

PROVIDING STANDARDS FOR HIGHER EDUCATION: INTERNATIONAL EDUCATION CONVENTIONS AS ALTERNATIVES TO TRADE AGREEMENTS

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INTRODUCTION

Judging from the amount of laws, regulations and other formal stipulations concerning human behavior and relations between humans from the time of Hammurabi to our own days, the quest for standards must respond to a deeply felt human need. The reasons for this are complex and exploring them is well beyond the scope of this article. However, it may be worth remembering that the search for standards for higher education is not an isolated occurrence, but part of a much larger social and societal phenomenon.

By way of introduction, it may also be useful to remember that when we speak about “free trade”, we do not mean trade in the absence of standards. While most countries allow and even encourage international trade of a wide range of goods ranging from cars to beef, few if any do so without stipulating a number of requirements the intention of which – in the absence of blatantly protectionist measures – are to ensure that the goods are safe and fit for purpose. Regulations requiring cars to be equipped with safety belts, lights² and solid brakes as well as environmental friendly emission and fuel systems or meat to be free of dangerous components such as those leading to the Kreuzfeldt-Jacob syndrome are just some obvious examples. Sometimes trade is allowed even when products are known to be potentially dangerous, at least if consumed in considerable quantities, but these products may be sold with a health warning. Cigarettes are of course the obvious example. These are, however, not just examples of trade standards, but of standards determined with other, overriding concerns in mind applied to tradable goods. Therefore, these seemingly “exotic” examples are directly relevant to the education debate.

Not least, increased internationalization of higher education, whether commercially driven as trade in higher education or more traditional through non-commercial cooperation and exchange – increases the needs for clear quality standards. My contention, which I will seek to demonstrate in this article, is that adequate standards already exist in the form of international education conventions - and in particular through the most recent of these, the Council of Europe/UNESCO Recognition Convention. Developing separate standards in the framework of GATS would be not only superfluous, but detrimental.

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² Although the details can vary. For example, in the Nordic countries, where driving with the lights on is mandatory at all times, new cars can only be sold if their lights turn on and off automatically with the ignition.

EDUCATION CONVENTIONS AND TRADE AGREEMENTS

My task, then, is to consider whether international education agreements, in particular Conventions of the kind developed by UNESCO and the Council of Europe, could either be an alternative to trade agreements or serve as standards also – but not exclusively – in the context of trade agreement. In practice, when we speak about trade agreements, we tend to refer to GATS, but the argument is one of principle and it is equally applicable to other contexts, such as the Mercosur/Mercosul or NAFTA³. Since my experience is mainly European, I will refer to the European context. Apart from the fact that this is an area I actually know something about, this approach may also be justified because the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the Europe Region is the most recent of what in UNESCO terms are regional conventions, because a revision of some of the other regional UNESCO Conventions is under consideration and may benefit from the European experience and, not least, because these issues are a part of a profound reform of higher education in Europe, commonly referred to as the Bologna Process, the aim of which is to establish a European Higher Education Area by 2010⁴.

These conventions have been established by educationalists in Ministries responsible for higher education as well as at higher education institutions and they reflect key concerns of the higher education community as well as the concerns of the wider society for quality and standards. In this, they parallel the standards for cars, meat and cigarettes referred to above: they are not primarily established to further trade but they are useful also in this context. Unlike GATS, the education conventions do not have an inbuilt pro-trade agenda, but if so desired, they can be used to further responsible, quality trade.

THE COUNCIL OF EUROPE/UNESCO CONVENTION: MAIN POINTS

The Convention on the Recognition of Qualifications concerning Higher Education in the European Region was developed by the Council of Europe and UNESCO and adopted by a diplomatic conference in Lisboa on 11 April 1997. The Convention has now been ratified by 32 countries and signed by a further 11, which is a quite impressive number for a European convention adopted only six years ago⁵.

Among the main points of the Council of Europe/UNESCO Convention are the following:

- Holders of qualifications issued in one party shall have adequate access to an assessment of these qualifications in another party.

³ North American Free Trade Area

⁴ See in particular <http://www.bologna-berlin2003.de/haupt1.htm>

⁵ The full text and a continually updated list of signatures and ratifications may be found at <http://conventions.coe.int>; search for ETS 165.

- No discrimination shall be made in this respect on any ground such as the applicant's gender, race, color, disability, language, religion, political opinion, national, ethnic or social origin.
- The responsibility to demonstrate that an application does not fulfill the relevant requirements lies with the body undertaking the assessment.
- Each party shall recognize qualifications – whether for access to higher education, for periods of study or for higher education degrees – as similar to the corresponding qualifications in its own system unless it can show that there are substantial differences between its own qualifications and the qualifications for which recognition is sought.
- Recognition of a higher education qualification issued in another party shall have one or both of the following consequences:
 - a. access to further higher education studies, including relevant examinations and preparations for the doctorate, on the same conditions as candidates from the country in which recognition is sought;
 - b. the use of an academic title, subject to the laws and regulations of the country in which recognition is sought.

In addition, recognition may facilitate access to the labor market.

- All parties shall develop procedures to assess whether refugees and displaced persons fulfill the relevant requirements for access to higher education or to employment activities, even in cases in which the qualifications cannot be proven through documentary evidence.
- All parties shall provide information on the institutions and programs they consider as belonging to their higher education systems.
- All parties shall appoint a national information center, one important task of which is to offer advice on the recognition of foreign qualifications to students, graduates, employers, higher education institutions and other interested parties or persons.
- All parties shall encourage their higher education institutions to issue the Diploma Supplement to their students in order to facilitate recognition. The Diploma Supplement is an instrument developed jointly by the European Commission, the Council of Europe and UNESCO that aims to describe the qualification in an easily understandable way and relating it to the higher education system within which it was issued.

While, in a legal sense, the Convention is only applicable to the parties, i.e. the countries that have ratified the Convention or otherwise declared themselves bound by it, if its provisions are taken as indications of good practice, they can equally well be applied in other contexts, including to qualifications that do not emanate from a national education system.

As can be seen, the Convention outlines the basic principles for the fair assessment of foreign qualifications at all levels from access to complete degree studies and it establishes implementation mechanisms. The latter point is important, because like any other legal text, the Convention is a necessary but not sufficient condition for improving the recognition of qualifications. Any law or agreement is only as effective as its implementation, and those in doubt may wish to think about the effect of traffic laws without implementation mechanisms, commonly referred to as traffic police. Therefore, while nobody is talking about any kind of “recognition police”, the Convention Committee and the ENIC Network, as expert bodies representing the parties, play an important role in determining the real effects of this text, as do the national information centers in their respective countries.

The Council of Europe/UNESCO Convention combines a strong injunction for the competent recognition authorities to assess all applications fairly and to recognize foreign qualifications to the full extent possible with safeguards as to the quality of qualifications, institutions and programs and an emphasis on the importance of providing transparent and reliable information.

The Convention therefore aims at improving the recognition of foreign qualifications and indeed to make it easier to have foreign qualifications recognized provided they are of sufficient standards. In this sense, it works in the same direction as the GATS agreement - toward improving movement between institutions as well as to the labor market, but it does so in a context that is not necessarily commercial. The Convention works equally well in a traditional higher education context as in an explicitly commercial one.

I believe qualifications may be described in terms of workload, level, quality, learning outcomes and profile⁶. The Council of Europe/UNESCO Recognition Convention stipulates the principle for the comparison and assessment of qualifications, and it emphasizes that qualifications should be recognized unless there are solid reasons for doing otherwise. In other words, minor differences should not lead to non-recognition, and a subsidiary text to the Convention – the Recommendation on Criteria and Procedures for the Recognition of Foreign Qualifications and periods of Study – underlines that if full recognition cannot be granted, the possibility of granting partial recognition should be explored before an application is rejected. This should also be in line with the general spirit of GATS.

Higher education is more diversified today than it was just a generation ago, and this means that whoever assesses a qualification also needs to know something about the institution and/or program having issued the qualification. This is one of the main reasons why the link between recognition – which assesses the quality of individual qualifications – and quality assurance – which assesses the quality of institutions and/or programs – is important. The Council of Europe/UNESCO Recognition Convention does not address the issue of quality assurance in so many words, and this is a reflection the developments in this area since 1997. Only six years ago, there was still discussion of whether a formal system for quality assurance was necessary, whereas today, the discussion focuses on what such a system should be like.

⁶ On this issue, see the report from the seminar on qualifications structures in Europe organized by the Danish authorities in København on March 27 - 28, 2003, as a part of the work program of the Bologna Process, cf. http://www.vtu.dk/fsk/div/bologna/Koebenhavn_Bologna_Reprot_final.pdf

Nevertheless, the Convention does include a Section on institutional recognition, and the provisions in this Section are sufficient to allow states party to take account of developments in quality assurance systems. If we had the luxury of rewriting the Convention, I would have liked to adjust this Section, but it can also be useful as it is. The most important consequence of the developments underway is perhaps that almost all states will come to apply the provisions directed at parties that have a formal system of institutional assessment and few will make use of the provisions for those that do not have such a system. This will in itself be a welcome development.

THE RELATIVE MERITS OF FRAMEWORKS

In my view, then, the Council of Europe/UNESCO Recognition Convention is fully able to meet the concerns of a more inclusive recognition practice that one can read as an underlying dimension of GATS, and it does so with due regard to general concerns for quality. The question is the whether this Convention, and other like it for other regions of the world, are not only a suitable framework but also the best.

It is perhaps not a great surprise if this is considered something of a rhetorical question but the reasons for this are worth going into. The Convention is a text that fully meets the concerns of the higher education community, and this should surely be an important argument. In addition, it also meets broader societal concerns. Not least, it has an implementation mechanism, and it can be supplemented by subsidiary texts. Some such texts have already been adopted on international access qualifications, on criteria and procedures for the assessment of foreign qualifications and periods of study and on the provision of transnational education, and a text on the recognition of joint degrees is under preparation. Even if we should try to avoid a plethora of subsidiary texts, this means that the Convention has sufficient flexibility to meet new concerns.

The main bodies entrusted with the implementation of the Convention, i.e. the Convention Committee and the ENIC Network, are made up of representatives of the states party, specifically the public authorities responsible for higher education. This is an important point because I believe that even if public authorities should not have a monopoly on the provision of higher education, they should have a major responsibility for it. Within the Bologna Process of higher education reform, which aims to establish a European Higher Education Area by 2010, there is now a discussion on the public responsibility for higher education. I believe this responsibility needs to be nuanced, and I have suggested that the following outline can at least be a useful basis for further debate⁷:

- public authorities have *exclusive responsibility* for the *framework* of higher education, including the degree structure, the institutional framework, the framework for quality assurance and authoritative information on the higher education framework.

⁷ The following points have been taken from Sjur Bergan: "Higher Education as a "Public Good and Public Responsibility": What Does It Mean?" presented at a seminar organized by the Greek authorities in Athenai on February 19 – 20, 2003.

- public authorities bear the *main responsibility* for ensuring *equal opportunities* in higher education, including access policies and student finance.
- public authorities should have an *important role* in the *provision of higher education*. While there should be no public monopoly on higher education provision, public authorities should be heavily involved not only in designing the framework but also in the actually running of higher education institutions and programs, to contribute to good educational opportunities on reasonable conditions and to ensure that higher education encompasses a wide variety of disciplines and levels.
- public authorities have an *important financial responsibility* for higher education. Public funds may and should be supplemented by money from other sources, but these alternative funding sources should never be a pretext for public authorities not to provide substantial public resources.

If we accept this degree of public responsibility for higher education, it would seem reasonable that the standards for higher education be developed with due regard to the concerns of the higher education community and of society at large.

One could of course imagine a separate set of rules governing trade in higher education, and concern has indeed been expressed that if the Council of Europe/UNESCO Recognition Convention is offered as a standard also in the framework of GATS, the main stakeholders may lose control of its further development and implementation. Perhaps there is reason for concern, but I would be much more concerned about a possible development of separate standards for the part of higher education that is offered on a commercial basis. In this case, we would run the risk of two-track higher education provision with very different standards and a difficult and possibly acrimonious debate on quality and recognition of qualifications.

I therefore believe that conventions and international treaties developed by the competent public authorities in close cooperation with the higher education community, such as the Council of Europe/UNESCO Recognition Convention and the UNESCO regional conventions, are the best means of ensuring fair recognition of qualifications granted by high quality providers regardless of whether these operate on a non-profit or for-profit basis. Separate education standards in the framework of GATS could, on the other hand, lead to the development of separate and probably unequal two higher education cultures, and rarely would the twain meet. In this case, we would all lose, but none would lose more than the students.

