b). More significantly (though harder to measure), this also reduces the quality of the local workforce and detracts from economic growth.

Yet greater international exchange of higher education services poses its own policy challenges (Knight 2002, OECD 2007). One is to ensure that education meets sufficiently quality standards to contribute to growth and development. Another is to manage the financial contribution of governments in a context where not all providers are local.

Table 1.1 Drivers of growth in cross-border exchange

Demand side (importers)	Students	<ul style="list-style-type: none"> • Limited domestic tertiary education capacity resulting in 'excess demand' overall • Low quality domestic education in disciplines in high demand (science, technology, management, business studies) • Higher rate of return on international recognised qualifications (through higher earnings and migration possibilities)
	Government	<ul style="list-style-type: none"> • Perceived economy-wide benefits from international education and research • Skills development seen as constraint in attracting complementing foreign direct investment
Supply side (exporters)	Institutions	<ul style="list-style-type: none"> • International students are important sources of revenue
	Government	<ul style="list-style-type: none"> • Country's brand image in higher education seen as important for sustaining exports • Opportunity to build trade and investment links in other sectors • Proactive approach: creating of marketing agencies, high level coordination between education and trade/investment sectors

Source: Adapted from Bashir (2007).

1.2 Rationale for this study

In their 1994 Bogor Declaration, APEC Leaders set a goal of free and open trade and investment in the Asia-Pacific region. This was to be pursued by a range of measures, including promoting the free flow of services. In the 2006 Hanoi Declaration, Leaders affirmed the Bogor Goals and instructed officials to undertake further studies on ways to promote regional economic cooperation.

The APEC Human Resources Development Working Group (HRDWG), one of eleven working groups in the APEC forum, is dedicated to promoting the well-being of all people in the region through economic growth and development. It has an important role to play in achieving the liberalisation and facilitation of trade and investment that was emphasised in the Bogor Declaration. The group derives its mandate from APEC Leaders and Ministers, including its Education Ministers.

The group conducts work programs to develop human resources on issues ranging from education to labour to capacity building. Its priorities include quality basic education; improved labour market information and analysis; enhancing skills in key sectors; lifelong learning; improved curricula, teaching methods and instruction materials; and enhanced quality, productivity and efficiency of the workforce. The group conducts its work program through three networks — the Education Network (EdNET), the Capacity Building Network and the Labour and Social Protection Network.

This study fulfils one of the objectives of the HRDWG — facilitating the international exchange of education and training services. That objective establishes the importance of sharing knowledge and skills across the APEC region. In particular, this study contributes to several of the specific aims for the HRDWG in undertaking that objective:

- promoting student and academic mobility;
- developing common understandings about qualifications, skills, and professional recognition;
- working to eliminate measures affecting the trade in education and training; and
- cooperating to open education and training markets.

This study addresses these aims and objectives by seeking to identify positive and negative measures affecting cross-border exchange and investment in higher education to facilitate expansion and acceleration of this sector.

This study builds on previous work by the APEC Human Resources Development Working Group, including its (2004) study that investigated the capacity of joint schools to improve the institutional capacity of higher education under globalisation.

The study also contributes to other APEC priorities. Among these are the 2003 ECOTECH (Economic and Technical Cooperation) key priority of promoting the development of knowledge-based economies, and the Manila Declaration priority of developing human capital through addressing barriers to the mobility of students and academics and to the efficient allocation of financial and human resources to education.

The study helps to address one of the four priority areas of the Third APEC Education Ministers Meeting of 2004. Under the Governance sub-theme, the study provides governing bodies with information on other economies' approaches to positive and negative measures affecting exchange and investment in education services, thereby contributing to transparent and accountable government systems.

This study builds on the outcomes of an earlier project by the APEC Group on Services (2000) that contributed to an understanding of regulatory and other impediments to the flow of education services between member economies. That project covered all education services (primary, secondary, higher and 'other'), as well as the different modes of exchanging education services.

That study did not list specific measures implemented by individual economies. However, it highlighted the prevalence of barriers to student mobility, imposed mainly by exporting economies. It also highlighted the prevalence of foreign equity limits and other

regulatory restrictions on establishing a commercial presence, imposed by importing economies. Finally, it highlighted lack of transparency as a potential inhibitor of international exchange.

Since 2000, the APEC landscape has changed significantly. The number of internationally mobile students in the higher education sector has grown rapidly. Several economies in the region have emerged as education hubs and others are increasing their numbers of students from other economies. The Asia-Pacific region has also been the focus of growing program and provider mobility, with the increased adoption of twinning, franchising and other partnership arrangements. Thus the methods of international exchange have become more varied and complex, even as the amount of information available to students and individual providers has increased.

APEC's broader program of liberalisation of trade and investment has also proceeded. Several APEC economies have submitted negotiating proposals to the World Trade Organisation (WTO) and some have made offers in the Doha Round of multilateral negotiations, although pending a Doha Round settlement, not all offers are publicly available. Other APEC members have entered into bilateral or regional trade agreements that include education components. The most recent and comprehensive of these is the newly-signed ASEAN-Australia-New Zealand Free Trade Area Agreement. While these trade commitments have bound increasing levels of openness in the Asia-Pacific region, their relationship to actual policies on the ground remains unclear.

1.3 Scope of this study

The scope of the study includes:

- a survey of actual policy measures affecting cross-border exchange and investment in higher education services across all modes of supply for APEC economies;
- a comprehensive and up-to-date reassessment of policies and practices affecting cross-border exchange and investment in higher education services;
- recommendations for facilitating the expansion of free and open cross-border exchange and investment in higher education services in the APEC region.

This study has used the Education Network (EdNET) of the HRDWG, with support from the APEC Group on Services, to complete a survey of actual regulatory policies currently affecting the delivery and exchange of higher education services in a number of APEC member economies. The full list of contacts used for this study is given in Appendix 1. The survey questionnaire instrument is reproduced in Appendix 2.

The survey questionnaire goes further than previous surveys by covering some of the newly emerging methods by which higher education services are being exchanged. These include the twinning and other partnership arrangements that have developed, partly as a response to the bans or foreign equity limits placed in the establishment of foreign campuses in some economies.

The survey also goes further than previous surveys by including more detail on measures that inhibit exchange and investment, measures that facilitate it, and measures that constitute part of the general regulatory environment governing the provision of higher education in each economy.

In this respect, the survey goes further than measures that would be regarded by trade experts as trade barriers, in a narrow sense. Indeed, trade experts and educators often talk a different language when discussing measures affecting cross-border exchange and investment in higher education. Chapter 2 introduces some of the key concepts used by both sides to describe how the exchange of higher education services occurs, and to describe the various measures affecting that exchange. This chapter goes further than a glossary, by establishing correspondences between the various concepts. The survey instrument itself is described in more detail in Chapter 3.

The survey responses, and the accompanying explanatory notes that were provided by EdNET members, have been compiled in a spreadsheet, which is an integral part of the output of this project. It makes transparent and publicly available the detailed qualitative information contained in the survey responses. It is anticipated that scrutiny of this detailed information by higher education stakeholders in the APEC region will lead to greater general understanding of the policies and practices affecting higher education in each economy. The survey responses are also discussed in more detail in Chapter 3.

In order to compare actual regulatory practice with developments in trade negotiations, the study also surveys recent scheduled commitments and offers under the General Agreement on Trade in Services under the WTO. This is done in Chapter 4. It also gives brief consideration to commitments in recent preferential trade agreements, although a full survey of these is beyond the resources devoted to this study.

Finally, the study develops recommendations for facilitating cross-border exchange and investment in higher education services in the APEC region. The recommendations emerge from an assessment of how the measures that inhibit or facilitate the cross-border exchange of higher education services interact with the general regulatory environment affecting higher education. This assessment is undertaken in Chapter 5, and is designed to ensure that any steps taken to promote cross-border exchange and investment do not undercut any of the objectives that the general regulatory environment is designed to

achieve. Thus the study guards against 'trade creep' (Knight 2002) by remaining mindful of the policy challenges posed by greater international exchange and investment in higher education services. This assessment also ensures that APEC initiatives are complementary to those currently under way in the WTO.

2 Measures affecting cross-border exchange and investment

2.1 How cross-border exchange occurs

Trade and education experts often talk a different language when discussing cross-border exchange and investment in higher education services. The first challenge in promoting cross-border exchange is to bridge the communications gap. What follows is a description of how each side talks about cross-border exchange, and what the relationships are between them.

Trade language

Services are often delivered face to face. This may involve the provider moving to the economy of the consumer, on either a temporary or permanent basis. Or it may involve the consumer moving temporarily to the economy of the provider.

The General Agreement on Trade in Services (GATS) under the WTO defines four modes of services delivery that recognise this phenomenon. The legal text of the agreement is available at www.wto.org/english/docs_e/legal_e/26-gats.pdf. The four modes of delivery are :

- Cross-border trade (mode 1). This is where neither the consumer nor the producer move. In the language of the GATS, the service is supplied 'from the Territory of one Member into the Territory of any other Member' (GATS Article I.2(a)). Services delivered via this mode are often delivered via e-commerce. An example in the education sector is distance education courses delivered via the internet or via a video conference link. This is a narrower definition of 'cross-border' exchange than used in the title of this study.
- Consumption abroad (mode 2). This is where the consumer moves temporarily to the economy of the provider. In the language of the GATS, the service is then supplied 'in the territory of one Member to the service consumer of any other Member' (GATS Article I.2(b)). An example is a tertiary student of one economy moving to another economy to enroll in university.

- Commercial presence (mode 3). This is when the provider sets up a permanent commercial presence in the economy of the consumer. In the language of the GATS, the service is then supplied ‘by a service supplier of one Member, through commercial presence in the territory of any other member’ (GATS Article I.2(c)). An example is a university in one economy establishing an offshore campus in another economy.
- Movement of natural persons (mode 4). This is when the provider moves temporarily to the economy of the customer. In the language of the GATS, the service is supplied ‘by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member’ (GATS Article I.2(d)). An example is an individual university lecturer moving to another economy for a few months to deliver a short course.

Central to these definitions is the concept of a ‘natural’ person, ie an individual, versus a ‘juridical’ person, ie a corporation or other legal entity. Mode 4 concerns the movement of natural persons. They may be individuals working on their own account. Or they may be employees of a commercial entity in their own economy. But when they move, they move as an individual — the institution that employs them does not also move.

By comparison, mode 3 concerns the permanent establishment of a commercial entity. It does not cover the permanent movement of individuals, which is specifically ruled out of the GATS (GATS Annex on Movement of Natural Persons Supplying Services under the Agreement, Article 2). When an institution sets up a commercial presence in another economy, however, it may want staff from the parent institution to work in the new affiliate for a temporary period. This is one subcategory of movement of natural persons covered by mode 4, namely, the movement of intra-corporate transferees (typically defined as executives, specialists or managers).

The definitions of the modes also use the notion of temporary or permanent movement. Temporary movement may occur for more than a year, and so may involve a change in residence, such as when a student moves to another economy to complete a three year degree. But it does not involve seeking access to the employment market of the other economy to deliver a service, nor does it involve *permanent* residence.

Education language

Higher education practitioners tend to talk about ‘exchange’ rather than ‘trade’. They see higher education services being exchanged via the mobility of:

- people — students, instructors, researchers, experts/consultants;

- programs — through arrangements such as twinning, franchising, articulation, joint/double degrees, validation, online or distance education;
- providers — branch campuses, independent institutions, mergers/ acquisitions, virtual campuses; and
- projects — via the transfer or sharing of research, curriculum, technical assistance or other educational services.

A distinguishing feature of program mobility, as distinct from provider mobility, is that the institution granting the qualification does not move, in the sense of establishing a permanent commercial presence in the host economy, but finds other ways to deliver the program content. As noted, these methods have developed in part because of barriers or impediments to commercial presence in some economies. The various other ways of delivering programs are defined as follows (OECD 2007):

- 1) *Franchise* — An arrangement whereby a provider in source economy A authorises a provider in host economy B to deliver their course/program in economy B. The qualification is awarded by the provider in source economy A. The arrangements for teaching, management, etc are customised for each franchise arrangement. They must meet the regulatory requirements (if any) of host economy B. They may sometimes also meet the regulations or codes of good practice of source economy A.
- 2) *Twinning* — A provider in source economy A collaborates with a provider in host economy B so that students take course credits in host economy B and/or source economy A. The qualification is awarded by the provider in source economy A. Arrangements usually comply with the regulations of source economy A.
- 3) *Double or joint degree* — Providers in different economies collaborate to offer a program for which the student receives a qualification from each provider, or a joint award from the collaborating partners. Arrangements are customised for each initiative and meet the regulations of both economies.
- 4) *Articulation* — Articulation arrangements allow students to gain credit for courses/programs offered by all of the collaborating providers. This allows the student to gain credit for work done with a provider other than the provider awarding the qualification, but with a much looser collaboration between providers than in twinning.
- 5) *Validation* — Validation arrangements allow a provider in the receiving economy B to award the qualification of a provider in source economy A. In some cases, the source economy provider may not offer these courses or awards itself.
- 6) *E-learning or distance* — Arrangements where providers deliver courses or programs to students through distance and online modes. This may include some face-to-face support for students through domestic study or support centres.

Because these methods do not involve the movement of the granting institution, they do not strictly count as delivery via commercial presence, even though some commentators have classed them as such (eg Knight 2002).

More broadly, there is not a simple one-to-one correspondence between the methods of delivery identified by educators and trade specialists. But some links can be made. The teaching arrangements that support online or distance education may include short-term visits by individual instructors from the source economy to the host economy. The teaching arrangements that support either program or provider mobility may include the short- or longer-term transfer of individual instructors from the source to the host economy. The arrangements that support project mobility may include the short- or longer-term exchange of teaching/research staff and/or graduate students.

Thus mobility of:

- *people* can involve exchange via GATS modes 2 (student mobility) and 4 (instructor mobility);
- *programs* can involve exchange via GATS modes 1 (program mobility and distance education), 2 (student mobility) and 4 (instructor mobility);
- *providers* can involve exchange via GATS modes 3 (commercial presence) and 4 (instructor mobility); and
- *projects* can involve exchange via GATS modes 1 (mobility of research, curriculum), 2 (mobility of graduate students) and 4 (mobility of teaching/research staff).

2.2 Measures affecting cross-border exchange and investment

Once again, there are differences in the way that trade specialists and educators talk about measures affecting cross-border exchange.

Trade language

Trade specialists tend to focus on barriers or impediments, because these are the targets of the trade disciplines that have been developed to date.

The GATS recognises two key types of barriers to services trade:

- limitations on market access; and
- derogations from national treatment.

The key distinguishing feature is that derogations from national treatment imply that foreign service providers are discriminated against, vis a vis domestic suppliers. The discrimination can be de facto or de jure (WTO 2001). By contrast, limitations on market access may affect both foreign and domestic suppliers (WTO 2001).

Under the WTO, economies do not have to make any commitments at all about such measures. But if they do, those measures can become subject to progressive liberalisation through successive rounds of multilateral trade negotiations.

Where trade commitments are made, they do not cover all non-discriminatory measures. Instead, they are limited to six specific types of measures (GATS Article XVI.1 and XVI.2):

- limits on the number of services suppliers;
- limits on the total value of services transactions;
- limits on the total number of service operations or total quantity of service output;
- limitations on the total number of natural persons employed;
- measures that restrict or require specific types of legal entity or joint venture; and
- limitations on the participation of foreign capital.

An obvious question arises about the status, in trade terms, of measures that limit the entry of new domestic or foreign service providers equally, but which do not take one of these six forms. According to the Guidelines on Scheduling Specific Commitments (WTO 2001), these measures may be subject to the GATS disciplines on domestic regulation (GATS Article VI.5(a)). In those sectors where an economy has made specific commitments, qualification requirements and procedures, technical standards and licensing requirements must not interfere with ('nullify or impair') an economy's national treatment or market access commitments by failing to be:

- based on objective and transparent criteria, such as competence and the ability to supply the service;
- not more burdensome than necessary to ensure the quality of the service; and
- in the case of licensing procedures, not in themselves a restriction on the supply of the service.

Thus there may be some legal sanctions on such measures. However, those sanctions are weak, because WTO Members have yet to operationalise the concept of ‘not more burdensome than necessary’.

Education language

In some respects, educators tend to take a broader view of measures affecting cross-border exchange.

Firstly, they are concerned about measures that affect the export of higher education services, not just the import of services. As noted in the study by the APEC Group on Services (2000), key measures reported to inhibit consumption abroad include access to employment in the host economy as well as foreign exchange requirements of the host economy. Visa requirements also affect consumption abroad. These are all measures imposed by the exporting rather than the importing economy, but may be of concern to the importing economy because they limit its access to higher education services.

However, such measures are typically beyond GATS disciplines. The GATS guidelines (WTO 2001) note first that there is no obligation under the GATS for a Member to take measures outside its territorial jurisdiction. They also note that whatever the mode of supply, obligations and commitments under the Agreement relate directly to the treatment of services and service *suppliers*. They only relate to consumers so far as services or services suppliers of other Members are affected. This has implications for measures affecting education exports via mode 2, whereby international students come to a host economy to be educated. Discrimination against those students is only relevant if it somehow implies discrimination against foreign suppliers.

According to educators, a critical barrier to cross-border exchange of higher education services is lack of recognition of the foreign qualifications so obtained (eg Australian Education International 2005, OECD 2007). While this is also recognised by trade experts, in practice few if any economies have scheduled lack of recognition as a trade barrier (WTO 1998).

Educators are also concerned about measures that promote cross-border exchange and investment in higher education. These include subsidies and measures to promote quality assurance.

Trade agreements have yet to develop disciplines on the size of the subsidies available for services, or on the criteria under which they can be obtained. However, they are typically concerned to ensure that availability of subsidies is on a non-discriminatory basis.

Similarly, trade agreements have yet to develop disciplines on quality assurance processes, in the sense of operationalising the concept that they be ‘not more burdensome than necessary to ensure the quality of the service’. However, they are typically concerned to ensure that quality assurance processes are applied on a non-discriminatory basis.

2.3 Assisting translation between educators and trade experts

Table 2.1 gives some practical examples of the types of measures that may be familiar to education experts. They have been chosen to be at least potentially GATS-relevant, and have been classified according to whether they are limitations on market access or derogations from national treatment. They have also been classified according to the four GATS modes of service delivery, as they affect imports of higher education services.

If an economy chooses to make WTO commitments at all in the higher education sector, it can still reserve the right to maintain such measures, by listing them as limitations in its GATS schedules. Otherwise, full commitment means that such measures would need to be phased out.

Table 2.2 gives some practical examples of trade barriers as they affect exports of education services. Restrictions typically affect exports delivered via mode 2 (the inward movement of foreign students to take courses locally) and mode 4 (the outward movement of local teachers to deliver courses overseas). These restrictions can have very real effects on trade in education services. But as noted, in most cases, they would not have to be scheduled in an economy’s GATS schedule, because they do not affect the viability of local service *providers* (either domestic institutions or the local campuses of foreign institutions).

Table 2.1 Examples of barriers to imports of education services

<i>Mode</i>	<i>Limitations on market access</i>	<i>Derogations from national treatment</i>
Cross-border trade, eg downloading course from the internet	Restrictions on downloading educational material from the internet, be it from a domestic or foreign supplier	Restrictions on downloading educational material from foreign internet sites
	Requiring foreign suppliers of internet education courses to be in a partnership or joint venture with a local institution	Restrictions on which courses foreign suppliers of distance education can provide
	An economic needs test attached to registration, authorisation or licensing of all education providers, including those supplying via distance education	Restrictions on the import and distribution of educational materials or software from foreign institutions providing distance education
	Restrictions on the recognition of qualifications obtained from any distance education supplier	Restrictions on the local accreditation of foreign distance education suppliers, or on the recognition of qualifications obtained from a foreign distance education supplier Restrictions on cross-border payment or credit card transactions
Consumption abroad, eg home students moving overseas to study	Since the home economy has no jurisdiction over the foreign service supplier, it can mostly limit foreign supply only <i>indirectly</i> by restricting the local consumer. Such restrictions on consumers are unlikely to also affect local suppliers. Hence it is unlikely that there would be limitations on market access for <i>imports</i> of education services delivered via this mode.	Restrictions on foreign education institutions advertising locally or recruiting local students
		Quotas on the number of local students going overseas to study Foreign currency restrictions on local students studying abroad Restrictions on the recognition of overseas qualifications for institutional credit Restrictions on the recognition of overseas qualifications for professional licensing and accreditation

Continued

Table 2.1 Continued

<i>Mode</i>	<i>Limitations on market access</i>	<i>Derogations from national treatment</i>
Commercial presence, eg foreign institutions establishing a local campus	An economic needs test attached to registration, authorisation or licensing of all education providers	An economic needs test attached to registration, authorisation or licensing of foreign education providers
	A requirement that the foreign institution incorporate locally	A restriction that prevents foreign tertiary institutions from using the term 'university' in the title of their local campus
	A requirement that the foreign institution operate in a joint venture with a local institution	Restrictions on the scope of services that the local campus of a foreign institution can provide
	Restrictions on the number of foreign teachers that local institutions can employ	Restrictions on the number of students that the local campus of a foreign institution can service
	Limits on foreign equity in local institutions	A residency requirement on the management of the local campus of the foreign institution Discriminatory quality assurance requirements on the local campuses of foreign institutions Restrictions on the ability of the local campuses of foreign institutions to grant degrees, or restrictions on the recognition of those degrees Restrictions on the ability of the local campuses of foreign institutions to charge fees Restrictions on the ability of local campuses of foreign institutions to gain access to producer subsidies Restrictions on the ability of the students of local campuses of foreign institutions to gain access to consumer subsidies
Movement of natural persons, eg international teachers coming to deliver short courses	An economic needs test attached to registration, authorisation or licensing of all education providers, including international teachers	Nationality or citizenship requirements to teach locally
	Quotas or economic needs tests on the numbers of temporary staff employed by local institutions	A prior residency requirement to teach locally
	Labour market testing for the contract employment of international teachers	Restrictions on the recognition of the qualifications of international teachers

Source: WTO (1998), WTO (2001), IDP Education Australia (2002).

Table 2.2 Examples of barriers to exports of education services

<i>Mode</i>	Restriction
Consumption abroad, eg international students entering to take local courses	Numerical limits on the entry of international students
	Limits on what courses international students can enrol in
	Discriminatory enrolment criteria for international students
	Restrictions on local institutions recruiting international students
	Restrictions on international students gaining access to local employment while studying
Movement of natural persons, eg local teachers moving overseas to deliver courses	Restrictions on international students gaining access to tuition or other (eg transport) subsidies while studying
	Exit restrictions on domestic teachers
	Education or employment bond requiring teachers to serve a minimum term of employment locally before they can go overseas
	Restrictions on funds transfers overseas by domestic teachers

Source: WTO (1998), WTO (2001), IDP Education Australia (2002).

3 A survey of measures

The survey questionnaire that was used to collect information about measures affecting cross-border exchange and investment in higher education is reproduced in Appendix 2. Reasonably complete responses have been received from nine of the 21 APEC economies — Australia, Chile, Indonesia, Japan, Mexico, New Zealand, Peru, Chinese Taipei and Thailand. Incomplete responses were also received from Brunei and Canada.

The questionnaire was designed to cover all forms of higher education services — not just those leading to a university degree or equivalent, but also post-secondary technical and vocation education services. However, it was left to the survey respondents to flag whether their regulations affected these different types of higher education differently. It was also left to survey respondents to flag any differences in regulations across sub-national jurisdictions (eg States, provinces). Some survey respondents, such as Australia, have quite distinct sets of regulations affecting vocational and other post-secondary education, and also have differences across States. In order to fully understand these distinctions, it is necessary to refer to the detailed comments attached to the survey responses, which have been recorded in the spreadsheet that accompanies this report.

The survey questionnaire is divided into three parts. By far the biggest part deals with the policy frameworks that affect *institutions* granting tertiary qualifications in a particular economy. The second part deals with the policy frameworks that apply to the inward and outward movement of individual *students*. The third part deals with the policy frameworks that apply to the inward and outward movement of individual *instructors*.

The institutions granting qualifications in a particular economy can be domestic or foreign. Some of the foreign institutions may have a physical commercial presence in the host economy, and some may not. Thus most of the questions about institutions are answered separately for the following types of institutions:

- domestic — government;
- domestic — private non-profit;
- domestic — private for-profit;
- foreign — online and distance;

- foreign — in partnership (twinning, franchise or other collaborative agreement — see Chapter 2 for definitions) with a local institution;
- foreign — with a physical commercial presence, in a joint venture with a local partner; and
- foreign — with a physical commercial presence, 100 per cent foreign-owned.

The purpose of including all institutions is to highlight the extent to which the policy frameworks governing foreign institutions differ from those affecting domestic institutions.

Trade experts have a particular interest in such discrimination. But which domestic institutions would trade experts include in the comparison? Would they compare the treatment of foreign institutions with private for-profit institutions, or would they also compare the treatment with government and private non-profit institutions?

Note first that the disciplines imposed by the GATS are disciplines on the treatment of *foreign* suppliers of *private* tertiary services (WTO 1998, OECD 2004). The GATS does not pose any disciplines on the way in which *domestic* suppliers of tertiary education services can be regulated, other than the requirement, noted in the previous chapter, that if commitments are made at all, then domestic regulation, including that applied to domestic institutions, must be no more burdensome than necessary.

Nevertheless, if an economy grants ‘national treatment’ to foreign suppliers, it commits to treat them no less favourably than domestic suppliers. The question arises as to which domestic institutions to use as a basis of comparison.

According to the GATS, the agreement does not cover ‘services supplied in the exercise of government authority’, where this is defined as ‘any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers’.

Which parts of the education sector qualify as a ‘public service’ has been a contentious issue. There is no clear dividing line between non-commercial provision and commercial (but subsidised) provision. And whether something is viewed as being in competition with something else can vary, depending on how broad or narrow the relevant market is seen to be.

However, following the discussion in WTO (1998), if domestic publicly funded institutions are free to set fees and are judged to be supplying in competition with private institutions (ie are not supplying a public service), then granting national treatment to foreign suppliers means those foreign suppliers would need to be treated the same as those domestic publicly funded institutions. Nevertheless, economies may include

additional language in their trade commitments with the intent of removing government institutions from the comparison. For example, Australia has specified that its commitments are limited to privately funded education services. Japan has listed what types of educational entities are considered to be Formal Educational Institutions.

3.1 Policy frameworks governing institutions

The questionnaire first asks about regulatory restrictions on the *establishment* of institutions, and restrictions on their *ongoing operations*, once established.

Restrictions on establishment include limitations on new entry, various restrictions on legal form, limitations on equity participation (either by private sector shareholders or by foreign entities), restrictions on what the institutions can call themselves or what degrees they can offer, difficulties getting effective intellectual property rights protection for curriculum, and restrictions on access to government funding. In addition to asking about limitations on entry, the questionnaire also asks about the stated reasons for those limitations. They may be for protective purposes, or they may be associated with ensuring quality or equitable access. The significance of this is discussed further in Chapter 5.

Restrictions on ongoing operations include restrictions on course content or language of instruction, restrictions on recruitment or fee setting, minimum requirements for employing teachers with local citizenship, local residency or local training, restrictions on the use of the internet or the importation of educational materials, restrictions on the repatriation of fee or other income, and differential tax treatment.

The questionnaire then asks about the conditions required to obtain *local licensing or registration*. As noted earlier, these licensing conditions are not necessarily regarded by trade experts as trade barriers. Nevertheless, any significant cross-country differences in the general stringency of licensing conditions may be of interest in its own right, and the reader is referred to the detail contained in the spreadsheet that accompanies this report for such information. Finally, in this section, the questionnaire asks whether there is a requirement for the management of higher education institutions to have local nationality, local residency or local licensing as a professional. This type of requirement can operate as a restriction on foreign supply.

Next, the questionnaire asks a series of questions about *quality assurance requirements*, such as accreditation or audit requirements. Once again, these requirements are not necessarily regarded as trade barriers by trade experts. However, the questions give an indication as to the breadth, depth and transparency of the quality assurance processes, in terms of whether the processes are mandatory or voluntary, what they cover, who they

involve and how the results are disseminated. The questions draw on the discussion of the various options for quality assurance processes contained in OECD (2007).

The questionnaire then asks a series of questions about *credit transfer and recognition*. These ask about restrictions on the transfer of course credits between the institutions that grant qualifications within a particular economy, and the acceptance by those institutions of courses granted outside the economy. It then asks similar questions about the recognition of prior qualifications, for the purposes of further study. Finally, it asks about restrictions on the recognition of qualifications by government or private sector employers in a particular economy, either from institutions that grant qualifications within a particular economy, or from outside institutions. While trade experts would agree in principle that such restrictions are barriers to trade, they rarely deal with them in practice.

Nor is it easy for forums of educators to deal with these restrictions. While governments may lay down guidelines about credit transfer and the recognition of qualifications, it is ultimately up to individual institutions and employers to decide which courses or prior qualifications they will recognise. For this reason, some of the EdNET contacts who completed the questionnaire were not able to provide answers to the questions in this section, which remains one of the most unsatisfactory parts of the questionnaire. However, this also suggests that problems with credit transfer and recognition may be best dealt with indirectly, by promoting quality assurance among the higher education institutions, and by promoting the transparency of those quality assurance processes.

Finally, the questionnaire contains a small *other* section asking about the transparency of the regulatory processes affecting higher education institutions — who is consulted and how regulatory and administrative decisions are disseminated.

3.2 Policy frameworks governing individual students and instructors

The two following sections of the questionnaire ask about restrictions on the *inwards* and *outwards* movement of individual *students* or *instructors*. Many of these restrictions would be beyond the scope of traditional trade negotiations, either because they affect the consumers (ie students) rather than the suppliers of higher education services, or because they apply beyond the regulatory jurisdiction of the particular importing economy which might be concerned about them.

In each case, restrictions on inwards movement can include special visa restrictions that might apply to students or teachers, over and above the general immigration requirements, and quotas (for students) or economic needs tests (for teachers, such as a

requirement to prove that there is no locally qualified teacher before an international instructor can be hired). Both students and instructors may be affected by minimum currency requirements. Students may be affected by limited access to employment or to government subsidies while studying. Teachers may be affected by taxation or superannuation requirements. In addition, student mobility may be inhibited by restrictions on local institutions being able to recruit international students.

Individual students and teachers may also be affected by the discriminatory application of general regulation — students by discriminatory enrolment criteria, and teachers by discriminatory registration or licensing requirements for individual instructors.

Finally, both individual students and teachers may be affected by restrictions on outward movement. In many cases, these can be similar to the restrictions on inward movement — visa exit restrictions, quotas, or currency restrictions. Teachers may also be affected by employment bonds, whereby they may be required to work at home for a minimum time before going overseas, particularly if their teacher training costs have been covered by their home government.

3.3 Survey results

The survey results form a three-dimensional data ‘cube’, with information on various restrictions or regulatory policies, broken down by individual economy and affected entity — type of institution, individual student or individual instructor. Depending on which dimensions of the cube are chosen, it is possible to extract information for each responding economy under the following types of headings:

- regulatory environment;
- licensing and registration process;
- quality assurance process (accreditation, audit);
- credit transfer and recognition;
- teacher/lecturer exchanges;
- partnerships and twinning;
- joint ventures;
- 100 per cent foreign-owned institutions;
- other requirements.

It is not possible to present all this information. Firstly, there is a great deal of it. Secondly, much of it is qualitative.

Furthermore, caution should be exercised in interpreting the responses. Despite efforts to develop a common understanding about the survey questions among the respondents, there is inevitable variation in the ways in which questions have been interpreted, and in the depth and quality of responses. In particular, economies that have provided very detailed responses sometimes run the risk of looking more restrictive, simply because they have provided more complete information. But despite these limitations, some broad patterns emerge.

Broad trends — institutions, students and instructors

The economies that appear to have the highest restrictions on institutions are those, such as Indonesia and Chinese Taipei, which do not allow private for-profit or foreign-invested institutions to establish at all. At the other extreme are economies such as Australia, New Zealand and Peru, which have relatively liberal regimes, although for different reasons. Australia is a major exporter of higher education services, so its regulatory regime reflects its comparative advantage. Peru, on the other hand, has no legal restrictions on foreign-invested institutions, other than those that apply to local institutions, but currently there are no such institutions operating in Peru (although there are two at the project stage). Thus its regulatory regime for these institutions may perhaps be underdeveloped.

The types of institutions where restrictions are most prevalent are private for-profit and foreign-invested institutions. Nevertheless, it is also notable that government institutions also face relatively frequent restrictions. For example, all but one of the responding economies report restrictions on the entry of new government institutions. Six of these economies state that one of the reasons for these restrictions is quality assurance. New Zealand also cites budgetary reasons for some of the restrictions on government institutions. This is evidence of the phenomenon that institutions that are in receipt of significant government funding are likely to face relatively high standards of scrutiny and accountability, some of which will be manifest in regulatory restrictions.

The institutions facing the lowest prevalence of regulatory restrictions on average are private non-profit institutions, those in a partnership arrangement with a foreign institution, and institutions delivering online and distance education. For example, Mexico records no regulatory restrictions on partnership arrangements because it allows foreign commercial presence, an alternative form of service delivery. However, there is considerable variation in the attitude to online and distance education. The education

authorities in some economies (eg Indonesia and Mexico) do not recognise online and distance education institutions, and their regimes are accordingly relatively restrictive. Others, such as New Zealand, take a relatively relaxed approach to such institutions.

There is an interesting relationship between the prevalence of restrictions on higher education institutions and the breadth, depth and transparency of quality assurance processes. Many of the responding economies noted that one of the reasons for their restrictions on entry was quality assurance. For example, Australia, Indonesia and Chinese Taipei all cited this as one of the reasons for restricting the entry of the institutions that were allowed to operate in their economies. All of these economies subject such institutions to quality assurance regimes that are relatively extensive, at least in terms of process (more extensive than in Japan or Thailand, for example). Yet neither Indonesia nor Chinese Taipei extend their quality assurance regimes to private for-profit or foreign-invested institutions, choosing to ban them instead. This issue is examined further in the next chapter.

Across all the responding economies, restrictions on the movement of individual students are about as prevalent as restrictions on institutions. Restrictions on the movement of instructors are notably less than on students.

The economy with the highest prevalence of restrictions on students is Australia, the economy with probably the highest international student intake. In part, the extensiveness of its regulations on incoming students reflects that large numbers of students that need to be managed. However, the need for management arises in part because of the close and inevitable links between student exchange and subsequent permanent migration. Furthermore, Australia is one of several economies that has instituted a formal 'two-step' migration process, whereby its international students gain extra credit for the purposes of permanent migration. Thus, while international students may be subject to relatively heavy regulatory restrictions, they are also now advantaged for migration purposes.

Hawthorne (2009) argues that using such 'two-step' mechanisms in the international competition for skills can lead to instability in student flows. She also notes the scope for migration-driven flows to rapidly distort international student flows by sector and discipline. Another problem is that private sector respondents to the opportunities that migration-driven student flows create add to the problems of quality assurance (see also Findlay and Tierney 2009). While the links between student exchange and migration can potentially work to the benefit of both the home and host economies, managing them needs to be part of a broader agenda.

Regulatory environment

The broad pattern seems to be that regulatory restrictions on establishment are more prevalent than regulatory restrictions on ongoing operation. By far the most prevalent restriction across all responding economies is that on degree/certificate awarding powers. Apparently the only responding economies that do not impose restrictions on such powers are Japan and Thailand. However, where these powers are restricted, they are often regulated for all institutions by the government education authorities. Accordingly, these restrictions rarely operate on a discriminatory basis.

Another prevalent regulatory restriction is on the ability of foreign institutions to access government funds and/or support normally given to institutions. Most of the responding economies that allow foreign institutions to operate impose this restriction on at least some of them, one exception apparently being Australia. In New Zealand, this restriction is stated to be for budgetary reasons. This rationale probably applies at least in part in other economies as well, even if protectionist motives are also at play. Similarly, most of the responding economies that allow foreign institutions to operate also restrict the ability of the students in at least some of them to access government funds and/or support normally given to local students. In New Zealand, it is stated that the enrolment of international students is generally required to be self-funding. Again, this is at least partly for budgetary reasons.

The next most prevalent regulatory restriction is on the use of names or university title. Again, this is often regulated for all institutions by the government education authorities, and the restriction rarely operates on a discriminatory basis.

Another common regulatory restriction is a requirement that institutions must establish in a particular form, reflecting those economies (such as Indonesia) that require higher education institutions to be non-profit. Arguably, in some cases this restriction has the effect of offering protection for domestic institutions, even if the stated rationale is philosophical.

The most common regulatory restriction on operation is limits on the number of students that can be enrolled. Mostly, this is for budgetary reasons (eg in Australia and New Zealand).

It is also relatively common for there to be restrictions on the ability of institutions to charge fees. However, in Australia, New Zealand and Indonesia there are fewer restrictions on charging fees for international students than for local students. This reflects the growing commercialisation of cross-border higher education.

Other types of regulatory restrictions on ongoing operation are relatively infrequent. In particular, there are few restrictions on the operations of online and distance education providers, by way of restrictions on access to the internet or to educational materials. The predominant restriction on this mode of delivery appears to be lack of recognition.

Licensing and registration

As noted earlier, licensing conditions are not necessarily regarded by trade experts as trade barriers, but they certainly vary enormously from one economy to another. Some respondents reported very few requirements. For example, the licensing criteria for domestic non-profit institutions in Japan include a minimum capital requirement and proof of the professional qualifications of the staff. In Mexico, there is a requirement for such institutions to have adequate infrastructure. By contrast, Australia lays down particularly elaborate requirements for either post-secondary technical and vocational education institutions, or for 'other' higher education institutions (including universities), that apply to any provider. New Zealand allows organisations to negotiate individual charters, and requires them to undergo an analysis of corporate form, financial performance, quality management system, fee protection approach, business plan and management commitment.

Some responding economies were able to provide a great deal of information about their licensing regimes, including links to relevant government websites. Other responding economies provided very little information. Some of this may reflect the efforts of individual respondents, but some undoubtedly reflects differences in the general degree of transparency of the licensing regimes.

Quality assurance processes

There is apparently some noticeable variation in the breadth, depth and transparency of quality assurance regimes among the responding economies. Economies with extensive processes include Peru and Australia, followed closely by Mexico, Chinese Taipei, New Zealand and Chile. Economies with less extensive processes are Thailand and Japan. In addition, the quality assurance processes appear to be 'balanced', in the sense that if they are good, they are uniformly good, while if they are average, they are uniformly average. Interestingly, however, most economies report that their processes go beyond an assessment of inputs (eg admissions, faculty numbers) and processes (eg conduct of research, conduct of student assessment), and include an assessment of outputs (eg graduates, publications, research findings) and even outcomes (eg student job outcomes post-graduation, innovation).

Credit transfer and recognition

According to the survey responses, there are relatively few restrictions on the recognition of qualifications for the purposes of employment or further study. Even when the qualifications are obtained outside the economy, there are relatively few recorded recognition problems. However, as noted earlier, this is one of the most unsatisfactory parts of the survey, because of limited responses.

Other

The survey responses highlight the relatively sparse consultation and dissemination processes that operate in many of the less developed APEC economies, including Chile, Indonesia, Mexico, Chinese Taipei and Thailand, but also in Japan.

Restrictions affecting students and instructors

By far the most common restrictions on international students are applied on entry, by the economy that is exporting the higher education services. As noted in Chapter 2, these restrictions are not covered by GATS disciplines.

To the extent that teachers are affected at all, it is through entry restrictions. There are no recorded cases of discriminatory registration or licensing requirements, probably because few economies have any registration or licensing procedures for teachers (as opposed to teaching institutions).

4 A summary of recent trade commitments in higher education

4.1 Existing GATS commitments in education services

Cross-border education has grown, despite the fact that few WTO Member governments have committed to liberalising educational services under GATS. Education services remains as one of the least committed sectors under the agreement (Roy, Marchetti and Lim 2007).

As of 1 January 2009, only 51 WTO Members had made GATS commitments for education services: 28 original WTO Members made their commitments in 1995, while the remaining 23 are newly acceded Members of the WTO and include three APEC economies — China, Chinese Taipei and Vietnam.

For the Higher Education Services sub-sector, 18 of the 23 newly acceded members have made commitments for mode 1 (cross-border trade, narrowly defined) and mode 3 (commercial presence). This is a significant proportion, although it also needs to be acknowledged that the negotiating pressure on newly acceding members is greater than on the membership generally — all newly acceding members made substantial commitments across all GATS sectors and modes. Nevertheless, many of the new WTO Members are from developing and least-developed economies, and their commitments to liberalise their education sectors are in line with national capacity-building strategies to provide foreign investors with minimum access limitations (OECD 2007).

Table 4.1 **Summary of existing GATS commitments by education sub-sector**

Sub-sector ^a	Number of Members with commitments
Primary Education (CPC921)	36
Secondary Education (CPC922)	41
Higher Education (CPC923)	42
Adult Education (CPC924)	41
Other Education (CPC929)	26
Total number of sub-sector commitments	186

^a CPC refers to the Central Product Classification used by the WTO.

Source: WTO Secretariat Services Database (http://www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm).

Table 4.2 **GATS education commitments by APEC member economies**

<i>Economy</i>	<i>Primary Education (CPC921)</i>	<i>Secondary Education (CPC922)</i>	<i>Higher Education (CPC923)</i>	<i>Adult Education (CPC924)</i>	<i>Other Education (CPC929)</i>
Australia	-	X	X	-	X
China	X	X	X	X	X
Japan	X	X	X	X	-
Mexico	X	X	X	-	X
New Zealand	X	X	X	-	-
Chinese Taipei	-	X	X	X	X
Thailand	X	X	-	X	-
United States	-	-	-	X	X
Vietnam	-	X	X	X	X

Source: WTO Secretariat Services Database (http://www.wto.org/english/tratop_e/serv_e/education_e/education_e.htm).

Of the 51 WTO Members with education service commitments, nine are APEC member economies. However, only seven have made commitments in higher education services. A summary of these APEC economies' commitments across the education sub-sectors is given in Table 4.2.

The original education service commitments undertaken by the 51 WTO Members in many instances did not open markets, and in some cases were more restrictive than the prevailing market conditions (Sauvé 2002, Larsen, Martin and Morris 2002). With the limited GATS commitments negotiated during the Uruguay Round, coupled with the global growth in the higher education market, it was anticipated that WTO Members would, under the Doha Round of trade negotiations, either make further liberalising commitments or make initial offers of education service commitments.

4.2 Post-Uruguay Round negotiations

Beginning in January 2000 a number of WTO Members submitted negotiating proposals. Four APEC economies specifically included educational services commitments — United States, New Zealand, Australia and Japan. The initial proposals generally focused on clarifying educational sectoral coverage — that is, commitments were only to apply to services and service providers of private education.

The proposals have the greatest impact on mode 3 (commercial presence), by reducing or removing regulations or measures affecting foreign ownership and the form of legal structure needed to establish such presence. The proposals addressed the movement of natural persons under mode 4, including the movement of academics and management staff of foreign providers, through horizontal commitments affecting all service sectors.

The United States and Australia clearly stated in their proposals that their respective Governments retained the right to regulate their own education sectors. Furthermore,

these rights extended to policies and measures in relation to funding (or in trade language, ‘subsidising’) their own education systems. In addition, both WTO Members identified a number of trade barriers that affected market access and national treatment. These included:

- restrictions on the number of foreign service suppliers;
- measures regarding the establishment of commercial presence, including specifying types of legal entities;
- measures regarding the movement of natural persons, for example, visas and formal qualifications of foreign academic or management staff; and
- local content requirements, for example, the use of local academic staff to provide an educational service, such as teaching a subject.

Other trade barriers identified were visas, the transparency of domestic laws and regulations, the accreditation requirements and processes and the recognition of qualifications. However, as noted in Chapter 2, many of these other trade barriers are either outside the scope of the GATS or are being negotiated, for example, though Article VII on Recognition.

New Zealand’s and Japan’s proposals addressed other relevant issues such as accreditation, quality assurance and the classification of education services. Interestingly, Japan’s proposal recommended the establishment of an information network on cross-border higher education to assist in defining and monitoring quality assurance.

Overall, the pre-Doha Round provided little advance in the liberalisation of educational services, notwithstanding the efforts of some WTO Members.

4.3 The Doha Round

Under the Doha Round negotiating agenda, the deadline for receiving ‘initial GATS offers’ was March 2003. Although, a number of APEC economies submitted initial offers and some have gone on to make revised offers, only five APEC economies have made their Doha Round GATS offers public — Australia, Japan, New Zealand, the Republic of Korea, and the United States. (All public services offers are available at the WTO website under the WTO Document designation TN/S/O.)

Note, however, that a number of other APEC economies have made commitments in education services in the ASEAN-Australia-New Zealand FTA, including Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand. It is highly likely that

similar or identical GATS offerings have been made, or will be made, by these economies under the Doha Round.

In March 2006 a number of plurilateral negotiations took place on the basis of collective requests which were formulated along sector lines. A jointly sponsored 'collective request' focusing on private Higher Education (CPC923) and Other Education (CPC924) was issued by the following APEC economies — Australia, Malaysia, New Zealand, Chinese Taipei, and the United States. Although the 'collective request' document is restricted, the contents have been made public (see <http://www.esf.be/003/009.html> 13 January 2009). The 'collective request' was distributed to 21 WTO Members involved in the Services Cluster discussion that had been held on 27 March to 7 April 2006.

The 'collective request' suggested the removal of market access and national treatment limitations on private education delivered via modes 1, 2 and 4. For mode 3 (commercial presence), it suggested full market access and national treatment with no limitations, or at minimum, retaining time restrictions for limitations on foreign capital investment.

Other key points of the 'collective request' suggested that WTO Members use their commitment schedules to define what they mean by 'public' and 'private' sector education in their jurisdiction, and to clarify whether 'private' education establishments are excluded from accessing government funds. The 'collective request' also reaffirmed that WTO Members would retain their right to regulate their own educational system, including national curriculum.

Finally, the 'collective request' addresses accreditation and its link to state funding. The 'collective request' provides that if the standards applied by accreditors are entirely consistent with market access and national treatment, then the WTO Member has the right to regulate. Furthermore, it is not expected that accreditation bodies will perform functions outside of their legal jurisdiction. Finally, if a Member excludes government funding in its schedule, and accreditation is reliant on such funding, this is no longer a market access or national treatment issue.

Following the 'collective request', a limited number of WTO members have either made 'initial' offers or 'revised offers', with approximately 80 per cent of new commitments being offered in Higher Education (CPC923) or Adult Education (CPC924). APEC economies in this category include Indonesia, Japan, Malaysia Peru, the Republic of Korea, Singapore, Thailand and the United States. Although these offers remain restricted, anecdotally, modes 1 and 3 restrictions have been relaxed.

Offers under the Doha Round of negotiations for educational services must be taken in context. Following the Service Cluster meeting, the negotiations were suspended in July 2006 and then resumed in January 2007. A report on services was issued in May 2008. A

Signalling Conference was held in July 2008, at which some indication was given by WTO Members that new commitments in private education services would be made covering existing limitations and foreign providers (see http://www.wto.org/english/tratop_e/dda_e/job08_93_e.doc). It appears that many APEC economies attended the meeting at which this was signalled (Australia, Canada, Chile, China, Hong Kong, Indonesia, Japan, the Republic of Korea, Malaysia, Mexico, New Zealand, Philippines, Singapore, Chinese Taipei, Thailand and United States), although details of which economies indicated their willingness to undertake the new commitments in private education was not included in the WTO record.

4.4 WTO initiatives on domestic regulation

One of the tasks of the Council for Trade in Services under the current round of negotiations is to develop ‘disciplines’ aimed to ensure that qualification requirements and procedures, technical standards and licensing requirements are (among other things):

- based on objective and transparent criteria, such as competence and the ability to supply the service;
- not more burdensome than necessary to ensure the quality of the service; and
- in the case of licensing procedures, not in themselves a restriction on the supply of the services.

Note that in the WTO context, ‘disciplines’ refer to the creation and administration of regulations and not the content. Furthermore, the authority to determine educational policy and subsequent regulations is the sole responsibility of each WTO Member government.

Since 1999, the Council for Trade in Services has approached the work of developing disciplines for domestic regulations on a horizontal basis. Some of these would be relevant to the education sector, although no specific education disciplines have been developed. Perhaps the most important horizontal discipline proposed is transparency. The difficulty with this element is that it could be overreaching the GATS authority to capture private service providers.

The Council for Trade in Services is also undertaking work to develop disciplines on licensing. Here the proposed discipline is to streamline licensing processes by establishing one authority to electronically undertake all the relevant procedures and processes, as well as informing the applicant of incomplete applications.

Work on the recognition of qualifications is also under way and the current proposal is for WTO Member governments to ensure that adequate procedures exist for the

verification and assessment of qualifications, as well as to identify and inform the applicant of any deficiencies. Finally although work on the element of 'technical standards' has not been undertaken, it is acknowledged that the GATS terminology is in conflict with all other WTO Agreements which refer to voluntary standards or mandatory technical regulations.

A key residual question is whether the Council for Trade in Services proposed definitions will amount to establishing a 'necessity test' for regulations. To date their work has focused on the procedural and administrative aspects, rather than content. However, a definitive answer on what is legally 'necessary' will need to be determined by either a WTO Panel or the Appellate Body in a dispute settlement case. To date the concept of 'necessary' has only been interpreted in cases involving trade in goods under GATT Article XX. Consequently, the meaning and impact of this term in relation to education service domestic regulations is unknown.

4.5 Preferential trade agreements

As a result of the stalled Doha Round negotiations, the majority of WTO members are negotiating or have concluded preferential trade agreements (PTAs). Where initially these types of agreements focused on goods, recent PTAs tend to include commitments on services, investment and movement of natural persons. Education services usually come under the auspices of the services chapter. However in some PTAs the sector is specifically listed, as in the ASEAN-Australia-New Zealand FTA.

Roy, Marchetti and Lim (2007) argue that WTO Members have made significant commitments in their PTAs in comparison to their GATS commitments and offers. One reason is that many PTAs use a the 'negative list' mechanism, which means that full commitments are assumed for all services unless restrictions are recorded. By contrast. the GATS uses the 'positive list' approach which requires WTO Members to specifically list their trade commitments.

As noted above, a number of APEC economies have made commitments in education services in the ASEAN-Australia-New Zealand FTA. It also appears that many have improved on their GATS commitments, or made GATS educational services commitments for the first time. Notwithstanding the significant divergence of the educational service commitments across PTAs, it is a positive step forward by the APEC economies to future liberalisation of private educational services. To understand the true scope of PTA commitments undertaken by APEC economies, a comprehensive review needs to be undertaken. However, this is beyond the scope of this study.

5 Conclusions

The purpose of this chapter is to develop some recommendations for achieving more free and open exchange and investment in higher education services in the APEC region. Before doing so, it is useful to review briefly the expected benefits of free and open exchange, and the limitations that legitimate domestic regulatory objectives might place on that opening up.

5.1 Benefits of more open exchange

The benefits of opening up services markets to foreign providers can *potentially* be similar to the benefits from opening up goods markets. Foreign suppliers may be able to offer higher education at a higher quality, lower cost, or better value for money. Foreign providers may expand the resource base for higher education, offering new areas of instruction, and bringing additional skills, capital, and ideas. And foreign providers may bring better teaching techniques, curriculum design, quality assurance processes and research capacity, improving the efficiency of the sector and possibly generating spillover benefits to local providers.

In services markets, *some* of the benefits of more open exchange can be obtained by removing discrimination against foreign suppliers. However, services suppliers typically provide highly differentiated services, and foreign and domestic providers often focus on different market niches. In these circumstances, only by also removing the regulatory restrictions that limit the performance of domestic providers can the best economic outcomes be obtained. Notwithstanding formal GATS concepts and definitions, recent research has suggested that the economic gains from removing non-discriminatory restrictions, ie those regulatory restrictions that affect domestic and foreign providers equally, can greatly exceed the gains from only removing discrimination against foreigners (Dee 2007). At best, a policy focus on ensuring national treatment can deliver relatively small gains. At worst, opening up a services market to particular foreign suppliers can, in the absence of measures to ensure better performance generally, simply hand over monopoly rents to foreigners. This can defeat development objectives, inflate adjustment costs and generate negative net economic consequences.

This means that pathways to achieving more open exchange of higher education services should pay at least as much attention to removing non-discriminatory regulatory

restrictions as to ensuring national treatment. Not only will this ensure that the gains from opening up are substantial, it is also best way to maximise the chances that domestic service providers will themselves gain from the exchange, rather than simply being hurt by greater foreign competition.

5.2 Limitations on more open exchange

In many services sectors, not just education, there are legitimate reasons for domestic regulation. For example, a key reason for prudential regulation in banking and insurance markets is to guard against systemic instability of the financial system. A key reason for regulating transport industries is to ensure passenger safety. A key reason for having regulated access regimes in telecommunications is to avoid the inefficient duplication of infrastructure components that have ‘natural monopoly’ characteristics.

Generically, in services such as education and health, there are typically at least two key regulatory objectives. One is to deal with asymmetric information. Almost by definition, the clients of health firms or education institutions are not sufficiently trained to know whether the services they are receiving are of high quality. In some markets, this problem is dealt with after the event, via product liability legislation. In education and health markets, this option is typically deemed unsatisfactory, so quality is regulated before the event — via training and perhaps licensing/registration requirements for individual instructors, and by licensing and quality assurance processes for educational institutions.

Note, however, that regulated quality assurance processes are not the only solution to this problem. Reputation also has a role to play. Services providers who plan to be in a market for the long term cannot afford to offer shoddy service for ever, or they will lose clients. They have an incentive to offer quality, and to establish a reputation for doing so. This is the basis on which the world’s best higher education institutions operate. Newer institutions cannot compete with them on the basis of their own reputation, but can use adherence to quality assurance processes, as well as external accreditation and audit, as a basis for competition (Shackleton 2003).

A second key regulatory objective in education and health markets is to ensure equitable and affordable access, either for all, or for particular disadvantaged segments of society. Government provision is the traditional method of meeting this objective. Government subsidies to private institutions, and government subsidies (through scholarships and the like) to students, are also ways in which it is achieved. However, few governments can afford to subsidise everyone. So typically there are limits on who can get government funding, simply for budgetary reasons.

In some services sectors like banking and insurance, there is a relative clear-cut distinction between the regulatory instruments used for legitimate prudential reasons, and those that are deemed regulatory impediments to trade. The instruments commonly used for prudential purposes include minimum capital requirements, capital adequacy ratios, liquidity reserve ratios, possible coverage by an insolvency guarantee or deposit insurance scheme, and a required frequency of publication of financial statements.

While there are a few grey areas, in most cases regulatory restrictions affecting trade in banking and insurance services can be dismantled without jeopardising prudential objectives, which are achieved using other means. Of course, there is still a sequencing issue — it would be unwise to open financial markets without adequate prudential regulation and without adequate regulatory capacity to design and enforce it.

In higher education services, the distinction between instruments used to achieve quality and access objectives and those deemed to be regulatory barriers to trade is less clear-cut. And as noted earlier, some of the most prevalent regulatory restrictions in higher education have been justified for ensuring quality, or for budgetary reasons.

Achieving quality objectives in higher education will inevitably mean that there are barriers to the entry and operation of at least some providers. However, a well-designed quality control framework will ensure that the providers who are locked out are the genuinely low-quality ones. The framework can afford to be relatively neutral in its treatment of domestic and foreign providers.

Similarly, while seeking to achieve equity objectives in higher education, governments typically cannot subsidise everybody. Therefore, even in the most open system, not all providers or clients will gain access to government subsidies. If the system is to not unduly constrain trade, then this denial of subsidies should be the same for domestically owned and foreign providers (although to date, WTO Members seem unwilling to go this far). Governments may choose not to be neutral in their treatment of access to subsidies by domestic and foreign students, however. For obvious reasons, they may choose to deny the right of foreign students to higher education subsidies.

5.3 Recommendations

The survey of measures affecting international exchange an investment has shown that one of the biggest avoidable impediments to international exchange is bans on the entry of private or foreign-invested higher education institutions.

A key conclusion of this report is that, to make further progress in opening up higher education markets, the APEC member economies should work to strengthen quality assurance processes. This will be a key prerequisite to dismantling the bans and other

regulatory restrictions that, while having a possible rationale in quality assurance, are either more discriminatory or more burdensome than required.

This need not involve establishing the same standards in each economy. The quality of higher education varies enormously across the region, and the stringency (in content terms) of quality assurance frameworks also varies. At one extreme, Australia is a major exporter of higher education services, and needs to compete with other high-reputation suppliers, particularly from the United States — the world’s biggest education exporter. So it has established a quality assurance framework designed to ensure that its higher education institutions achieve world-standard quality. Towards the other end of the spectrum, Indonesia, at this stage of its development, has neither the skills nor the resources to maintain Harvard-standard institutions. Nor could it afford the bureaucratic and administrative resources to run a quality assurance framework like Australia’s. And requiring it to do so would impose an opportunity cost, in terms of diverting resources from other vital purposes, that would be inimical to its longer-term development objectives.

In a situation where at least some regulatory restrictions cannot be removed completely, because they are required to meet legitimate regulatory objectives, economies need to ensure that their regulatory regimes, in the words of the GATS, are ‘not more burdensome than necessary to ensure quality’, and are ‘not in themselves a restriction on the supply of the service’. In the case of higher education services, one way to operationalise the necessity test is to develop quality assurance frameworks that define *minimum acceptable standards*.

Economies could choose to adopt standards in their home economy that were higher than the minimum acceptable standards. But having a ‘ladder’ of quality standards across the region would help to do two things:

- it would put a floor under standards, providing a benchmark for standards that were not more burdensome than necessary; and
- it would also provide a viable alternative for the replacement of standards or regulatory restrictions that were discriminatory against foreign providers, particularly the bans on entry.

Work is already under way in APEC forums to develop Higher Education Quality Assurance Principles for the Asia Pacific region. One initiative was the hosting of a workshop in Chiba, Japan in 2008, which developed draft ‘Chiba Principles’ for quality assurance in the Asia-Pacific region. These emphasise a generic approach that has relevance for all higher education institutions, quality assurance agencies and quality assessment practices in the region, regardless of the level of development, size and

national context. Inevitably, because of the generic nature of the principles, they are heavily tilted to defining the process rather than the content of good quality assurance.

Developing an agreement about content is much more difficult, as any attempt at 'standardisation' will attest. However, arguably, attempts to develop *minimum acceptable standards*, with an understanding they need not to apply to every economy, may be slightly easier than agreeing on a single universal standard. The OECD (2007) notes that conceptually, quality assurance frameworks in higher education could set minimum standards rather than across-the-board standards, but that in practice, few systems have done so. One of the key suggestions of this report is that encouraging the removal of bans on entry may require building greater confidence in general quality assurance frameworks, so that they can apply to domestic and foreign providers equally. The frameworks may need to be strengthened, but they need to be strengthened on an affordable basis. So useful discussion of the content of quality assurance should not focus solely, or even mainly, on 'best practice' or 'world standard'.

Recognising that achieving any agreement about content is difficult, an important first step would be to facilitate further information-sharing among quality assurance agencies about the content of current standards. In this respect, the diversity of the APEC region is a strength rather than a weakness. The range of current standards may itself span what many could agree to be *minimum acceptable standards*. The discussion may then be able to define a 'ladder' of quality standards, giving economies a clear and feasible path of improvement over time.

As noted in the previous chapter, there are no moves to operationalise a necessity test for higher education within the WTO. In many respects, the APEC forum is a more natural home for such an endeavour.

In addition to information-sharing among quality assurance agencies about the content of current standards, a complementary effort would be capacity-building initiatives in those economies whose quality assurance frameworks were still fragile or under-developed. According to the survey responses, there is little to distinguish the quality assurance regimes in most of the responding economies, at least in terms of process. Yet some economies apparently lack the confidence to extend their regimes to private for-profit or foreign-invested institutions. Capacity-building initiatives, combined with feasible aspirations for quality standards, could help build such confidence. Such capacity building could be accompanied by awareness raising about the general benefits of international exchange.

The survey of measures affecting international exchange and investment has also shown that major impediments to international exchange are restrictions on the inward

movement of international students. But these restrictions are linked to immigration policies, particularly since the pool of international students in some economies has become an important source of skilled migration.

The survey of measures affecting international exchange and investment has not had great success in documenting restrictions on the credit transfer and the recognition of qualifications for the purposes of employment or further education.

This lack of success suggests in itself that problems with credit transfer and recognition may be best dealt with indirectly, by promoting quality assurance among the higher education institutions, and by promoting the transparency of those quality assurance processes. The above suggestions for facilitating further information-sharing among quality assurance agencies about the content of current standards, and not just the processes, would contribute greatly to this transparency. This is because cross-border recognition requires an understanding of foreign quality assurance standards, not just having good quality assurance processes at home.

There have also been recent initiatives within the APEC region for promoting the recognition of higher education qualifications across the Asia Pacific region. One such study is by DEEWR (2008). It notes that differences in structure, regulation and outcomes do not preclude 'recognition'. Nevertheless, the document still talks about 'convergence'. An example is the following extract (DEEWR 2008, p. 14):

A factor which will need to be addressed relates to the perception of member countries of the role they may have to play (ie some will be interested in exporting higher education services, while others will be interested in importing education while safeguarding the interest of their citizens). Other higher education systems (eg Cambodia and Laos) are being stabilised. The divide between countries has to be bridged and every country encouraged to move towards convergence.

This creates the impression that recognition involves equivalence. Indeed, this is the default presumption under the Lisbon Recognition Convention, with its emphasis on recognising qualifications at face value unless 'significant difference' can be demonstrated.

An alternative approach is to work at establishing a 'ladder' of qualifications (not all equivalent) across the Asia-Pacific region, similar to the above suggestion for a creating a 'ladder' of quality assurance standards. Indeed, the DEEWR (2008) document talks about establishing National Qualifications Frameworks in each economy in the Asia-Pacific region. These provide a single metric against which all the qualifications within a given economy are judged. They would then provide a mechanism for benchmarking higher

education qualifications and the quality of education outcomes across borders. This is precisely the concept of a ladder. However, the goal should not be convergence.

Another tool to promote recognition is to encourage higher education institutions to issue a so-called Diploma Supplement — a document issued with a degree/diploma that describes the qualification in an easily understandable way and relates it to the higher education system in which it was issued.

Australia's 37 publicly funded universities are currently assisting the Australian Government in implementing an Australian Higher Education Graduation Statement. Already, 27 universities have taken up the Government's offer of \$100,000 per institution and the remaining 10 have indicated they will participate in the funding round at the end of 2009

Under the Lisbon Recognition Convention (ratified by Australia in 2002), Australia has an international obligation to promote the widespread use of the Diploma Supplement by Australian tertiary institutions.

Formatting of the Graduation Statement is at the discretion of the respective university, but its structure includes five sections:

1. Graduate details;
2. Details of the award;
3. Information about the awarding institution;
4. Graduate's academic achievements (including academic transcript or a statement referring the reader to the academic transcript); and
5. Description of the Australia higher education system.

A final impediment to international exchange, which the survey has revealed only implicitly, is a lack of transparency in some economies about the regulatory requirements that need to be satisfied in order to provide higher education services. Survey instruments of the sort used in this project can reveal where such information exists, if it exists. They typically do not bring it into existence. There is scope for mechanisms to encourage economies in the region to develop packages of information that can be available to prospective higher education providers, whether domestic or foreign, about the regulatory requirements to enter a market. Such information is vital to improving the investment climate for higher education so that economies can harness the additional resources. Developing such packages may also require some capacity-building assistance.

The above general recommendations suggest the following initiatives for the APEC Human Resources Development Working Group:

- facilitating further information-sharing among quality assurance agencies about the content, not just the process, of current quality assurance standards;
- using such exchange as a basis for developing *minimum acceptable* quality standards, thus providing a benchmark for standards that were not more burdensome than necessary;
- facilitating capacity building among quality assurance agencies, and awareness raising about the general benefits of international exchange;
- promoting the use of recognition tools by higher education institutions, and the establishment of National Qualifications Frameworks in each APEC economy, to provide a single metric against which all the qualifications within a given economy are judged;
- promoting these national qualifications frameworks as a mechanism for benchmarking higher education qualifications and the quality of education outcomes across borders; and
- facilitating the development of information packages that can be available to prospective higher education providers, whether domestic or foreign, about the regulatory requirements to enter a market.

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Appendix 2 Questionnaire

PART I - QUESTIONNAIRE INFORMATION SHEET

WHAT IS THE PROJECT ABOUT?

The Institute for International Trade – University of Adelaide, Australia, has been appointed to examine measures affecting cross-border exchange and investment in higher education services across four modes of supply (cross-border, consumption abroad, commercial presence and presence of natural persons) amongst APEC economies. As part of this project, we are undertaking a survey to collect data on existing policy measures currently in place in the APEC Region.

For the purpose of this Questionnaire the definition of the term 'higher education' is based on the United Nations Provisional Central Product Classification CPC (923) Higher Education Services.

- (i) Post secondary technical and vocational education services; and
- (ii) Other higher education services leading to university degree or equivalent

HOW IS THE QUESTIONNAIRE STRUCTURED?

The questionnaire is divided into three parts:

1. **Institutions** - The first part covers the policy frameworks that apply to all *institutions* granting tertiary qualifications in a particular economy. These include domestic institutions — government, private non-profit, private for-profit — and foreign institutions — those with a physical commercial presence, those providing online or distance education, and those in a partnership (twinning, franchising or other collaborative agreement — see Annex for definitions) with a local institution. The purpose of including all institutions is to highlight the extent to which the policy frameworks governing foreign institutions differ from those affecting domestic institutions.
2. **Students** - The second part covers the policy frameworks that apply to the inwards and outward movement of individual *students*, whether or not those movements are associated with twinning, articulation or other collaborative arrangements.
3. **Instructors** - The third part covers the policy frameworks that apply to the inwards and outward movement of individual *instructors*, whether or not these movements are to support the commercial presence of foreign institutions, or are associated with collaborative arrangements between domestic and foreign teaching and/or research institutions.

HOW TO COMPLETE THE QUESTIONNAIRE

- 1) Representatives from federal jurisdictions should contact the Project Team Leader, Mrs Letizia Raschella-Sergi before commencing the questionnaire in order to discuss which jurisdictions should be covered.
- 2) Please give information for the current year only.
- 3) Whenever a question is not applicable, (e.g. because the particular activity or institution does not occur, or is not allowed), please indicate using 'NA', rather than leaving the cell blank.
- 4) Where reporting monetary values, please specify the currency.
- 5) If insufficient space is provided, please attach additional information on separate sheets.
- 6) If an answer to a Question would be better explained through the viewing of the specific regulation, please either attach a copy of the regulation or provide the relevant English language web link.
- 7) The restrictions we are interested in may be either specific to Education or horizontal (i.e. apply to other sectors).
- 8) Please include information on any pathways courses that are clearly tied to ongoing tertiary study.
- 9) The use of the terms 'Domestic' and 'Foreign' relate to Institutions only.
- 10) The use of the terms 'Local' and 'International' relate to students or instructors only.
- 11) The Questionnaire should be returned either by fax or scan the document and email to the Project Leader.
- 12) If you have any queries, please contact the Project Team Leader.

PART II - QUESTIONNAIRE

I. POLICY FRAMEWORKS GOVERNING INSTITUTIONS GRANTING TERTIARY QUALIFICATIONS IN YOUR ECONOMY

I.A. Regulatory Environment — Establishment of Institution

1. Are there policy restrictions on new entry by educational institutions granting tertiary qualifications? #		
Type of institution	Restrictions on entry?	If yes, give total number of institutions allowed
Domestic - government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

2. If entry is restricted, what are the reasons provided by your Government? (tick all relevant reasons) #							
Reason for restriction	Govt	Private non-profit	Private for-profit	Distance	Partnership	Joint venture	100% foreign owned
Exclusive rights to allow the provision of universal service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strategic activity reserved to the state	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Entry subject to economic needs test by govt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Entry subject to geographic location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality assurance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (specify):							

3. Are educational institutions located in your economy <i>prohibited</i> from incorporating (with limited liability)? Are they <i>required</i> to establish in a particular form? #		
Type of institution	Prohibition on incorporation	Required form of establishment (please state)
Domestic - government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

4. Are educational institutions *not* located in your economy required to have a representative office? Are they required to have an association or particular form of contract with a local partner? #

Type of institution	Representative office required?	Required form of association or contract (please state)
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	

5. Are educational institutions located in your economy *encouraged* to locate in a particular geographical area (eg special economic zone)? Are they *required* to locate in a particular area? In either case, please state area. #

Type of institution	Encouraged?	Required?
Domestic - government		
Domestic - private non-profit		
Domestic - private for-profit		
Foreign - with commercial presence, in joint venture		
Foreign - with commercial presence, 100% foreign owned		

6. Are there equity limits on *private* ownership of domestic educational institutions? #

Type of domestic institution	Existing operators	Maximum private equity permitted (%)	New entrants	Maximum private equity permitted (%)
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes	

7. Are there equity limits on *foreign* ownership of educational institutions? #

Type of foreign institution	Existing operators	Maximum foreign equity permitted (%)	New entrants	Maximum foreign equity permitted (%)
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes	

8. Are foreign educational institutions restricted in their use of names or university title? # Please specify:

Type of foreign institution	Type of restriction
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

9. Are there restrictions on educational institutions obtaining copyright or trademark protection of curriculum in your economy? Are there problems in ensuring this intellectual property protection of curriculum is enforced? #

Type of institution	Restrictions on obtaining IP protection of curriculum?	Problems ensuring IP protection of curriculum enforced?
Domestic - government	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

10. Are there regulatory restrictions on the degree/certificate awarding powers of educational institutions? Please specify and give reasons #

Type of institution	Type of restriction and reason for it
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

11. Are educational institutions restricted in the scope of disciplines/programs/subjects they can teach? # Please specify:

Type of institution	Type of restriction
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

12. Is there a Universal Service Obligation (USO) whereby institutions are *required* to provide places to certain classes of students? #

Type of institution	What is the USO? (eg which students must have access)?	How is the USO imposed on institutions? (eg legislation, grant requirement etc)	How is the USO funded (eg cross subsidy, budget allocation, industry fund)?:
Domestic - government			
Domestic - private non-profit			
Domestic - private for-profit			
Foreign - online and distance			
Foreign - in partnership with local institution			
Foreign - with commercial presence, in joint venture			
Foreign - with commercial presence, 100% foreign owned			

13. Are foreign institutions restricted in their access to government funds and/or support normally given to institutions? Are their local students (nationals) restricted in their access to government funds and/or support normally provided to local students? # Please specify:

Type of foreign institution	Restrictions on funds/support given to foreign institutions?	Restrictions on funds/support given to local students at foreign institutions
Distance		
Partnership		
Joint venture		
100% foreign owned		

14. Are foreign and local institutions restricted in their access to government funds and/or facilities when they teach international students? # Please specify:

Type of institution	Type of restriction
Govt	
Private non-profit	
Private for-profit	
Distance	
Partnership	
Joint venture	
100% foreign owned	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

I.B. Regulatory Environment — Ongoing Operations

15. Are educational institutions restricted in setting the program curriculum, subject content and/or language of instruction for the courses they teach? # Please specify and give reasons:

Type of institution	Type of restriction
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

16. Are educational institutions restricted in their ability to charge fees? # Please specify:

Type of institution	For international students?	For local students?
Domestic - government		
Domestic - private non-profit		
Domestic - private for-profit		
Foreign - online and distance		
Foreign - in partnership with local institution		
Foreign - with commercial presence, in joint venture		
Foreign - with commercial presence, 100% foreign owned		

17. Are there restrictions on student recruitment/marketing by educational institutions? # Please specify:

Type of institution	Type of restriction
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

18. Are educational institutions restricted in the number of students (either local or international or both) they can service? # Please specify:

Type of institution	Type of restriction
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

19. Are there minimum requirements for employing teachers in education institutions (eg requiring minimum numbers or proportions of teachers with local citizenship, local residency or local training)? # Please specify:

Type of institution	Type of requirement
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

20. Are foreign educational institutions providing online services required to use a monopoly or specified network access provider? # Please specify:

Type of institution		If yes, give details
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	

21. Are educational institutions restricted in their access to the internet (either physical access or content regulation)? # Please specify:

Type of institution		If yes, give details
Domestic - government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

22. Are there restrictions on the import and distribution of educational materials and software by education institutions? # Please specify:

Type of institution		If yes, give details
Domestic - government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

23. Are there restrictions on the transfer overseas of fee income, payments, profits or surpluses by foreign institutions? # Please specify:

		If yes, give details
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

24. Are foreign institutions located in your economy taxed differently from local institutions? # Please specify:

		If yes, give details
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

I.C Licensing and Registration

25. Is registration, authorisation or licensing required for establishment of an education institution? # Please specify:	
Type of institution	Type of requirement
Domestic - government	
Domestic - private non-profit	
Domestic - private for-profit	
Foreign - online and distance	
Foreign - in partnership with local institution	
Foreign - with commercial presence, in joint venture	
Foreign - with commercial presence, 100% foreign owned	

<p>26. Licence conditions</p> <p>For each type of institution, please list the main conditions (<i>other than quality assurance requirements</i>) that educational institutions need to satisfy in order to obtain registration, authorisation or licensing. Use the list below to fill in the column on "main conditions." Please also indicate whether the validity of the authorisation is restricted temporally (i.e. only for a particular length of time) or geographically (only for particular regions). Note that quality assurance requirements are covered in the next section. #</p> <p>Main Conditions</p> <ol style="list-style-type: none"> 1. Payment of license fee (indicate amount) 2. Minimum capital (indicate amount) 3. Tax declaration 4. Bank references 5. Deposit of a cash bond (indicate amount) 6. Experience in the field of higher education (specify) 7. Enrolment in a professional register 8. Proof of the professional qualifications of the staff member(s) primarily responsible for providing the services 9. Other (specify) 					
Type of institution	Name of license	Issuing body	Main conditions	Validity restricted in time?	Validity restricted geo-graphically
Government				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Private non-profit				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Private for-profit				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Distance				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Partnership				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
Joint venture				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes
100% foreign owned				<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Yes

27. Is there a nationality, residency or licensing requirement on management (eg some or all managers must be licensed professionals)? # Please specify:		
		If yes, give details
Domestic - private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Domestic - private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - online and distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - in partnership with local institution	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, in joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Foreign - with commercial presence, 100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

I.D Quality Assurance Requirements (eg accreditation, audit)

28. Are there quality assurance requirements on education providers? Are they mandatory or voluntary? Are they one-off (satisfied at time of establishment) or ongoing? If ongoing, how often are they applied? #				
Type of institution	Quality assurance requirements?	Mandatory or voluntary?	One-off?	If ongoing, state how often
Government	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Partnership	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	
100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	<input type="checkbox"/> Mandatory <input type="checkbox"/> Voluntary	<input type="checkbox"/> No <input type="checkbox"/> Yes	

29. What is the purpose of the quality assurance processes (tick all that apply)? #					
Type of institution	Licensing/certification	Recognition of qualifications	Accreditation	Ranking/benchmarking	Other (please specify)
Government					
Private non-profit					
Private for-profit					
Distance					
Partnership					
Joint venture					
100% foreign owned					

30. Which body oversees/undertakes the quality assurance testing (tick all that apply)? #				
Type of institution	Government Department	Professional body (eg professional accreditation agency)	Committee of members of educational institution	Other (please specify)
Government				
Private non-profit				
Private for-profit				
Distance				
Partnership				
Joint venture				
100% foreign owned				

31. What is subjected to the quality assurance process (tick all that apply)? #				
Type of institution	Institutions	Programs	Courses	Other (please specify)
Government				
Private non-profit				
Private for-profit				
Distance				
Partnership				
Joint venture				
100% foreign owned				

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

32. What does the quality assurance testing cover (tick all that apply)? #				
Type of institution	Measurement of inputs (eg admissions, faculty numbers)	Assessment of processes (eg conduct of research, student assessment)	Measurement of outputs (eg graduates, publications, research findings)	Measurement of outcomes (eg student job outcomes post-graduation, innovations)
Government				
Private non-profit				
Private for-profit				
Distance				
Partnership				
Joint venture				
100% foreign owned				

33. What methodologies does the quality assurance process use (tick all that apply)? #			
Type of institution	Self-assessment	Peer review	Other (please specify)
Government			
Private non-profit			
Private for-profit			
Distance			
Partnership			
Joint venture			
100% foreign owned			

34. How are the findings of the quality assurance process disseminated (tick all that apply)? #				
Type of institution	Within the institution?	To government department?	Made publicly available?	Other (please specify)?
Government				
Private non-profit				
Private for-profit				
Distance				
Partnership				
Joint venture				
100% foreign owned				

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

I.E Credit Transfer and Recognition

35. Are there restrictions on the transfer of credits between the following institutions granting qualifications in your economy (tick boxes where restrictions on credit transfers occur, and give reasons)? #							
Type of institution	TO:						
FROM:	Govt.	Private non-profit	Private for-profit	Distance	Partnership	Joint venture	100% foreign owned
Government							
Private non-profit							
Private for-profit							
Distance							
Partnership							
Joint venture							
100% foreign owned							

36. Which of the following institutions awarding qualifications in your economy grant credit for courses taken outside your economy? Please indicate the basis on which credit is granted (tick all that apply). #					
Type of institution	Credit granted for courses taken outside economy?	Basis on which credit is granted:			
		Detailed quality assessment	Partnership arrangement	Rule of thumb (eg course length, reputation, language of instruction)	Other (eg mutual recognition agreement) (please specify)
Government	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Private non-profit	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Private for-profit	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Distance	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Partnership	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Joint venture	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
100% foreign owned	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				

37. Are there restrictions on the recognition of prior qualifications between institutions granting qualifications in your economy, for the purposes of further study (tick boxes where restrictions on recognition occur, and give reasons)? #							
Type of institution providing recognition:							
Type of institution granting prior qualification:	Govt.	Private non-profit	Private for-profit	Distance	Partnership	Joint venture	100% foreign owned
Government							
Private non-profit							
Private for-profit							
Distance							
Partnership							
Joint venture							
100% foreign owned							

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

38. Which of the following institutions granting qualifications in your economy give recognition of prior qualifications obtained outside your economy, for the purpose of further study? Please indicate the basis on which recognition is granted (tick all that apply). #

Type of institution	Recognition of qualifications obtained outside economy?	Basis on which credit is granted:			
		Detailed quality assessment	Partnership arrangement	Rule of thumb (eg course length, reputation, language of instruction)	Other (eg mutual recognition agreement) (please specify)
Government	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Private non-profit	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Private for-profit	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Distance	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Partnership	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
Joint venture	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				
100% foreign owned	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None				

39. Are there restrictions on the recognition by employers of qualifications granted by institutions in your economy, for the purposes of employment (tick boxes where restrictions on recognition occur, and give reasons)? #

	EMPLOYMENT BY:	
Type of institution	Government	Private sector
Government		
Private non-profit		
Private for-profit		
Distance		
Partnership		
Joint venture		
100% foreign owned		

40. Which employers in your economy recognise qualifications obtained outside your economy? Please indicate the basis on which recognition is granted (tick all that apply). #

EMPLOYER	Recognition of qualifications obtained outside economy?	Basis on which credit is granted:		
		Detailed quality assessment	Rule of thumb (eg course length, reputation, language of instruction)	Other (eg mutual recognition agreement) (please specify)
Government	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None			
Private sector	<input type="checkbox"/> All <input type="checkbox"/> Some <input type="checkbox"/> None			

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

.I.E Other

41. Are the following consulted in the process of developing regulatory changes (eg to accreditation requirements) in the higher education sector? #

Type of teaching institution	
Government	<input type="checkbox"/> No <input type="checkbox"/> Yes
Private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes
Private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes
Distance	<input type="checkbox"/> No <input type="checkbox"/> Yes
Partnership	<input type="checkbox"/> No <input type="checkbox"/> Yes
Joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes
100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes
Other groups	
Peak industry bodies (e.g. representative organisations of universities)	<input type="checkbox"/> No <input type="checkbox"/> Yes
Users (e.g. employers)	<input type="checkbox"/> No <input type="checkbox"/> Yes
Other (eg teaching unions) (specify):	

42. How are laws, regulations and administrative decisions made public and made known to the teaching institutions? Can institutions appeal or seek review of administrative decisions affecting them? # Please specify:

Type of institution	Departmental website	Official gazette	Other (specify):
Government	<input type="checkbox"/>	<input type="checkbox"/>	
Private non-profit	<input type="checkbox"/>	<input type="checkbox"/>	
Private for-profit	<input type="checkbox"/>	<input type="checkbox"/>	
Distance	<input type="checkbox"/>	<input type="checkbox"/>	
Partnership	<input type="checkbox"/>	<input type="checkbox"/>	
Joint venture	<input type="checkbox"/>	<input type="checkbox"/>	
100% foreign owned	<input type="checkbox"/>	<input type="checkbox"/>	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

II. POLICY FRAMEWORKS GOVERNING STUDENTS

II.A. Inward Movement of Students

43. Do any of the following restrictions apply to the entry of international students? # Please specify:	
	Type of restriction
Visa restrictions (eg quotas, restrictions on length/class of visa, requirement for prior admission, proof of financial support, language skills, fees)	
Quotas (eg general quotas, maximum proportions, quotas or restrictions for particular institutions)	
Restrictions on foreign students enrolling in certain subjects	
Requirement of a minimum amount of currency (either domestic or foreign) required to reside as a student	
Restrictions on foreign students gaining access to employment while studying	
Restrictions on foreign students gaining access to tuition subsidies while studying	
Restrictions on foreign students gaining access to other subsidies (eg travel concessions, health care) while studying	
Restrictions on educational institutions recruiting foreign students	

44. Do the enrolment criteria for international students differ from those of local students in any of the following institutions operating in your economy (eg proof of language ability)? # Please specify:		
Type of institution		If yes, give details of difference
Government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Partnership	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

II.B. Outward Movement of Students

45. Do any of the following restrictions apply to the exit of students to attend foreign institutions? # Please specify:	
	Type of restriction
Visa exit restrictions (eg quotas, requirement for prior admission, requirement to return to the home economy to work)	
Quotas (eg general quotas, quotas or restrictions for particular institutions or areas of specialisation)	
Foreign currency restrictions on domestic students studying abroad?	
Restrictions on offshore educational institutions recruiting local students	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

III. POLICY FRAMEWORKS GOVERNING INSTRUCTORS

III.A. Inward Movement of Instructors

46. Do any of the following restrictions apply to the entry of foreign instructors? # Please specify:	
	Type of restriction
Visa restrictions (eg quotas, restrictions on length/class of visa, language skills)	
Minimum qualifications	
Requirement for individual instructors to be registered or licensed to supply educational services	
Requirement of a minimum amount of currency (either domestic or foreign) required to reside as a visiting instructor	
Are there any taxation or superannuation requirements specifically effecting a visiting instructor (include limitations on repatriating superannuation contributions)	
Quotas/economic needs tests on hiring of foreign instructors in locally-based institutions	
Nationality or prior residency requirements for teaching in locally-based higher education institutions	

47. Do the registration or licensing requirements for foreign instructors differ from those of local instructors in any of the following institutions operating in your economy? # Please specify:		
Type of institution		If yes, give details of difference
Government	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private non-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Private for-profit	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Distance	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Partnership	<input type="checkbox"/> No <input type="checkbox"/> Yes	
Joint venture	<input type="checkbox"/> No <input type="checkbox"/> Yes	
100% foreign owned	<input type="checkbox"/> No <input type="checkbox"/> Yes	

III.B. Outward Movement of Instructors

48. Do any of the following restrictions apply to the exit of instructors to teach in foreign institutions? # Please specify:	
	Type of restriction
Visa exit restrictions (eg quotas, requirement to return to the home economy to work)	
Quotas (eg general quotas, quotas or restrictions for particular institutions or areas of specialisation)	
Foreign currency restrictions on instructors working abroad?	
An education or employment bond required after training (eg must work at home for a minimum time before going overseas)	

Policies affecting trade in education services may derive from a range of sources (e.g. legislation, implementing regulation, government administration, practice, etc.). Where relevant legislation, regulation or policy statement is available, please provide an electronic copy or link to the documents.

III.C. Past and Future Trade Policy Commitments in Higher Education

49. Please indicate any trade and/or investment agreements signed by your economy that has included, or will include commitments on trade and/or investment in higher education services. Please indicate briefly the nature of the commitment. Please include WTO commitments as well as those in free trade agreements. Where possible, please provide an electronic copy or link to the agreements.

Trade Agreement	Year Agreement (or amendment) signed	Description of commitment

Please, provide the name and contact information of the respondent of this questionnaire, or of a specialist from whom we can obtain clarifications if necessary.

Name_____

Telephone_____

Fax_____

E-mail address:_____

THANK YOU FOR YOUR PARTICIPATION

If you have queries regarding this Questionnaire, please contact the Project Team Leader.