



European Student Handbook on Transnational Education



DEFINITION OF TNE

”All forms of Higher Education, or sets of studies or educational services, including distance education in which the learners are located in a country different from the one where the awarding institution is based. They may belong to the state in which it operates, or may operate independently of any national system” (UNESCO-CEPES and Council of Europe)

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0. Foreword

When the EC 2002 of ESIB started discussing the idea of having a project on Transnational Education (TNE), the topic was, outside a small group of ESIB experts, not widely known among students. Nowadays, the topic is widely known and students, teachers and universities engage in heated and long discussions about the benefits and dangers of TNE.

The progress of change has taken less than a year. With the support of the European Commission, DG Education and Culture ESIB has carried out a project titled: “Transnational Education-fostering access or generating exclusion?” This handbook on TNE is the final stage of this project. A conference with approximately 60 participants from all over Europe has been carried out in Dusseldorf, Germany last September. A policy on TNE has been created and passed at the 43rd ESIB Board Meeting in Finland last October.

The project group has carried out a survey on TNE related questions amongst the member organisations of ESIB. Lastly, it is planned, after the official closure of the project to carry out a speakers tour on TNE in South East and Eastern Europe to raise awareness of the issue and develop solutions in those countries, which are at present most heavily affected by TNE developments in Europe.

This handbook aims at summarizing a number of the findings from the workshops in Dusseldorf and also explores new questions and trends, which are there. The handbook begins with a short introduction to Transnational Education. The second chapter focuses on forms and providers of TNE and tries to give some case examples as well. The third chapter will deal with potential problems and opportunities of TNE. The fourth chapter will deal with Trade in Education, another hot topic at the time being, and the negotiations on the General Agreement on Trade in Services (GATS) in the World Trade Organisation (WTO). The fifth chapter will explore the student perspective on TNE. How does the role of a student in a TNE institution differ? How are these students represented and how can their rights be guaranteed? These are just two of the questions. In the sixth chapter, we will try to give a brief outlook on possible future scenarios and draw some conclusions about actions to be taken to make TNE a beneficial arrangement. In the seventh chapter, we will give an external perspective, from Education International (EI) and some other useful documents and tools for the reader.

TNE as such is rather good not bad, but it is bound to stay. As Chantal Kaufman from the Ministry of Education of the French speaking community in Belgium once said on a conference on TNE: the difference between TNE and ET is that they are both coming from out of space but ET wants to go back home. Since we expect to have to deal with these issues for the years to come, this handbook hopes to offer help and information on issues related to TNE. It is also written to serve as a reference tool for students, teachers, university staff and decision makers and experts on the issue.

On this occasion, I would like to thank those people in ESIB, who have contributed largely to the success of the project and this handbook. James Cemmell, Francesca D’Ingianna, Kristina Lutz, and Terhi Nokkala - the ESIB Committee on Commodification has invested a lot of time and energy into the planning and carrying out of the project. The local student union of Dusseldorf polytechnic, which arranged everything for us and gave an excellent space to work for the conference. Thanks to the ESIB staff, Alex Bols and Vladimir Erceg, for the administrative support. I also want to thank Monique Fouilhoux (Education International) for the contribution the reader will find in the appendix. Last but not least, Carolyne Campbell (Quality Assurance Agency United Kingdom), Guri Skoklefeld (European Commission, DG Education and Culture) and Andrée Sursock

(European University Association) the speakers at the conference, who gave inputs that proved highly useful in fuelling the discussions in the workshops.

There is nothing left for me to say except to wish you a pleasant reading and to hope that this book will be of help to you and your organisations for the future work.

All the best

Stefan Bienefeld
ESIB Chairperson 2003,
Project responsible 2002

1. Transnational Education – Background

The changing logic of higher education

The definitions of the most important functions of the universities have varied greatly in time. They have been said to act as ideological apparatuses either recreating or opposing the dominant ideology of the state, as mechanisms for selection of dominant elites and as generators of new knowledge. Higher education has also been defined as being a human right, a means of personal growth of the individual, as a means of constructing culture, sharing traditions and providing well-being for the society as a whole and as a means of accumulating personal and societal wealth and competitiveness. (See e.g. Bowen 1980, Scott 1998, Castells 1991.)

The paradigm of higher education, as well as public services in general, is changing (Ball, 2001). The traditional view of higher education sees it as primarily a public good benefiting the whole society and as something defined by the higher education institutions themselves, funded mainly by the public authorities and with an emphasis on internal (institutional or academic) and political decision making. The new view of higher education, whilst not eradicating the traditional ideas, also emphasises the importance of higher education as a private good benefiting the person acquiring it. It is also as a means of generating profit, funded by the internal/direct beneficiaries (i.e. student) and external/indirect beneficiaries (e.g. employers, state) both looking for particular gains to be achieved through acquiring higher education. It lays emphasis on market mechanisms and means of facilitating those mechanisms (e.g. trade agreements). This view is manifested in the rhetoric of education: according to Ball (1998), such firmly established concepts as the ‘learning society’ or the ‘knowledge-based economy’ “serve and symbolise the increasing colonisation of education policy by economic policy imperatives”. The new paradigm ensures that stakeholders of education are also on the increase.

European higher education has been subjected to various changes within the past decades. The economic role of higher education has increased as knowledge and innovation have become the key competitive factors of societies. At the same time, participation in higher education has expanded to numbers unseen ever before. The notion of higher education being primarily a means of elite reproduction has changed into mass higher education; with participation rates over 50 per cent in certain countries, it has changed into universal higher education. Massification of higher education and new ideology of the “new public management” have led to increased accountability of the higher education institutions towards their primary source of funding, the public authorities.

During the 1980’s and as a result of the economic depression in the beginning of the 1990’s many of the European countries have introduced various result-based models for funding higher education institutions. Also different forms of customer funding, including tuition fees or graduate taxes seem to be a growing worldwide trend (Merisotis 2000). At the same time, states have assumed a somewhat stronger role in regulating higher education institutions, and there has been a lot of discussion in the academic community about the curbing of the traditional academic freedom and institutional autonomy as a result of the increasing state supervision and control.

Parallel to the decline of public funding has been the increase in alternative funding sources, namely funding from different private sources, industry, customers and in the European Union countries also the funding from various EU sources, such as the structural funds and framework programmes for research. The higher education institutions themselves have also strived to broaden their funding base by, for example selling their expertise in the field of education and research, by starting various programmes for professional development and by establishing special units dedicated for customised research (see e.g. Clark 1998). The emerging global market for higher education has also provided the higher education institutions with the possibility of raising revenue by selling their education and providing transnational education in countries with market potential for higher education.

Massification changing the mission of higher education

Higher education institutions, especially the universities with their thousand-year history, were previously tuned to educating the narrow elite of the societies. Higher education was primarily a means of reproduction of the existing hierarchies and only offered a passage up the societal ladder for the selected and lucky few. As the large age groups of the post-war period reached the age of entering either working life or higher education, the number of starting places in higher education was increased. With the strengthening of the knowledge society and the new ideologies of equal access, the participation in higher education has increased ever since, and is in many western European countries approaching 50 per cent or more of the age group.

The scope of higher education has also increased both in the way of diversification of institutions and higher education programmes and courses, as well as by the means of increasing student numbers. The latter half of the 20th century saw the birth of the non-university sector of higher education, namely the polytechnics or the “fachhochschulen” and in some countries, such as the United Kingdom we have witnessed their merging into the traditional university sector. At the same time, the disciplinary diversification of higher education has peaked within the past decades as a result of new fields of research being founded and the societies needing new types of professionals. The amount of private providers has grown, especially within the non-traditional provision of higher education such as life long learning, skills updating and professional development. Even degree courses are offered privately especially in the USA and Southeast Asia. In Europe, the majority of higher education is still publicly funded and organised, though transnational provision is growing in Europe as well.

This massification of higher education has created many new challenges for higher education institutions. The teaching methods have not been able to keep up with the pace of the increasing class sizes, and the funding has not been sufficient to cover the increasing costs of more class room space, books, ICT, student accommodation, student counselling and guidance or teaching hours needed.

The surge of new students into universities and polytechnics has also changed the general picture of a student in higher education. The previous image of a student between 18-22 years of age with a middle-class background entering higher education directly after school has changed dramatically. Nowadays an increasing number of students in higher education come from disadvantaged backgrounds and are generally older with more life experience and different personal situations. The perception of learning process has to change as well to accommodate the needs of the diversifying student body. Higher education institutions have to find ways to take into account the previous life experiences, students with full and part time jobs who demand flexibility in the curricula and disadvantaged students who may need special arrangements in terms of student counselling and guidance, as this group might be previously unfamiliar with the notion of higher education studies. This is mainly relevant for the situation in Western Europe. In central and eastern Europe there are still severe problems with equal access, but the problems related to insufficient funding are alike, the same can often be said for large parts of central and eastern Europe. The problems arising from diversifying student body are, however, likely to be just as complex.

At the same time as new student groups are entering their first degree education, the ever complicating working life has resulted in upsurge of continuing and further education and training for those already in the working life who wish to update their skills and credentials to meet the new demands. The higher education institutions have established their own continuing education units, the employers are updating the skills of their employees and the employment administration updating the skills of those currently or permanently out of job. New education providers are aiming for this niche market with tailored courses, often provided transnationally.

New expectations for higher education institutions: adaptation and economisation

Massification of higher education and the development of knowledge-based economy have also changed the expectations that societies have for higher education institutions. With the introduction of the knowledge-based society, higher education institutions have to answer to more instrumental needs. Scientific innovation and the capacity to commercialise that innovation becomes crucial. Universities and other higher education institutions are the prime providers of basic research behind the scientific innovations, and nowadays to an increasing degree also the ones to apply that innovation and commercialise it. This has resulted in increasing amount of customised research done in co-operation with higher education institutions and private companies.

Facing these new demands, higher education has to change. Higher education institutions can no longer remain the ivory towers isolated from the rest of the society, but have to accommodate to the changing needs. An increasing emphasis has been laid upon the labour market needs. In addition to theoretical knowledge of their field of study and general analytical skills, the higher education graduates are expected to have practical skills needed in the working life as well as good social and interactive skills.

Besides the traditional tasks of research and research-based teaching the higher education, institutions have been endowed with a new task, to be of service to the society. This is most eloquently presented in the regional development role of the higher education institutions, as they have become important factors in regional policy making. They are to be the prime motors of the otherwise deprived peripheral regions and it is expected that establishing a higher education institution will boost up regional economy otherwise lagging behind the centre areas.

This new ideology of the economic importance of higher education and research is reflected also in the Bologna Declaration aiming to establish the European Higher Education Area (EHEA). The declaration emphasises the employability of the higher education graduates and transferability of qualifications acquired in other countries. All this aims at increasing competitiveness of European higher education as such and specifically the European higher education graduates entering the labour markets all around Europe.

The economic importance of higher education makes it an important policy field for nation-states. There is a distinct correlation between rates of participation in higher education and the overall economic development of countries: the rate of participation in higher education in the OECD, representing 30 of the wealthiest countries in the world, in the beginning of 1990's was 51 per cent compared with 21 per cent of middle-income countries and 6 percent of developing countries. (Sadlak 1998.) The importance of education in economic policies of various countries has by no means declined since.

Global market for higher education

The global market for trading higher education has expanded rapidly over the past few years. According to a recent OECD study (Larsen, Morris & Martin 2002), the annual turnover for trade in educational services in 1999 in OECD-countries amounted to ca. 30 billion USD, corresponding to roughly three per cent of total trade in services in OECD countries. That figure, however, only takes account "consumption abroad", that is, overturn of students studying abroad. According to OECD statistics, the number of foreign students studying in 30 OECD-countries was 1.47 million. Earlier UNESCO statistics show that in the academic year of 1994/95 the 50 largest host countries hosted foreign student population of over 1,5 million (Bruch & Barty 1998) and nothing points to the decline of the growing trend.

However, the real value of trade in educational services is much larger, but because of insufficient statistics, the information is hard to come by. As the other forms of providing educational services, i.e. distance learning and commercial presence of foreign higher education institutions increases,

the accuracy of statistics diminishes. The prime providers of education are the largest, primarily English speaking OECD- countries. In absolute figures, the United States is by far the biggest exporter of educational services, followed by the United Kingdom, Australia, Italy and Canada. Education is the eighth largest export industry in Australia, amounting to 12 per cent of the value of Australia's services exports. Australia is also the most competitive exporter of education. In New Zealand and United States, education is on the fourth and fifth place in the service export statistics. (Larsen, Morris & Martin 2002.) Also former colonial super powers with widely spoken languages such as France, Portugal and Spain, have their particular market areas for selling education.

Some of the challenges identified in face of the globalisation of educational market are the competitiveness of national higher education systems in the global higher education market, as well as the competition faced by individual higher education providers from the new providers of education. Also urgent are the possibilities for nation states to create a balance between ensuring national cultural and social objectives for higher education and the need to keep up with the global competition in higher education.

A question can be asked whether the university as an institution will remain bound to the national/international context of the declining world order of nation-states, be superseded by globally-based commercial knowledge institutions or transform into a global university. Higher education provision may differentiate into a wide field shared by few world-class traditional universities, networks of traditional universities trading in global market place, various hybrid organisations and commercial virtual and networked global universities. (Scott 1998) Several researchers have also testified the globalisation of, and the disappearance of the state monopoly in, knowledge production (see e.g. Castells 2000, Carnoy 2001, Moja & Cloete 2001).

A good example of the spreading of the provision of higher education across borders is the phenomenon of the "transnational education" (see e.g. Machados dos Santos 2000) or the "borderless higher education" (see e.g. DEETYA 2000). By transnational or borderless education we mean the vast array of non-profit and for-profit public and private higher education providers, who provide education in countries other than their own either by establishing branch campuses, via partnerships and twinning arrangements or by offering e-learning in the internet. Transnational education as well as ever increasing student mobility is contributing to the rapid growth of global higher education market.

Global educational markets are "creating new dynamics which have the potential to challenge traditional national higher education systems" (Välilmaa 2001). Globalisation is providing new perspectives into the discussion about the roles of national higher education systems despite for being contested as a concept and social phenomenon. By focusing attention on the changing web of relationships between global actors, nation-states and higher education institutions globalisation reveals the changes in the social dynamics of higher education and knowledge production central to the success and compatibility of any state today. Välilmaa concludes that "competition on the educational markets has ceased to be a matter decided by nation-states, becoming an issue where global actors are unavoidably involved".

In the globalised world the various intergovernmental institutions, which traditionally have operated in the fields others than education, have taken a growing interest in higher education. Those institutions include actors such as the World Trade Organisation (WTO), World Bank and Organisation for Economic Cooperation and Development (OECD). The OECD, especially, and the World Bank, with their economy-based education agenda, have been able influence education policies around the world. UNESCO (United Nations Educational, Scientific and Cultural Organisation) on the other hand, is in its policies limited to somewhat universal and consensus

based approach. (See e.g. Jones 1998.) The European Union, on the other hand, has so far had rather limited agenda in educational issues, as in the Maastricht Treaty those are left to the jurisdiction of the individual member states in accordance with the Subsidiarity Principle (Van der Wende 2000). The increasing activity of the European Commission in the education policy making (e.g. the policies on life long learning, e-learning, mobility etc) as highlighted in the recent EU policy documents such as Agenda 2000 and conclusion of Lisbon and Feira meetings give rise to the presumption that the activities and importance of EU in the field of education are increasing.

Converging higher education in Europe

Higher education policies of different countries are increasingly interconnected through various international structures, such as the EU, and agreements, such as the Lisbon convention on the recognition of academic qualifications. The aim of those structures and agreements is, for example, to facilitate mobility, but at the same time, they point towards a certain convergence in higher education policies.

Probably one of the most far-reaching manifestations of convergence in the European higher education is the so-called Bologna Process, which aims at creation of the European Higher Education Area. The Bologna Declaration, which is seen as the official starting point of the long ongoing process of convergence in European higher education, was signed in June 1999 by 31 minister of education representing 29 European countries. The main aims of the Bologna Process are to facilitate mobility within European higher education, enhance quality of higher education degrees and ultimately increase competitiveness of European higher education. The means for achieving these goals range from creating a shared structure for bachelor and master degrees and setting up a common framework for quality assurance and accreditation, to creating a European Credit Transfer System (ECTS) and facilitating the implementation of a Diploma Supplement, which clarifies the contents and qualifications of one's degree. (The European Higher Education Area, 1999, Van der Wende, 2000.)

Conclusions

All these new changes in higher education and its environment: the increasing financial autonomy accompanied by the economic distress of the higher education institutions, the growing international market for higher education, massification and increasing needs for higher and further education as new groups of students are entering higher education as well as the changes brought about by further international interconnectedness of higher education policies and providers are paving the way for new transnational provision of higher education. This phenomenon with all its complexities, benefits and shortcomings will be presented and analysed in the following chapters.

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2. Forms and Providers of Transnational Education

Transnational Education can occur in various different forms and can be provided by a variety of providers.

The current chapter aims at exploring the different forms of TNE and give a brief overview over different providers of exported and imported education services. It can, however, just give a brief overview over the issues and especially the providers of TNE. For more information, the interested reader is referred to www.unesco.org/education and the study abroad section.

With the rapid growth of Information and Communication Technology and the growing international market for Higher Education, a variety of different forms of TNE has developed. It is important to note that different forms are prevalent differently in different parts of the world.

We will start this enumeration with e-learning, which differs most from the other forms of TNE, as it has a number of special prerequisites, which are not needed for the other transnational arrangements. For the other TNE forms, the providers will be summarized for all; specific examples will be given throughout the text. We will close this chapter with some remarks on so called “degree mills” which are not really TNE, but are usually discussed as a TNE related problem.

E-learning

In Western and Northern Europe, the most common form of TNE is learning through distance learning applications, with a growing share of this form being occupied by e-learning arrangements. Courses, modules or whole programmes are studied via Internet in many countries and can easily be accessed by anyone around the globe at any time. These flexible learning arrangements, which can be offered by online learning are especially relevant for mature students or part time students as well as students from geographically remote areas. Besides traditional institutions who are offering more and more courses online (for example MIT is offering course materials online for free), media companies (often in co-operation with university networks such as Universitas 21) or solely Internet based universities (such as the university of Phoenix, Arizona, www.phoenix.edu) offer such arrangements. Also, multinational projects have been launched in distance learning arrangements such as the African Virtual University (www.avu.org). Traditional distance learning arrangements continue to exist and expand besides these ICT based offers, but the growth is most rapid in the ICT driven programmes, as they seem to offer the maximum of flexibility around the world. It should, however, be noted, that these programmes are mainly designed for developed countries with a big percentage of the population with Internet access. Therefore, one of the urgent issues to be addressed is the developing digital divide between North and South and East and West. Furthermore, new learning and teaching of paradigms will be needed to make e-learning work for the majority of people. These points will be rediscussed at a later stage in this handbook.

Other forms of TNE and its providers

Besides the classical distance learning arrangements, there is a variety of other forms of TNE. All these forms resemble each other more or less, but there are also a number of differences.

As the first form of TNE, “**franchising**” can be mentioned. This refers to an inter-institutional arrangement whereby a higher education institution from a given country grants another institution from a third country the right to offer the franchising institution’s programmes or qualifications in the country where the other education institution is situated. The student in these arrangements can be situated either in the country of the franchiser, the country of the franchisee or another country.

An example of franchising for example would be an Australian Institution granting the right to use its nursing programme to a South African Institution.

A second form of TNE occurs through so-called “**programme articulations**”. In these arrangements, two or more institutions of higher education agree to jointly define the curriculum of a study programme, which can then be offered by both institutions. In these arrangements, credits are usually transferable and recognised between the participating institutions. A well-known example of this are joint degrees offered by institutions, such as the German-French Law programme at the University of Cologne and the Sorbonne in Paris. UNESCO is managing an international program called UNITWIN where different institutions in co-operation with each other offer degrees in the fields of competence of UNESCO, namely educational studies, cultural studies, peace studies and human rights study programmes.

So-called **international institutions** are institutions that have no country of origin. They usually offer international qualifications which are not part of any national educational system. International institutions may be having branches in several countries. A number of the international business schools offering MBAs around the world fall into this category.

Branch campuses refer to the fact that an established university (public, private non-profit or private for profit) establishes a branch in another country offering its own educational programmes and degrees in that third country. This form of TNE is most common in many developing countries and Eastern European countries. The main providers of this specific form of TNE are universities from the United States, Australia, the United Kingdom, Germany, France (in French speaking countries in Africa and Asia) and Spain (in Spanish speaking countries in Latin America). The institutions often take on a different legal status in the country they are operating in compared to the country they come from.

Off-Shore Institutions as the last major form of TNE finally are autonomous institutions established in a home country but belonging, in terms of organisational, legal and programme aspects, to an education system of another country without having a campus in its country of origin. An example of this is the Latvian University in Israel, which does not have a campus in Latvia itself.

Besides these main forms of transnational education, other forms may occur such as large corporations offering specific upgrades of skills for their employees in their own “**corporate**” universities. This is given in the cases of Microsoft and McDonalds for instance.

A given institution may fall into one or several of these categories or may even establish a new one, since the rapid development of TNE leads to establishments of new forms on a continuous basis. All the above-mentioned forms have their good and bad aspects, all have specific problems attached to them and demand different regulatory frameworks as will be explored in chapter three.

As has already been stated, the providers of TNE are both traditional public or private higher education institutions as well as for profit institutions or large education enterprises such as the Apollo group, which is operating the University of Phoenix, Arizona. The reason for the emerging of those providers are mainly related to the growth of market mechanisms in higher education, decrease of public funding, which makes the export of education services a potentially profitable business and related to that the rapid expansion of the world market for higher education.

Besides economic aspects, some forms of TNE also aim at fostering sustainable development and global justice, as can certainly be claimed for the UNESCO related programmes.

It remains to be seen how the expansion of the market in higher education and the evolution of a clearer set of global regulations will affect the development of both forms and providers of transnational education.

Last but not least a short word about the so-called **degree mills**. Everyone will probably know the e-mails offering a Bachelor degree for 5000 US \$ or so. These institutions, referred to as degree mills, usually do not fall into the realm of transnational education provisions as they are not real universities and usually have an office somewhere which is signing and stamping degrees only, without any programmes or actual studies attached to them. Degree Mills cause huge problems and have led to a distorted picture of TNE. It will therefore be necessary to distinguish more clearly between TNE and degree mills in the future and also to analyse critically the impact of TNE with relation to the so called market in higher education and the development of higher education around the world.

The following chapters will assess these questions in more detail.

3. Problems and Opportunities with Trans National Education

Introduction

There are indeed serious implications stemming from the fast and unchecked growth of transnational education. These difficulties are augmented by the fact that TNE often falls outside the official framework for higher education and, as a consequence, stays outside the official framework for HRE and stays outside the formal supervision of academic standards. In synthesis the most problematic issues emerging from the expansion of TNE are:

- **Regulation**, “the various legislative, cultural and linguistic consequences of partnerships or other education arguments”;
- **Quality assurance**, “the assurance of quality and standards of both study programmes provided and degrees awarded through collaborative partnerships”;
- **Recognition**, “the recognition of qualifications awarded through such transnational collaborative partnerships”

There is a basic concern behind these considerations- the need for consumer protection. As said before, malpractice may occur and there are “degree mills” in operation, so people may hold titles without formal or substantive value. The aggressive marketing of institutions and programmes is not always helpful and may even be misleading or deceitful. These problems also concern other stakeholders, like official academic institutions or employers, who may be misled into accepting non-recognized or false qualifications.

For the reasons set out previously, it is clear that further clarification is needed in order to make transnational education beneficial to all concerned, in terms of the learning opportunities provided, the standard of the award or qualification, and the quality of what is offered to the students, in so doing making collaborative arrangements a real partnership, and therefore acceptable from the perspective of both receiving and sending institutions/systems. This need is particularly manifest in terms of academic quality, degree awarding standards, and recognition requirements. In order to deal with matters specific to transnational education, a better understanding of its practices, of its normative basis, and of its consequences for the receiving and the sending systems and institutions is needed.

Many of the recent changes in higher education described in the previous chapters are beginning to have an impact on the structure and forms of higher education that already exist (at this stage, more in some countries than others) and are leading to questions about the purposes, outcomes and funding of existing institutions. The changes and the ensuing public debates about higher education also have implications for the parameters of “quality” in education and for the principles and procedures that underpin quality assurance arrangements. Recent reports provide more detail about the kinds of changes that are occurring and their policy implications for higher education.

- The principal forms and distinctive characteristics of new forms of higher education;
- The implications of new forms for current approaches to internal and external quality assurance;
- The implications of these new forms for institutional, national, regional and international recognition of qualifications.
- The development of outline typology to describe new forms of provision; and
- The identification of the quality assurance issues associated with these new forms of provision.

Not all the developments described have yet made their appearance widely in Europe. Some are limited to a small number of locations, many are at present restricted to one or two countries elsewhere in the world (principally the USA). But experience suggests that technological advances

and moves towards the internationalisation and globalisation of many areas of human endeavour spread fast. Today's strange ideas often become tomorrow's innovation and next year's orthodoxy. It should also be noted at the outset that the issues and dimensions covered are likely to have a different level of effect in different European countries. For example, what counts as (official) higher education will vary, as will the extent of commercial pressures on universities and levels of demand from students. Some of the issues outlined will also be of greater relevance in some subject areas than in others (for example, business and management, languages, IT, healthcare) and in some countries these subjects are part of specialist institutions rather than being part of universities. And in any report that focuses on international higher education, there will be differences of definition and structure. However, given the collective impact of globalisation, all countries need at least to be aware of the variables included and quality assurance agencies will need to come to a view as to how they should respond to the regulatory and quality assurance issues.

Regulations

The question of the regulation of higher education can no longer be solved solely within any single country. Instead, both national and international solutions are needed.

International solutions

Some attempts have been made to solve these questions, for example by UNESCO and groups of providers. Some actors see the ongoing negotiations about the General Agreement on Trade in Services (GATS) in the World Trade Organisation (WTO) as a solution to those questions. The attempt to solve problems of regulation of transnational education in a free trade framework also suggests a more market driven approach to higher education in general, which conceptualises HE as a commercial service being offered to consumers. In the relationships between the EU member states, the same question arises from the implementation of Directives relating to the internal market and the mobility.

The European Directives 89/48/EEC and 92/51/EEC provide a framework for the recognition of qualifications for the purposes of access to regulated professions in the countries of the European Union and the European Economic Area.

National solutions

Currently no devices and mechanisms exist to regulate and influence the different aspects of the provision of TNE. Some focus on the receiving function and some on the exporting factor. A few of these are specifically designed to cover TNE, some are voluntary and some just prohibit.

Current national and international regulations of TNE takes many forms and is, in consequence, fragmented, disorganized, uncoordinated, often voluntary and ineffective. This is true only with a few notable exceptions here some sort of serious attempt at national control and regulation exist. Where such controls are present their strength is dependant on the particular nature of TNE in question, e.g. stateless "virtual universities" are free from regulations whilst in states where national quality assurance bodies have given a remit to regulate exporters of TNE, closer engagement can be valuable. However for the most part, TNE is not effectively controlled. Furthermore, non-official education is a growing sector.

Sending countries

Some of the providers, i.e., the sending institutions, in an attempt to address several of the issues set out above, have elaborated specific codes of practice. Worthy of mention in this respect are:

- Quality Assurance Code of Practice: Collaborative Provisions prepared, and monitored by the Quality Assurance Agency in the United Kingdom;
- Code of Ethical Practice in the Offshore Provision of Education and Educational Services by Australian Higher Education Institutions elaborated and monitored by the Australian Vice-Chancellors Committee;
- Principles of Good Practice for Educational Programmes for Non-U.S. Nationals is a code shared among the regional institutional accrediting bodies of the United States which, in turn, augment these Principles through additional procedures and regionally based criteria for quality. Further, several additional U.S. professional education accrediting bodies and national institutional accrediting bodies adopt codes and procedures related to educational programmes that cross borders.

Receiving countries

Looking now at the situation in the receiving countries, three main possibilities have been identified:

- no legal/normative instruments exist, and no "good practice" has been developed in dealing with transnational educational provision;
- legal/normative acts do exist, but as yet no "good practice" in their implementation has yet been developed;
- attempts to institute appropriate practices have been made, but without any legal basis.

The legal framework for the regulation of higher education seems to need serious consideration in each country, in order to develop a more comprehensive, diverse and elaborate approach, keeping in mind that the open regulatory systems demonstrate better adaptation to the new and non-official forms of higher education provision. In developing national solutions, information and transparency are crucial. National Academic Recognition Centres network (NARIC, by EU) and the European Network of Information Centres (ENIC, by the Council of Europe and UNESCO/CEPES) are valuable tools for spreading information. Also diploma supplement can be used as a means to introduce greater transparency into the certification of qualifications and provide better information for consumer protection and for recognition procedures.

In addition to spreading information and increasing transparency through ENIC/NARIC networks and diploma supplement, national regulation takes a number of different forms:

- A few states give their quality assurance agencies specific responsibility for the standards and delivery of transnational education exported by nationally recognised domestic higher education providers, e.g. UK where the Quality Assurance Agency (QAA) physically audits 'collaborative provision'. France also evaluates specialist French institutes abroad.
- Accreditation agencies are more familiar in the USA but also function in Europe by accrediting institutions and programmes. According to the Council for Higher Education Accreditation (CHEA), US agencies accredit programmes/institutions in 65 countries including all of the EU except Denmark and Finland. Accreditation agencies can keep to national boundaries or operate outside borders as in the case of several American ones. US accreditation agencies include all the US regional accreditation bodies e.g. the New England Association of Schools and Colleges and the Middle States Association of Colleges and Schools. The UK Open University accredits overseas institutions/programmes of study via its Open University Validation Services (OUVS) operation. Another example of an accreditation agency is the European Foundation for Management Development (EFMD) which, through EQUIS, accredits 42 Business Schools mainly in Europe.

In addition, a number of professional bodies validate or accredit national and overseas institutions and courses for recognition purposes, e.g. the UK Royal Institute of British Architects (RIBA), the UK Law Society, etc.

- Some receiving countries have tough regulations covering non-national providers of education that require their registration/licensing/approval. This approach has been taken in Hong Kong, Israel, Malaysia and South Africa. In Europe, the most common approach is not to regulate non-national providers unless they seek to become officially recognised institutions within a national system. The qualifications of such unrecognised institutions maybe looked upon more favourably if the awarding body is recognised in its country or origin. The exception to this is Greece, where distance learning and 'non-official' higher education is not recognised under the law
- Bilateral agreements between governments are used to establish educational relationships between countries. In Italy, branch campuses of Italian universities operating abroad are regulated by bilateral agreements. The Belgium (Flanders) and Dutch governments are currently establishing the Transnational University of Limburg (TNU) by international treaty.

An interesting point to note is that the countries with open regulatory frameworks, like Austria, the Netherlands or Norway, seem to have less problems with transnational education, because such open systems tend to absorb non-official higher education as it comes and by officialising it, some control is acquired.

Quality assurance and accreditation

In this rapid changing world of higher education and TNE providers, within such a context of relative abundance and complexity, the operation of quality assessment becomes more problematic and in many cases opening out into a kind of vast, rather risky and unruly marketplace. To adapt to a fast and often unpredictable evolution, new standards must be defined and applied, yet without dropping the commitment to the former values and principles of traditional higher education.

Both external and internal pressures motivated the demand for international quality assurance. Internal pressures include the enhanced international mobility of students and the overseas marketing of higher education systems, i.e. the export of higher education, and external pressures come from the globalisation of the professions, regional trade agreements, and international organisations.

Problems in quality assurance

Quality assurance arrangements are difficult to implement in TNE. Some forms of transnational provision, especially international institutions, off shore campuses and corporate universities are particularly challenging in terms of quality assurance, as they do not necessarily belong to the official higher education system of any particular country. National QA systems usually enshrine certain cultural, social and educational values, which are specific to the national contexts and might therefore not be applicable to transnational arrangements. Whilst there are attempts to establish accreditation agencies operating on a global scale, the question of how and by whom the quality assurance in TNE can and shall be done remains to a big extent unanswered. An international framework for QA in TNE has not yet been developed and its development for the future is uncertain.

Transparency, recognition and accreditation are obviously linked to the control of transnational education and have a role to play in its quality assurance. The total quality assurance of transnational education should involve all the relevant actors including the creators, importers, exporters and consumers. The big question is how to distinguish good from bad transnational

education; how to control it effectively and protect consumers, in a way that encourages the positive aspects and discourages the negative. This is not easy. A way must be found that ensures an appropriate balance between external accountability and institutional autonomy - a rigorous system that avoids any devaluation of education.

The main quality assurance problems posed by transnational education have been found to be;

- Non-official transnational higher education raises problems of control as it lies outside the national systems for public accountability. It must also be remembered that the rigour (and even existence) of quality assurance systems varies considerably between different European States. The fact that education provision is part of a national recognised framework does not necessarily guarantee its quality.
- Transnational education providers, in addition to not being subject to any external quality assurance regime, do not necessarily have any internal quality assurance mechanisms.
- Transnational 'degree mills' selling fraudulent qualifications to ill-informed citizens
- The Lisbon Convention only applies to qualifications issued by recognised education providers of signatory states. It does not cover all transnational education. However, there is nothing to prevent the application of the principles of the convention by any partners to those who are signatories.
- What constitutes official education in one country is not necessarily 'official' in another.
- The national legal framework for regulation often creates inflexible structures that make the regulation of non-official education problematic

These problems might be summed up in the question - how can existing national and international quality assurance systems and devices address the quality of programmes offered by these new types of higher education provider?

Who is responsible for quality assurance?

Transnational education presents many challenges to internal and external mechanisms for quality assurance. Their activities must be subject to the same processes as official higher education. Student protection requires the use of accreditation, validation and monitoring if citizens are to be properly protected. Governments and/or national agencies have a responsibility to regulate and control transnational education. Currently, many new providers of transnational education are faced with a dilemma - to seek accreditation or not. Governments need to encourage them to become subject to national quality assurance mechanisms

Where national quality assurance bodies/agencies exist, they are an effective means of transnational education control. It is recommended that such agencies should assume a responsibility for imported transnational education. This should take the form of:

- monitoring the activities of imported transnational education providers;
- liaising with providers (and countries of origin) when problems arise;
- reporting bogus institutions to appropriate national and international authorities;
- seeking bilateral solutions to transnational education problems;
- providing advice and information to the public associated with imported transnational education.

Non-official higher education raises problems of transparency and quality control as it is outside the official system and therefore is not subject to the national mechanisms of quality assurance in the host country.

When looking at transnational education from the supplier side, two different situations may occur which are of relevance to quality assurance:

- the programmes/qualifications offered in the host country are integrated in the official system of the awarding institution's country;
- the programmes/qualifications do not belong to any official system.

TNE which belongs to some national higher education system

The first situation may lessen the problems, because the awarding institution is then subject to the quality assurance system in its country and the franchised/exported programmes are most probably recognised in the original country. The circumstances, however, are not always completely clear and problems may occur for a number of different reasons: the awarding institution, even if it is public in its own country, becomes a private institution, financially dependent on the students fees, in the host country; the partner institution may be a small or recently established organisation lacking any university tradition; the franchising agreement may not guarantee a sufficient control of the awarding institution on the supervision of teaching and examinations, the quality of staff and resources or the protection of students.

Anyway, the awarding institution has the main responsibility for the quality of the qualifications provided, which raises a problem of image for the institution itself and for its national higher education system if standards are not kept in the franchised programmes. This, by itself, constitutes a mechanism of some safeguard of standards, because the national system (Rectors' Conference, national agency for quality assurance, Government) is interested in not having its image tarnished and is therefore likely to take precautionary measures.

TNE which does not belong to any national higher education system

When the awarding institution does not belong to any official system, it escapes regulation from the supplier's side and is more fluid and prone to create problems. Some providers are however conscious of the image problem and seek forms of legitimation for their courses, sometimes through alliances with well-established universities. International accreditation by private agencies in thematic areas is another possibility for buying a label of quality. In a more global approach, the Global Alliance for Transnational Education (GATE) devised a code of good practice for transnational education and a process of certification for those institutions that submit themselves to certification procedures and adhere to the established principles. However, criticisms are known on this type of approach.

From the demand side, i.e. in the perspective of the receiving countries, different forms of reaction may be identified to try to solve the problems of transnational education, from simply outlawing transnational programmes to the integration of such programmes in the official system of higher education through a recognition procedure.

Some presented solutions

The radical approach of a tight control on the operation of transnational education does not seem to be convenient, because it will probably be in conflict with European Union or international laws and, anyway, would only postpone and not solve the problems. A recent example concerns Greece, where non-official higher education is precluded by the constitution but, following action by the European Court of Justice, a presidential decree will soon change the legislation governing private universities, degree parity, academic qualifications and professional rights, bringing it into line with the rest of the EU 11.

A more practical and efficient approach may be to institute appropriate practices to gain some control of the provision of transnational education in the host country, namely by creating mechanisms and/or incentives for its submission to the quality assurance procedures applying to official higher education.

The problems on quality assurance emerging from transnational education are of individual concern to most European countries, but there is also a European dimension to it. In fact, besides being a common concern, by highlighting these problems one focuses on areas where intervention could be foreseen, such as the promotion of policies of common recognition and parity of titles and the transparency of their production and regulation, which, after all, are prerequisites for promoting mobility of people within Europe. The European Network for Quality Assurance in Higher Education is expected to play an essential role in monitoring and in exchanging information and good practices related to the provision of transnational education. It must be stressed, however, that the network is not - and should not be - intended as a European agency for accreditation.

Questions that need to be solved

Transnational education is not going to disappear while an enormous demand for learning and qualifications goes unmet in the developing world. To legislate it out of existence would be to deny access to education for many people. The fast pace of development of ICTs and the use of the Internet will provide one means of meeting increasingly diverse demands for flexible access to education and qualifications from those already in employment. These developments pose challenges for quality assurance agencies. As we can see, there are many questions that need to be raised and many problems that need to be solved to be able to come to solve the problems with quality assurance and accreditation in TNE.

Some of the central questions include:

- What is the optimal way of assuring the quality of transnational education provision to protect the interests of students while ensuring that the objective of widening access to higher education is achieved? Given different philosophies about the purposes and aims of higher education and the diversity of transnational education provision can there be a single solution to the quality assurance dilemma?
- Given the challenges of managing new modes of delivery such as on-line distance learning and transnational education provision, is there a need for greater focus by quality assurance agencies on institutional quality management processes?
- Do the new modes of delivery and study imply some re-thinking about the use of duration of study or contact hours i.e. input factors as any kind of measure of learning or descriptor for academic qualifications? Should the focus shift to clearer definition of outputs: learning outcomes and competences? Without clearer definition of outcomes and academic standards at national level, is international comparison possible?
- Should quality assurance agencies seek greater participation of a wider group of stakeholders in higher education in their processes and governance to tackle the review of new provision and providers? For example, how many actively involve employers, recent graduates and/or students?
- The context in which the quality of higher education is assessed. Is there is a tension between the fact that while higher education is becoming more international its quality is still mainly being assessed in the national context?
- How can quality assurance contribute to improving the international comparability of higher education and the recognition of diplomas and degrees, in the first instance in the European context, but also in the wider international context?
- Which methods and mechanisms for quality assurance and accreditation will best facilitate such international comparability and can be linked with recognition measures such as credit transfer and accumulation, including lifelong learning tracks?
- How can quality assurance systems address the quality of programmes offered by new types of higher education providers, including commercial and virtual institutions? This is even more complex where these providers may be offering transnational provision. What then is the

responsibility of national-level or other actors for the quality assurance of transnational education and related issues such as consumer information and protection?

- How can the international dimension of higher education be better integrated in quality assurance systems and methods. How can coordination between actors and agencies in the field of quality assurance and those involved in internationalisation including recognition agencies be improved?

- Will there be a shift in the functions of quality assurance systems as a result of stronger international influences and applications? While quality assurance in the national context is typically geared towards accountability and improvement, in the international context there seems to be a need for an increased focus on transparency and “consumer information” for students.

- At what level should initiatives in this area be undertaken, and by whom?

- Will Networks and multiple accreditation initiatives contribute to quality improvement and transparency other than identify minimum threshold levels of quality?

- How artificial will common international qualification frameworks be if they have to cover or include all the existing national frameworks?

- Is there a need for convergence of terminology? Is there a role for the EQNA in working towards proposing (and using) a common terminology for quality and standards?

Recognition

The recognition of institutions and of programmes, for academic and/or for professional purposes, is a very complex subject involving conflicting interests at several levels, viz. between the protection of traditional diplomas and professions and the needs in relation to mobility and the market.

There are three European networks that cover academic and professional recognition. There is the EU National Academic Recognition Centres (NARIC) network, which meets regularly to exchange information and consider international recognition issues. Secondly, there is the European Network of Information Centres (ENIC) network established by the Council of Europe and UNESCO/CEPES. This performs a similar function to the NARIC network but at a pan-European level, encompassing some 50 countries. The two networks meet jointly. The third network is that organised under the European Association for International Education (EAIE) professional section, for Admissions Officers and Credential Evaluators (ACE). This network promotes discussion of all matters associated with recognition issues.

Several devices aid transparency, mobility and recognition. These are tools that facilitate the process of recognition and have the potential to impact on transnational education: (Kaufmann Chantal, 2001)

· The European Credit Transfer System (ECTS) was designed to facilitate mobility and recognition (of periods of study abroad). It is used by 1200 higher education institutions and provides a framework where study in the temporary host country is fully recognised (credit is transferred) in the home country when the student returns and completes his/her programme of studies. This system has the potential for much wider application and the feasibility of its extension to become a ‘European Credit System’, allowing for accumulation and transfer within the lifelong learning perspective, has been verified. In this guise, it has particular relevance for transnational education.

· The Diploma Supplement provides a means to make qualifications more transparent. It provides for value-free and accurate information on the nature, level, content, context and status of a qualification. Such provision has obvious applications in the context of transnational education.

- The European Network for Quality Assurance (ENQA) is a loose network of European quality assurance agencies, which was formed in 1999. Currently, its work is limited to the exchange of information and practice, staff development workshops and research projects. In the longer term, it has the potential to develop a more central role in relation to transnational education, acting as a 'clearing house' for information about transnational providers.

Looking at the situation of TNE's qualifications recognition in several countries makes clear that, so far, most of the countries haven't really consider as a priority the setting up of specific procedures to assess them.

Very often, there is no official regulation or control of TNE qualifications. In some countries, they can be recognized if TNE providers belonging to a national system of higher education award them. In other countries, they are treated as « private » institutions, which can receive an accreditation, or, at the contrary, which are not allowed to deliver diplomas with official value. The lack of quality control is seen as one of the most important problem.

The recognition of institutions and programmes for academic and/or professional purposes is a very complex subject involving conflicting interests at several levels, between the protection of traditional diplomas and professions and the needs in relation to mobility and market. This is even truer with the recognition of TNE qualifications.

It is clear that, from a recognition body point of view, the problems are especially those connected to imported TNE, on which this presentation will be focused.

This is normal because as recognition bodies we need to assess foreign diplomas.

But we should also pay attention on exported TNE especially in the European area, because, the exported TNE qualifications of one country will have to be assessed by the other European countries.

In the previous chapter, the different types of TNE provision were described. In terms of uncomplicatedness of recognition, these different types can be classified into three categories: Recognition is almost always granted for programme articulation and twinning, as far as these arrangements are concluded between recognized institutions belonging to national systems.

For franchising and branch campuses recognition is sometimes granted, but for offshore institutions only very rarely. For international institutions operating independently from any national higher education systems as well as virtual and corporate universities, recognition is hardly ever granted.

Lisbon recognition convention

There are some tools that can be used to help define the premises for recognising TNE qualifications. The most important of these is the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, held in Lisbon in 1997 and organised by UNESCO and the Council of Europe.

Although the Lisbon Recognition Convention does not explicitly deal with TNE, it can nevertheless provide the basic normative framework for dealing with most of the important issues involved with recognition of TNE. In a strict legal sense, its validity is restricted to the recognition of qualifications belonging to the higher education system of one of the Parties in another Party to the Convention. In practical terms, however, the importance of the Convention goes well beyond a strict legal consideration. The Convention provides a procedural and methodological framework, which can be applied to the recognition of any higher education qualification.

The Convention is an agreement between national sovereign states, which provides an appropriate legal framework for establishing the responsibilities of the Parties in regard to the academic recognition of qualifications. It is to be hoped that the broad scope of the normative basis it provides will become even more evident during its further implementation. However, some important issues remain which need to be addressed more specifically. For instance, the Parties to the Convention are expected to consider "the great diversity of education systems in the European region", the intention being "to enable all people of the region to benefit fully from this rich asset of diversity by facilitating access by the inhabitants of each State and by the students of each Party's educational institutions to the educational resources of the other Parties, more specifically by facilitating their efforts to continue their education or to complete a period of studies in higher education institutions in those other Parties".

It is implicit in this text as well as in all the clauses of the Convention that it applies to qualifications issued under a higher education system recognized by a Party to the Convention (i.e., a State, even though several education systems can exist within a single state, e.g. in federal states). Most of these qualifications will be issued in the State to the education system to which the qualification belongs, but in some cases institutions may belong to a system different from the system of the State in which it is located. In some Parties to the Convention, there are "central authorities" which have the competence "to make decisions in recognition cases", while in others, this competence lies with "components of the Party" or with "individual higher education institutions" (Art. II.1 of the Convention).

UNESCO/CEPES and Council of Europe Code of Good Practice

Another useful tool is the Code of Good practise in the provision of Transnational Education by UNESCO/CEPES and the Council of Europe.

The Code is designed to present the perspectives of both sending and receiving countries regarding the provision of transnational education. Its contents are to be seen as complementary to the *Lisbon Recognition Convention* thus providing a normative framework to be taken as reference by the national recognition bodies in their specific undertakings.

In order to promote good practice in the area of transnational education - with particular reference to the quality of the provision of study programmes and the standards of qualifications issued by the Parties to the Council of Europe/UNESCO *Lisbon Recognition Convention*, the Code is intended:

- to meet the expectations of both the sending **and** the receiving countries with regard to *transnational arrangements* in higher education;
- to provide a source of reference on issues relating to the quality assurance and evaluation of programmes provided and qualifications issued through transnational arrangements;
- to offer "consumer protection" for students, employers and others who may be concerned with qualifications awarded through transnational arrangements;
- to facilitate the recognition of qualifications awarded through transnational arrangements in higher education.

The Code includes a set of *principles* which should be respected by institutions or organizations involved in the provision of educational services through transnational arrangements. These principles are presented in the form of statements with a normative value. For implementing the provisions of the Code, mainly with regard to the recognition of qualifications issued through transnational arrangements, the ENIC network shall apply the procedures outlined in the Recommendation on procedures and criteria for the assessment of foreign qualifications. Therefore, the Code and the Recommendation are fully complementary and mutually supportive documents.

The Code refers particularly to those transnational arrangements, which lead to the provision of study programmes and to the issuing of qualifications. Consequently, reference is made to:

institutions and programmes involved in concluding any type of transnational arrangement whereby an institution provides educational services outside its country of origin;

teaching staff, regardless of their country of origin, who work in an institution/study programme established through a transnational arrangement;

students, regardless of their country of origin, who are registered, for a course of study or parts of it leading either wholly or in part to a higher education qualification, in an institution/programme established through a transnational arrangement;

agents, that are third parties, acting as brokers, facilitators or recruiters in transnational arrangements;

other stakeholders, like employers and the public at large, interested in the quality of higher education qualifications.

In short, a full compliance with all the requirements listed in the code would ensure that the transnational earned qualifications are in fact of the same quality as the ones awarded after studies in the awarding institution itself, therefore the final clauses of the Code stipulate that qualifications issued through transnational programmes, complying with the provisions of the code, should be assessed accordance with the stipulations of the Lisbon Recognition Convention and using the Recommendations for the criteria and Procedures for the assessment of foreign qualifications.

Note on GATS in terms of recognition

The GATS treaty addresses recognition and domestic regulation, but with an aim of progressing deregulation and further liberalisation of trade in services. According to some legal interpretations, the GATS articles on recognition could offer one possible framework for a legally enforceable way of addressing recognition issues. However, trying to organise recognition of academic qualifications within a free trade framework is questionable in itself.

Conclusions

Transnational education is gaining weight in providing an alternative for national higher education systems. In order for this alternative to fulfil its potential, the numerous problems still related to the quality assurance and recognition of transnational education, as well as the over regulation and its role as parts of national higher education systems need to be solved.

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4. TNE, GATS and the Trade in HE services

World Trade Organisation and higher education services

The final act of the Uruguay trade round dissolved the General Agreement of Tariffs and Trade (GATT) and invoked a new multilateral institution in its place, the World Trade Organisation (WTO). Whilst the GATT had been solely concerned with the governance of a single trade agreement, limited in scope to the trade in goods the newly established WTO has a wider remit extending into trade in services (including educational services) and intellectual property.

General Agreement on Trade in Services

Coverage

The General Agreement of Trade in Services (GATS) is intended to progressively open service sector markets in a supply side friendly manner using several powerful mechanisms that are also found in essence in the GATT. For the purposes of the GATS, education provision that is exempt from trade rules is one that is both used in the exercise of governmental authority (for example army, social services) and not in competition with other service suppliers. Higher education is frequently traded under various modes thus making it eligible for GATS rules. Four modes of providing a higher education service as specified in the GATS are:

- Consumption abroad (e.g.: mostly students studying in foreign countries)
- Commercial presence (e.g.: setting up a campus abroad)
- Cross-border supply (e.g.: virtual provision)
- Movement of natural persons (e.g.: foreign lecturers and university staff)

Key GATS provisions

Three instruments are used to ensure that providers are afforded the same and best operating conditions in all signatories to the GATS, these are: most favoured nation (MFN) article, national treatment (NT) and market access (MA).

The first of these, the MFN compels states to afford each other conditions of market entry equal to or better than the nation that enjoys the most favourable trading conditions. NT measures are designed to allow foreign companies the right to equal regulatory treatment with domestic companies under domestic law. MA requirements stipulate a rolling back of the states activity in limiting access by foreign firms to domestic markets. These three measures promote an environment whereby service providers can rely on equitable conditions when operating in the states of all parties to the agreement.

Specific Commitments (Opt-In Articles) and Progressive Liberalisation

Of the three aforementioned articles, only the MFN article is compulsory. The other two instruments are opt-in by each individual country, except for the European Community (EC) countries that sign in as one block. Countries are also able to make exemptions to the MA and NT articles at the time when they opt-in to them. Currently the EC has made opt-in commitments to privately funded higher education (see website list at end). However, the GATS is an active document and has a built in agenda of progressive liberalisation that promotes the renegotiation of commitments to MA and NT with the objective of removing exemptions. This aims to create, after a fashion, a global free trade area in services, enforced by an arbitration panel at the WTO, with providers able to trade on the same terms in all WTO member state territories.

Horizontal obligations: Domestic Regulation and Subsidies

Aside from the MFN article, there is a range of other, horizontal (obligatory, non opt-in) obligations that GATS signatories must adhere to. Of special interest are the articles on domestic regulation (Article VI) and subsidies (Article XV). The domestic regulation article has a clause that states:

4. *With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, inter alia:*

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

This stipulates the trade based considerations that domestic policy makers are obliged to consider when legislating education policy. All new policy must therefore be the policy that is least trade restrictive. A dispute settlement panel (DSP), when evaluating a challenge to legislation will attempt to judge whether it is a protective (anti trade) device or whether it is genuinely necessary. If it is considered genuinely necessary then it must be demonstrated that it is the least trade restrictive method of achieving the intended policy objective. The article on subsidies is similar in scope as it aims to remove trade distortions caused by subsidies. Again, the DSP will rule on whether a subsidy was necessary to pursue a policy objective commensurate with the GATS or whether it is a trade barrier serving primarily only this purpose.

GATS and Transnational Education (TNE)

Higher education provided through foreign campuses, programme articulation, offshore provision, distance learning and joint provision are covered by the GATS as they are supplied either cross-border or commercial presence. This means that they are covered by both horizontal obligations, such as domestic regulation and subsidies as well as specific commitments: MA and NT. The volume of trade associated with these modes of education, though still minor in comparison with consumption abroad are expected to increase, least of all by the Apollo group who have widened their distance learning operations in Brazil.

Why Trade Transnationally?

Traditional universities are frequently finding that they are required to solicit finance from non-governmental sources in order to make ends meet. Standard funding sources such as consultancy, private research and international student fees are increasingly being supplemented by TNE initiatives. Due to domestic legislation and market constraints universities in countries such as Germany, Sweden and the UK are not able to attain significant revenues from domestic student fees. However, by establishing operations in countries that permit privately financed HE operations the institutions may operate under market conditions and charge market based fees. These fees then can be utilised to cross-subsidise operations in the country of origin or in the case of profit ventures such as Apollo as profits for shareholders.

Market Access, National Treatment and TNE

The GATS MA article seeks to facilitate entry into foreign markets for service providers (in this case HE providers). Once a country has made a commitment to open their markets under the GATS via MA commitments they may no longer restrict the number of providers entering their market

unless specific exemptions are made at the time the commitment is made. If a commitment is made to NT as well as MA then the country must treat the foreign provider in exactly the same manner as the domestic providers (again, unless formally stated at the time the commitment is made). In this way countries opt to let market forces dictate their HE supply policy. Only providers who believe that they can operate profitably will have incentives to enter the market and once the market is saturated then providers will compete to offer more attractive services. However, the pressure to deregulate supply control at the same time as treating all suppliers in the same manner (unless formally stated to the contrary) implies that subsidy budgets will have to be stretched amongst more suppliers. A larger number of suppliers require more financing for marketing and initial capital costs with the likely result that institutions will receive less and become more dependant on private funding such as TNE revenues and student fees.

HE Exporting Countries

The GATS and TNE will have different implications for different types of HE sectors. In OECD (Organisation for Economic Cooperation and Development) countries that have large resources to invest in HE, the implications of the increasing trade in HE services as a policy constraint are yet to be discovered. Most OECD countries have significant HE sectors that are heavily subsidised by the country and are nationally or state directed to some degree. For OECD countries, it is frequently the case that HE provision is sufficient, there are approximately the same number of places offered as are demanded by students. These countries such as Australia, New Zealand, US and UK run a large trade surplus with respect to HE with exports (calculated as revenue attained from TNE activities + incoming foreign students) greatly exceeding imports (calculated as revenue from outgoing home students + repatriated earnings from foreign providers operating transnationally). An increasing market for TNE provision within large exporting countries will have to be niche oriented or cater for specialist demand. For example, it is unlikely that a branch of UCLA, a well-respected US state university would fare well in the UK. Domestic subsidies to home students and institutions would preclude the choice of studying at market rate for a similar qualification. However, if the Wharton business school, currently rated the number one MBA provider by the Financial Times set up shop in Oxford, the Said business school would likely lose students to the foreign provider.

Distance Providers

The situation with distance providers is unclear at the moment. Currently distance provision is evolving from the time when courses carried out solely by correspondence were the norm. Now distance providers such as the UK Open University, Apollo Group in the US and the Spanish National Open University are competing against global university consortia for example Universitas 21 and the Worldwide University Network for market share. In the search for niche markets providers have tried to cater to groups such as convenience learners and those already in employment. Apollo for example will only recruit students who have current employment or are engaged substantially in other organisations.

HE Importing Countries

HE importers are characterised by a lack of provision provided by national institutions with the result that the gap in supply is filled by private domestic enterprises or foreign, TNE operators. Countries may be net importers for a variety of reasons, for example they may not have a history of domestic provision, they may have a rapidly growing demand caused by changes in the political and economic climate or they may have necessarily constricted HE budgets. Brazil for example has an extremely high demand for student places but an inadequate number of public places. This has

caused a situation whereby due to political economy restrictions on dramatically increasing the HE budget, the Brazilian HE strategy has necessarily had to encourage private TNE providers to fill the gap.

The Experience of Developing Countries

Many developing countries are also in a difficult situation with respect to HE provision. Donors accuse developing country education ministries of allocating too much of their budget to HE without providing sufficient primary and secondary education. This has been enshrined in the Millennium Development Goals that focuses on basic service requirements at the expense of HE. Noting that HE is not regarded as an essential prerequisite to development by major donors such as the World Bank (WB) and the UK Department for International Development (DfID) we should ask how developing countries are developing their HE sectors.

Debt Crisis

For the past several decades, many developing countries have been experiencing a huge balance of payments deficit. This was caused by excessive borrowing from lending institutions with few strings attached who figured that developing countries would one day develop and they would see a huge return on their investment. It was tacitly understood that even if developing countries didn't develop then since countries can't go bankrupt then they were a safe investment. However, as with all investment fads that appear too good to be true the bubble burst. Developing countries weren't developing as fast as they had hoped and worse still, the vast amount of capital invested by the lending institutions had not been spent wisely within the country. Funds had been embezzled, money had been lent to inefficient firms with no strings attached and presidential 'prestige' projects had been financed at the expense of public infrastructure. Prestige projects included spending the transport budget on private jets for the head of state, spending the housing budget on palaces and the education budget on universities at the expense of primary and secondary education. Due to the weak primary and secondary education sectors in Sub Saharan African countries, the vast majority of the students that were eligible or capable of undertaking post secondary education were students from upper middle class families. Most of the upper class students were funded to study abroad in the US or the UK for Anglophone countries or in France for students of Francophone countries. Hence, investment in HE for these countries propagated inequality and social divisions and the important democratising properties of HE were minimised. As the lending institutions started having reservations about their one time 'sure bets', they stopped rolling over loans with the result that a debt crisis precipitated amongst the developing countries. Various solutions were touted with some countries threatening to default on their debts. The International Monetary Fund (IMF) at this point began to develop its role as an arbitrator between the creditor institutions and the debtor countries. The Paris Club of lending institutions was formed to coordinate the repayments and debts that were at the root of the crisis. In an attempt to protect the lending institutions, many of which were highly leveraged by the high volume of lending to developing countries that they had undertaken, the IMF took a greater interest in developing countries.

Conditional Lending

Before this time, IMF lending had few conditionalities attached to its use besides the obligation of repayment, this changed as the IMF began to conceive development as characterised by government failure caused by weak and corrupt ruling elites. Market failures were considered less inefficient than government failures and the era of neo-liberalism was enshrined in IMF policy through extensive conditionalities attached to lending programmes known as structural adjustment programmes (SAPs). These conditionalities, also termed the Washington Consensus policy set,

included such obligations as decreasing the role of the state and increasing the role of the private sector. The rationale for this was that just as government failures are important so are market failures and this could be seen in the large palaces situated amongst abundant poverty. IMF conditionalities, coupled with the World Bank programmes placed little emphasis on welfare and social spending. Only basic services were deemed to be within the remit of the government budgets. This excluded HE, which was considered a luxury item, beyond the reach of developing countries that should focus on getting the fundamentals right before they invest in HE projects. World Bank policy does not however stand still and in recent years has begun to add more human focused policies into its project specifications. However, the Washington Consensus is still evident, though expanded to create the Post-Washington Consensus covering such aspects as local participation, social spending and welfare projects.

Higher Education and Foreign Direct Investment

Currently within the World Bank, it is recognised that HE is important in structuring a knowledge-based economy and is a legitimate development tool. However, where funding constraints are real, it is difficult to make an argument for spending education budgets on HE, which costs significantly more per place than pre HE places. To this end, the World Bank has been encouraging developing countries to take full advantage of TNE opportunities to effect a supply at minimal government expense. Methodology involves encouraging foreign direct investment (FDI) by foreign universities either in solo or in conjunction with domestic providers where cost-sharing mechanisms (student contributions, private finance) is used to make books balance. IMF staff papers also share the view that HE should be funded by cost sharing though by post graduation contributions rather than up front tuition fees. Few HE places are subsidised by the government and according to pre HE students that this author spoke to recently in Uganda, competition for the public places at Makerere University is intense with many more applicants than places. Due to the nature of FDI, no university or HE provision is offered in the north of Uganda, which is one source of political friction within the country.

IMF, WB and the WTO, Joined Up Policies

Since the introduction of a services agenda into the WTO plan of work, there has been considerable interplay between the WTO and the WB. Previously in the GATT and now in the GATS there are clauses about the special and differential treatment that should be afforded to developing countries. However, whilst this normally means that they should be allowed to make fewer and slower liberalisation moves than developed countries (according to a former Ethiopian delegate to the GATT that the author questioned on this point the clause was largely ignored) in order to allow the possibility of nurturing domestic industry this time it is the reverse. In order to make use of the services agenda to help develop HE provision, rapid liberalisation is encouraged. This would entice foreign providers to set up shop under guaranteed conditions and address the shortfall in provision. However, the GATS MA and NT articles are difficult to rescind. Countries that feel that TNE will provide a short term fix to supply places until a domestic sector can be developed may find that they are in breach of GATS regulations if they attempt to reclaim their HE sectors in the future. Domestic provision of HE is generally preferable to TNE provision as it can be culturally sensitive and used to pursue domestic democratising objectives with more ease due to the interplay between the state and the domestic sector. Foreign institutions may also encourage talented students to leave the country contributing to a brain drain. Specific commitments to the GATS in the HE sector, whilst being a sacrifice that some countries are prepared to make in the short term to fill a temporary stop gap may well restrict the possibility of future governmental regulation and public accountability of the HE sector in developing countries. In this light TNE itself is not a concern, it is simply an imperfect tool utilised out of pragmatic need but the GATS places investor protection

as a higher priority than domestic service sector structuring. Providing a transparent and stable investment climate is of course the aim of the GATS and it is not for this paper to judge multilateral trade agreements made between sovereign bodies though in the case of HE there are serious possible externalities to consider from the effect of the GATS and its criteria for domestic regulation.

Conclusions

The global trade in HE, marked by a rise in investment in distance provision and an increased pressure on institutions to seek non-governmental funding streams is likely to increase in volume. With this increase, there are the associated contradictions that occur between the needs and desires of globally mobile investors and sovereign governments with a need to attend to social structuring within their borders. Various strategies have been advanced to manage this tension and range from a WTO, GATS and TRIPS based solution to discussions in UNESCO on the globalisation of HE. The role of various multilateral education agreements such as the code of good practise in TNE and the Lisbon Convention on the Recognition of Qualifications is currently unclear. They may well be incompatible with the GATS domestic regulation article. Using the GATS as a mechanism for perpetuating their coverage has been advanced in some quarters though it is unlikely that the spirit of the documents is compatible with the restricted role for regulation that the GATS envisage. Questions remain as to whether a preferred mechanism to deal with the globalisation of HE will precipitate. Some quarters are looking to powerful, global legal solutions whilst others prefer codes of conduct and voluntary guidelines. What is clear however is that the globalisation of HE through the vehicle of TNE needs addressing in the interests of students, institutions and society as a matter of urgency.

Further Reading

There are extensive web based resources relating to the GATS and the trade in education, a selection are below:

www.apollogrp.com/ Apollo are a private, for profit higher education provider

www.cid.harvard.edu/cidtrade/site/about.html Harvard Trade Negotiation Project contains extensive links to multilateral trade resources and research

www.developmentgoals.org/ Millennium Development Goals

www.dfid.gov.uk/ UK Department for International Development

www.esib.org/commodification ESIB-The National Unions of Students In Europe Committee on the Commodification of Education

www.gats-info.eu.int/gats-info/nwtosvc.pl?COUNTRY=European_Community&SECCODE=05.C&REC=OUT
Link to specific commitments made to higher education services by the European Union

www.imf.org International Monetary Fund for information about conditional lending and structural adjustment programmes (SAPs)

www.news.ft.com/home/uk/ Financial Times contains sections on MBA schools

www.oecd.org Organisation for Economic Cooperation and Development have researched higher education and its link with the economy through the CERI and IMHE programmes. They also produce the annual education statistics at a glance

www.open.ac.uk/ Open University in the UK

www.unesco.org/education/studyingabroad/index.shtml Links to the United Nations work on the globalisation of higher education

www.universitas.edu.au/ Universitas 21, a global university consortium

www.worldbank.org Extensive research on higher education in developing countries

www.wto.org World Trade Organisation Website for information on the GATS and trade in services negotiations

www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm GATS legal text

5. Student Perspective on TNE

Introduction

For the vast majority of students and students' unions TNE is a new subject. This is for a number of reasons, primarily the fact that this is a phenomenon, which is developing partly out of traditional Higher Education Institutions but not always involving the traditional HE stakeholders. This means that, on one hand, students' unions are rarely involved in decisions regarding TNE projects and, on the other hand, students of TNE degrees are isolated in their "island classes" and often do not have contacts with the external traditional structures of student representation.

That is one of the reasons why ESIB has promoted different initiatives to ensure that its members know and discuss the subject. Several seminars were organised, questionnaires were compiled, and a tour in several countries conducted by the Committee on Commodification of Education to further investigate and study the national perspective and to train students on TNE.

This chapter aims to summarize the main concerns and issues which have been raised by students and the fundamental conditions which must be assured to guarantee student rights and student involvement within TNE.

Positive aspects of TNE

Students have generally a positive opinion on the development of new possibilities of mobility and studies abroad. They also know the importance of having an international curriculum for their employability. Thus students welcome especially certain forms of TNE like "programme articulations" and "international institutions".

But more generally students see the positive aspects of TNE because they are conscious of living in a global society where it is important to be global students and becoming global citizens understanding the values of multiculturalism.

They also acknowledge the important role of some branch campuses and offshore institutions as a help, under certain conditions, for the education system supply in some developing countries and Eastern European countries.

Moreover, even if e-learning cannot substitute true mobility, it is certainly a way for enlarge access to education for more and new "types" of students.

TNE, trade of education and role of students

Whilst there are some positive aspects as outlined above in relation to TNE, most judgements depend on the different conditions under which it is built.

The primary concern is due to the link that students see between TNE and trade of education. As stated in ESIB policy paper "Commodification of Education":

ESIB rejects the idea of education as a commodity [...]. ESIB also wants to condemn the lack of democracy in this process of commodification.

ESIB furthermore rejects the idea of for profit supply of compulsory and higher education. Whereas ESIB can see benefits in the emergence of not for profit private providers operating under public regulation, especially by increasing the student choice, we are firmly opposed to enterprises who provide education with the aim of making profit. Additionally ESIB is opposed to any tuition fees, no matter if they are raised in public, private or for-profit systems. Tuition fees are a tool of exclusion and hinder free access to Higher Education throughout the world. ESIB further believes

that Education is a basic human right and has to be accessible to as many people as possible.

The Students of Europe believe that the concept of the student as a consumer and education as a product fails to acknowledge the importance of education as a social tool and runs counter to the creation of a knowledge based society, with democratic, tolerant and active citizens. [...] Additionally, ESIB thinks that the concept of education as mere tradable product jeopardizes the academic freedom of universities, as markets fail and a sell-out of education might lead to decreasing diversity and freedom of research in HEIs throughout Europe.

This strong position is reaffirmed when it comes to the specific problem of developing countries where state governments find difficult to develop a sufficient and qualified national system and thus see TNE as the only possible solution:

With regards to the processes in the global south and the problems our fellow students are faced with, ESIB reiterates the demand to recreate state financed and publicly run Higher Education in Africa, Latin America and Asia and to stop the trend of commodifying and commercialising the public system more and more.¹

Thus, students do not want to be considered as consumers, and not only for reasons connected with tuition fees and social aspects. As a consumer, it is arguable that they will have greater rights for the quality of the service delivered, however, they can not say anything about its production and organisation. As students, they consider themselves as partners with decision rights in the education process and in the process of creating knowledge.

Connected to this topic, even more threats are raised when it comes to the possible effects that GATS will have on TNE regulation. Students do not see the WTO as the body that can properly take into consideration all education needs and rather prefer UNESCO as the appropriate institution that can give answers about how to regulate these new global trends of education and keep an eye on guarantees for HEI and students within TNE.

Lack of information on TNE

The main reason for these kinds of “concerns” that students have on developments of TNE can be identified in a general lack of information of what is really happening. Students’ unions often do not know more than the fact that some structure has been installed in their country. They can find information only from personal contacts with other students or via the web. They are not consulted about these new providers and cannot consider themselves as representative of these “special” students.

It is very difficult for most students and students’ unions to have a clear and complete picture of who is on stage, how they installed, who regulates and who controls the process in their country, if the institution is recognised/accredited and by which country.

What is not known is sometimes considered as a danger. When students are informed and guaranteed on quality of the degree the process is welcomed as an opportunity as it increases variety and develops that kind of good competition and especially international cooperation which also push forward better quality.

¹ The reader can find the complete text of ESIB policy paper on “commodification of Education” on web <http://www.esib.org/policies/CommodificationEducation.pdf>

Student rights and student representation

The wide variety of TNE providers and programs need consequently diverse considerations about student conditions.

The first and unavoidable point is that student rights must be guaranteed in all types of education, including TNE. All traditional services given to students such as housing, health care, transports, must be assured together with efforts to answer to other or additional specific needs due to TNE student conditions, not last work permission and immigration rights for foreign students.

Secondly, student involvement must be somehow developed through student representatives and students' unions, not forgetting to solve specific difficulties in this field for TNE e-learning students. Students emphasize that, on one hand, students within TNE must be considered like all other students and thus the same methods of student participation in decision-making must be implemented and ensured in TNE as it is in other HEIs. On the other hand, TNE institutions must be prepared to find also new tools for a democratic and accessible representation of particular new types of students.

Thirdly, students underline that as TNE has more often to do with new students and new providers, it is needed to develop new ways of teaching and new learning paradigms.

Last but not least, a particular importance must be given to counselling and providing of all important information to TNE students by TNE providers also with the cooperation of student unions and representatives: a special effort must be put on these issues as in students opinion transparency and accountability are the key issue for a positive further development of TNE.

Other critical points in TNE

Information and the role of students are not the only concerns on which students think the attention of stakeholders should be put on.

Some more words should be spent on recognition, already mentioned above in this chapter. In fact, students consider QA in TNE as one of the biggest problems for which they do not feel like they already found the best solution. However, in students' opinion, there are a number of things that can be done, and they put forward some interesting points. It is important to students that there are tools to know if a TNE degree is recognised. They propose to implement something similar to the Diploma Supplement to help recognition, the creation of some kind of QA network (on the example of ENQA) within the framework of UNESCO or at least something like a public register of accredited TNE providers.

Another concern is the link with the local labour market and the regional stakeholders. TNE providers should develop the links that traditional education make with the local labour market and should not forget this aspect of cooperation and interchange with the local dimension, to profit from them and to make them profit from this new process. Students also believe that such actions would help also aspects like accountability, legal status of the providers and a more qualitative attractiveness for students to these programs.

This topic can be considered the "other side" of another high issue: the challenges for national systems. In student opinion, if it is important that national and local system get involved in these processes, the presence that TNE takes to the withdrawal of public responsibilities must be avoided and it should not jeopardise national goals on education as a public good for all.

The final critical point, which is often mentioned by several people, is the access to TNE courses. They fear that it is and will be an opportunity given just to the "lucky few" for several reasons: tuition fees, lack of social helps and also strict restriction of places. And the fact that most people have difficulties in finding information on these opportunities, make people think that they will be mostly for privileged students, as already most programs look somehow "elitist". The situation can

be complex as well for e-learning because of the digital divide and the not always easily solved problem of availability and costs of infrastructure and connection.

Conclusions

What has been outlined is a first list of priorities and wishes from students about TNE.

To summarize, students want:

- a development of TNE that is not based on for profit reasons,
- guarantees on power and controls of governments and other stakeholders, not least students, in the ongoing process
- guarantees on student rights about social and economic aspect as well as about information, transparency and access.

What mainly resulted from discussions within students about TNE is that most students' unions did not know much yet and did not have policies on TNE. However, when they started going more into the subject, they revealed to have a lot to say, especially when it comes to national challenges, and how to solve problems like regulation and Quality Assurance, student involvement and links with the labour market.

This is considered as another good and important reason, if it was needed, to include students in TNE related decisions as a partner which is not only unavoidable to involve but also fruitful to have new inputs from.

That is the reason why ESIB decided to work on this topic and to continue to look on the ongoing processes and you are advised to read the TNE policy paper in the appendix of the handbook and look in esib web site www.esib.org to have more and updated information on TNE².

² The reader will find the reports of ESIB workshops and seminars related to TNE together with the materials used and prepared for these events at web address <http://www.esib.org/commodification/tneindex.htm>.

6. Future of Trans National Education

The increasing internationalisation of education promoted by past activities of the European Commission, national governments, the Council of Europe, UNESCO, and the current Bologna Declaration process, all help further to expand and reinforce the conditions that promote the growth of transnational education. However, drawing conclusions about the future nature, range and speed of its growth is difficult. It is likely, as with any rapid market growth, that there will be market shakeouts and rationalisation. Nevertheless, the continued growth of transnational education is inevitable even if the pace of this growth is more difficult to guess. The precise nature and pattern of growth will in part depend on the continued globalisation of education and the responses of national and international bodies to it. But there appears to be an overall rising level of penetration of transnational education throughout Europe, as market forces and competition intensify and state funding of higher education reduces. As universities respond to the growing range of demands and opportunities and to increasing competition, they are becoming more diverse. Individual institutions are seeking to occupy functional niches where there is a good match between their particular strengths and the market opportunities. The rapid changes happening in universities are causing tensions between conflicting values in a number of areas.

UNESCO is well positioned to provide a platform for dialogue between the different stakeholders. It has its normative instruments as a legal framework for action. Reinforcing, revising and updating the existing conventions on the recognition of studies, for instance, could provide an international qualifications framework – relevant in the context of the GATS debates – and reinforcing links between recognition of qualifications and quality assurance and accreditation networks could constitute a more acceptable approach to providing 'standards of quality' as a complementary framework to that of the GATS. UNESCO Member States that are also members of the WTO could be invited to use the UNESCO conventions rather than make commitments in higher education under GATS. Appropriate amendments could be suggested to the GATS, according to the procedure in place.

Reinforcing, revising and updating the existing conventions on the recognition of studies, for instance, could provide an international qualifications framework – relevant in the context of the GATS debates. Reinforcing links between recognition of qualifications and quality assurance and accreditation networks could constitute a more acceptable approach to overcoming obstacles in transborder mobility and promoting non-profit internationalisation and 'fair trade', in the interest of the learners.

The Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications, launched in October 2002, has the mission to provide a platform for dialogue by linking existing frameworks dealing with international issues of quality accreditation and the recognition of qualifications, and develop an international policy framework on the impact of globalisation and transborder higher education providers, reconciling the interests of national governments, the traditional public higher education sector, for-profit providers and the needs of students and the general public interest.

However, can UNESCO provide a structured agenda for these developments, reconciling the different approaches that could promote 'fair trade' for the benefit of the learners worldwide? Can it contribute to a sharing of responsibilities through a better-informed decision-making?

The Bologna process will certainly make European education more attractive, accessible and transparent to the world. European states need to take full advantage of the future growth in transnational education. They should collectively build on their reputation for quality education.

They should seek to attract more non-European students to study in Europe. The European Higher education area is a reality in the making, and it depends on our clarifying and agreeing on concepts and priorities in a range of higher education policy areas. If we want the Bologna process to end up in a European Higher education Area by 2010, we have to be more explicit about its goals as well as about its structures. A European Higher Education area that is broad in terms of geography and firm in terms of the implementation of higher education policies, that addresses the whole range of purposes of higher education, that is useful to the labour market, society in a broader sense and the individual.

The emerging patterns of transnational education within Europe are relatively clear. It impacts unevenly on different sectors, cycles and types of higher education. Transnational education is largely confined to business subjects, information technology, computer science and the teaching of widely spoken languages. Second cycle studies are marginally more affected than first cycle. Much of the activity is delivered in the non-university 'applied' sectors, and particularly for continuing education qualifications. Furthermore, the globalisation of the professions is likely to intensify these trends where professions like accountancy are rapidly moving towards global standards (Adam, 2001)

The structures of many European domestic education systems are rapidly changing under the impact of globalisation. The Bologna process is, in part, a response to these pressures. It is possible that, in the long-term, traditional student mobility will be eclipsed by study-programme mobility as more transnational programmes are offered. It is becoming cheaper relatively to move courses rather than students.

In the short-term, the potential impact of transnational education is likely to stay as it is now-of medium scale and significance. Its impact varies in terms of geographical area, academic sector and types of education systems. Currently, its impact is not uniform and this is unlikely to change. However, in the longer term, strong circumstantial evidence suggests that its impact will intensify and broaden. Virtually every response from those contacted foresaw large-scale future growth. New national and international initiatives are continually being announced. Most of this growth is likely to be outside Western Europe as most transnational providers regard it as a 'mature educational market'. Central and Eastern Europe and developing countries across the world are likely to be targeted.

Transnational education should not be ignored as it has significant implications for the Bologna process and the creation of a vibrant and competitive European education area. The potential benefits and opportunities presented by transnational education are immense. There is relatively little to fear from it, providing European and non-European learners are protected by suitable control mechanisms. Individual countries have to decide the perspective they will adopt towards it. A positive European approach does not have to conflict with national interests. The best solution is a complementary way forward that harnesses the opportunities associated with transnational education to help create the European higher education area.

The social issue in TNE has still not been considered appropriately. In particular there seems to be too little concern over the impact of TNE on the possibility of a gradual transformation from non-fee systems to fee-based systems ('value for money' approach) the development of national and European student loan and grant schemes in a rapidly opening international market the responsibility of Governments for student's needs There is a need for initiating and sustaining collaborative research that would provide empirical evidence to demonstrate to what extent and under which conditions new for-profit providers can enhance larger access to higher education and contribute to the public good agendas.

Too little is known about the links between students, their motivation with respect to their preferred field of study, the labour market and its demands, and TNE providers which obviously seem to fill a certain gap. The internationalisation of labour markets require a set of new qualifications from students that state-driven national systems cannot easily provide without giving up traditional national positions and protective behaviour. The push-and-pull factors have changed over the last years, and the principles of the Lisbon agreement will further change significantly to a configuration of rules guarding the HE market following the principle of motivation (by students) and attractivity (of providers).

This new global development requires that internationally accepted quality mechanisms are sound, transparent, and transferable

Dreams are always beautiful but could easily be turned into nightmares. Once we are back to reality and see that stages of development of higher education in countries and regions vary. Many are faced with different constraints and shortcomings while others cry for awareness and commitments of governments and university administrators. The process of the mechanisms addressed before to regulate TNE is both challenging and expensive in terms of funding, time and energy. While many countries are still striving to provide access opportunities to basic education, many foreign institutions of higher learning have excelled to the extent that they are ready to expand their education turf in a different country. Many nations have been struggling to build classrooms and to train teachers, let alone hi-tech equipment. On the other end, distance education programmes have sprung out in full bloom. Such sharp differences have clearly demonstrated the 'digital divide' problems. Doubts also spread beyond frontiers. We are not only confronted with the quality of main campus vs. overseas branch campus instruction, but also traditional vs. virtual education. Dreams create hope and hope carries with it willpower for us to move head-on. Close cooperation of countries within the same region must be promoted to concertedly cope.

With the issues of quality: In North America and Europe, we see strong commitment in pursuing quality improvement in higher. The apex of the attempts of the Asia and the Pacific region is to be able to create a pool of experts who serve as regional quality assessors or auditors. The regions need to learn more from one another in the region with increased sharing of knowledge and experiences from international QA professionals. Besides, the governments have to play a role, showing their leadership, political will and support. This will is not an easy task.

The fact that wild competitiveness and the marketisation of higher education raise serious conflicts with the traditional university ethos of scholarship and the pursuit of knowledge for its own sake. Alternative providers do not necessarily produce new knowledge, they are more concerned with transmitting existing knowledge and they "may be trading on one of the most destructive myths of our time, the idea that intellectual powers, deep understanding, and valuable skills can be 'transmitted' via 'delivery systems'".

It is essential that the traditional research university keeps its dedication to disinterested study, of which it is proud, and to the creation of a proper environment for students' socialisation and character building, in a judicious balance with serving the needs coming from society's new and wider expectations. Above all, the modern university, like the ancient Greek Academies, must value very high in its mission the question of what sorts of citizens it wants its graduates to become.

Despite all efforts, there is still a great need for a higher degree of exchange with the academic communities worldwide and with a diversified range of stakeholders in higher education.

ESIB believes that in some cases TNE can and will contribute to fostering access to higher education by allowing a bigger percentage of the population to enrol in tertiary educational programs. Furthermore ESIB believes that TNE can increase and diversify the educational possibilities available for students. If implemented properly TNE can stimulate international co-operation and lead to an enhancement of quality of both the TNE programs and the programs of the traditional providers. In countries with a rapidly growing demand for higher education but not enough HE programmes available, TNE can help in bridging the gap between supply and demand of higher education. Twinning programs and program articulations can offer international and broad perspectives in many areas, which benefit from the global perspective. This can and should also be addressed by creating joint or double degrees as a result of these arrangements. Distance education can facilitate access to HE for traditionally underrepresented groups, such as part time learners or people from geographically remote areas.

Transnational education providers must be sensitive to the needs cultures of the communities in which they operate. This responsiveness should be assured through a process of consultation with the local stakeholders such as the national and local policy makers and administration, employers and students. Co-operation with local higher education providers should be favoured. There should be clear goals stated for higher education provided transnationally. Just as other forms of education, TNE should contribute to the development of democracy and citizenship. Therefore, academic freedom and freedom of research, quality, equality and diversity have to apply to TNE programs and institutions.

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www.oecd.org CERI and IMHE programmes.

www.worldbank.org Extensive research on higher education in developing countries.

www.wto.org World Trade Organisation Website for information on the GATS and trade in services negotiations

www.esib.org/commodification ESIB-The National Unions of Students In Europe Committee on the Commodification of Education.

ANNEX

The aim of this annex is to give some more useful tools to the reader.

That is the reason why it begins with a list of abbreviations usually used talking about this topic and obviously used in this handbook too.

Next, the reader will find a contribution from Education International.

Transnational Education is quite a new topic for a lot of people. However, at the moment several bodies ESIB cooperate with are dealing with this topic.

We asked EI to give us some inputs on TNE that they find relevant from their perspective. This will allow our readers a more open and complete overview of the topic.

This Annex ends then with ESIB policy paper on TNE, adopted in Turku, during the 43rd Board Meeting and a short outline of the authors of this handbook.

Abbreviations List

ACE Admissions Officers and Credentials Evaluators
CHEA Centre for Higher Education Accreditation (USA)
DEETYA Department of Employment, Education, Training and Youth Affairs
DfID Department for International Development
DG Directorate General
DSP Dispute Settlement Panel
EAIE European Association for International Education
EC European Community
ECTS European Credit Transfer System
EEA European Economic Area
EFMD European Foundation for Management Development
EHEA European Higher Education Area
EI Education International
ENIC European Network of Information Centres
ENQA European Network for Quality Assurance in Higher Education
EQUIS European Quality Improvement System by EFMD
EU European Union
FDI Foreign Direct Investment
GATE Global Alliance for Transnational Education
GATS General Agreement on Trade in Services
GATT General Agreement on Tariffs and Trade
HE Higher Education
ICT Information and Communication Technology
IGO International Governmental Organisation
IMF International Monetary Fund
MA Market Access
MBA Masters of Business Administration
MFN Most Favoured Nation
NARIC National Academic Recognition Centres
NT National Treatment
OECD Organisation for Economic Cooperation and Development
OUVS Open University Validation Services (UK)
QAA Quality Assurance Agency (UK)
RIBA Royal Institute of British Architects
SAPs Structural Adjustment Programmes
TNE Transnational Education
TNE Transnational University of Limburg
TRIPS Trade Related Aspects of Intellectual Property Rights
UCLA University of California, Los Angeles
UNESCO United Nations Education, Scientific and Cultural Organisation
UNESCO/CEPES European Centre for Higher Education
UNITWIN UNESCO's university twinning and networking scheme
USA United States on America
USD United States' Dollars
WB World Bank
WTO World Trade Organisation



Education International
Internationale de l'Éducation
Internacional de la Educación

EI (EUROPE) Vision on Transnational Provision of Higher Education

Introduction

Although higher education has been internationalised for a very long time now, the creation of the European space for higher education in the context of globalisation and the extension of GATS to the education sector have considerably modified the environment in which higher education institutions must function. In a climate characterised by the growing mobility of persons, capital and knowledge, as well as by a sharp increase in the demand for higher education, new information and communication technologies are today creating opportunities to broaden the market of educational services.

Through their organisations, teachers, students and representatives of higher education institutions are mobilising to shape this European space, to assess the impact of the GATS and to draw the attention of the authorities and public opinion to a number of serious problems.

Education is a public good: a key principle for us,

EI Executive board endorsed the principle that publicly funded higher education and public sector research serve the greater social good, the academic freedom of higher education and research personnel and the public interest.

We supported the World Declaration on Higher Education for the twenty-first Century adopted in October 1998, which affirm clearly in article 1 the missions of higher education excluding commodification of higher education. We are not alone: students, institutions of higher education and European Ministers themselves (Prague Declaration) clearly indicated their positions.

On these basis you will find below Education International – EI - (see box 1) positions concerning transnational provision of higher education

Monique Fouilhoux
Coordinator

& & & &

The last decade has seen a growing recognition of the need to create a “European Space” for higher education, which has led the process begun within the Sorbonne and Bologna Declarations. Education International asserts that such a European space must have the needs and interests of students and academic staff at its centre, and must involve them as active participants. So far, the project begun with the Sorbonne Declaration has been “top-down” an inter-governmental process. EI (E) believes that this must be reversed, and that a European space must be built on the professionalism and the involvement of academic staff, who have already affected a dramatic transformation in the scale and character of European higher education, and who will be vital to any future change.

Education International passed a resolution on the Transnational Provision of Higher Education at its Third World Congress in Jomtien in July 2001. While EI supports the international character of Higher Education, it is concerned at the development of Higher Education as a commodity in a globalised marketplace.

Transnational higher education in this form poses threats to teachers' jobs, living standards and academic freedom, the quality of higher education and the student experience, and to the fundamental role of universities in society as the guardians and transmitters of knowledge and culture. EI proposes the following guidelines for higher education unions facing the challenge of transnational higher education.

Governance

The development of transnational higher education should not take place at the expense of the independence of higher education institutions and their capacity to govern their own affairs within the broad requirements of public accountability and the existing and understood norms of the societies in which they operate.

Existing governance structures should be fully engaged in decisions about transnational arrangements. The participants in existing governance structures, including academic staff and their representatives, should be involved in decision making on transnational arrangements as on other fundamental strategic issues.

EI believes that the character of transnational partnerships should reflect these principles and should be in the form of partnerships on agreed and transparent terms with other academic institutions or other parties.

Organisation of transnational Higher Education

However, transnational provision is currently organised in a wide range of patterns, including not only institutional partnerships, but consortia or syndicates, and commercial subsidiaries. There must always be an assumption on the part of the unions, unless demonstrated otherwise, that these structures are intended to a greater or lesser extent to create greater managerial 'flexibility' in respect of modes of delivery, employment status of staff, financial regimes, or the offer made to students. The unions and the regulatory authorities at national and international levels must apply the same standards in these areas to transnational as to traditional national providers, which will require limits to be placed on this flexibility.

Quality assurance

Existing quality assurance regimes need to take account of the development of transnational provision and its implications for quality. On the other hand, these regimes should not dilute or reduce the standards or criteria which have been established at national level, in order to meet perceived needs of such transnational arrangements. Rather, they should be expected to look for added value to students from such arrangements. International quality assurance and accreditation regimes must meet the same standards as the relevant national systems.

Culturally relevant content and modes of delivery

Transnational arrangements must not be used to produce, promote or justify a standard or homogenised version of higher education. Within transnational arrangements, there must be clear and effective protections for national or regional cultures, and for the interests and expectations of students and staff. Human and material resources must be deployed to ensure that such protections are effective.

While transnational arrangements may have as part of their motivation the achievement of economies of scale, this is not to be achieved by a centralised approach to the content of higher education or the development of homogeneous higher education 'products'.

IT based modes of delivery are likely to have their place within many transnational modes of delivery, but it must be recognised that IT has limited usefulness for some groups of student and for the teaching of some subjects and therefore the use of IT must meet strict criteria, including particularly the quality and relevance of the student experience.

Accreditation

Transnational arrangements need to conform to relevant accreditation systems or build in appropriate arrangements for seeking accreditation in order to ensure that qualifications and parts of qualifications

awarded under transnational arrangements conform to the standards of the relevant national regimes and have appropriate currency / recognition in the academic community, with governments and employers.

Web-based and on-line higher education

Web-based and on-line higher education must be offered in ways appropriate to the needs of students, and at the same standard as traditionally delivered higher education. It must be monitored by the relevant authorities, in the public interest and with the power to ensure that quality is maintained. The employment and academic rights of staff working on development, delivery and assessment of these forms of higher education must be no less than those working in traditional modes, and this should be reflected in international accreditation procedures.

Intellectual property management

Transnational arrangements, including separate academic or commercial bodies set up to deliver them, must not be used to alienate or undermine the rights of academic staff or students over their own work, whether to be acknowledged as the authors/ originators of the work or to gain the material benefits from it, as established under national and international law.

Academic freedom

Transnational arrangements must not be used to limit or circumvent the academic rights of staff employed at the institutions covered by the arrangements, including companies or institutions set up by the originating parties in order to deliver the transnational provision.

Employment rights

Teachers and researchers partly or wholly employed by transnational providers must have their employment rights with such providers protected. It must be clear under which national employment regime they are employed, and transnational arrangements must not be used as a means of undermining the employment rights or job security of employees, nor of shifting work from one country to another on the basis of cost. The employment rights, including collective bargaining rights, of staff employed by transnational institutions must be as clearly defined as those of institutions based in a single country.

Employees' rights must be protected in the development of web based and on-line higher education provision, and the primary importance of academic input in the determination of quality in development, delivery and assessment processes must be recognised.

Trade union organisation

It is clear that both competition and cooperation and networking between higher education institutions and their managements at the international level are increasing, and that unions for academic staff must increase their cooperation and networking as well as the level of priority they give to international work (whether global or regional). This increased capacity must include information sharing, the development and implementation of common strategies for delivery at the national, regional and global levels.

The unions must not simply be more responsive, but collectively work out their own view of the future of higher education, and assert their claim to be the authentic voice of higher education in the face of growing government intervention and commercial / managerial trends.

Conclusion

Education International will work to achieve these principles in its contacts with the relevant international authorities, including the World Trade Organisation, World Bank, UNESCO, OECD and the EU, and appropriate bodies at regional level. The higher education and research affiliates of EI will need to contribute to this work, and also to take up the issues raised by transnational Higher Education with employers and public authorities in their own countries. Education International has adopted at its 3rd World Congress in Jomtien in July 2001, a number of motions and a Declaration on Professional Ethics, which it will seek to ensure is implemented for teachers working in transnational as in national education systems, and these should assist in providing EI and its member unions with the arguments needed to develop and promote a positive concept of international higher education. Concerning the status of teachers we advocate for the

implementation of the 1997 UNESCO Recommendation on the status of higher education teaching personnel, and our affiliated organisations at the national level are invited to press their governments to comply with it and use it as a basis in the context of the implementation of the European space for higher education and for judging GATS proposals.

Box 1

Education International (EI)

EI is a Global Union Federation representing 311 national trade union organisations in 159 countries and territories on all continents. The member organisations represent some 25 million teachers and workers in education. Among the members of the organisations affiliated to EI are teachers and employees in early childhood education, primary education, secondary education, vocational education and training, and higher and further education.

According to the constitution of EI the aims of the organisation are to:

- defend the professional and industrial rights of teachers and education employees;
- promote for all peoples in all nations peace, democracy, social justice and equality through the development of education;
- combat all forms of racism and of bias or discrimination in education and society;
- **to promote the right to education** for all persons in the world, without discrimination, and to this end:
 - to pursue the establishment and protection of open, publicly funded and controlled educational systems, and academic and cultural institutions, aimed at the democratic, social, cultural and economic development of society and the preparation of every citizen for active and responsible participation in society;
 - to promote the political, social and economic conditions that are required for the realisation of the right to education in all nations, for the achievement of equal educational opportunities for all, for the expansion of public educational services and for the improvement of their quality.

Box 2

TRANSNATIONAL PROVISION OF HIGHER EDUCATION

The Third World Congress of Education International meeting in Jomtien, Thailand, from 25 to 29 July 2001:

A. Notes:

1. The growth of provision of higher education across national borders, utilizing mainly internet-based technologies, by traditional universities as well as by solely on-line providers;
2. The participation by a number of universities in joint ventures with for-profit corporations and other higher education institutions for the provision of higher education relying on internet-based materials and technologies;
3. Growing concern among higher education personnel, students and the communities they work with regarding the lack of clear and unambiguous information available in relation to governance structures, quality assurance and accreditation procedures, and employment practices within such joint ventures;

B. Believes that:

4. Predominantly on-line higher education providers should be subject to rigorous quality assurance mechanisms to ensure a curriculum developed, taught and under academic control of faculty who have tenure and academic freedom, and this principle should be reflected in international accreditation procedures;
5. It is the responsibility of national governments, international organisations and higher education providers to ensure that the expansion of web-based transnational higher education provision is informed by public interest concerns and objectives, and not solely by profit motives or market forces;

Accordingly, EI should:

6. Encourage higher education trade unions to develop strategies for actively organising members across national boundaries to ensure that the employment rights of personnel employed by transnational providers are protected;
7. In conjunction with higher education unions that have already undertaken significant work in this area, develop guidelines for best practice in relation to the provision of transnational education and actively pursue their endorsement and implementation by UNESCO, the ILO, the World Trade Organisation and international accreditation bodies, such implementation to be pursued in conjunction with EI. Such guidelines should address, among other issues, governance structures, quality assurance, the importance of culturally relevant content and modes of delivery, accreditation, intellectual property management and academic freedom.

TRANSNATIONAL EDUCATION

(ESIB policy paper presented and passed at BM in Turku, October 2002)

Preamble

ESIB the National Unions of Students in Europe was founded in 1982 to promote the educational, economic, cultural, social and political interests of students in Europe. ESIB through its 49 members from 37 countries, currently represents more than 10 million students in Europe.

Introduction

ESIB fully believes in an inclusive educational system, with democratic decision making bodies and equal opportunities for all. In an education system like this, human rights and student rights are secured and guaranteed by law. Therefore, this ESIB policy is based on and fully compatible with existing ESIB policies, especially the ESIB policy on commodification of education, access to Higher Education and Student Rights, Human Rights.

The phenomenon of transnational education, hereafter referred to as TNE, has been gaining more and more importance in recent years. TNE is closely linked to both the Bologna Process and the process of commodification of education, which have changed the European and global landscape of higher education drastically in the last decade of the 20th century.

Transnational education can be defined as all forms of higher education study programs, or sets of studies or educational services (including distance education) in which the learners are located in a country different from the one where the awarding institution is based. Such programs may belong to the educational system of a state different from the state in which it operates, or may operate independently of any national system.

TNE can be provided in various forms, either in campus settings or by e-learning and other distance learning arrangements.

Common forms of TNE are:

- 1 Franchising, whereby a higher education institution from a certain country authorises another institution from the same or another country to provide its educational programs or parts thereof.
- 2 Program articulations, including twinning arrangements, whereby two or more institutions jointly define a study program in terms of credits and credit transfers. These may or may not lead to joint or double degrees.
- 3 Branch Campuses, where a provider opens up a branch in another country than the country of the main campus.
- 4 Off-Shore Institutions, which are autonomous institutions organisationally and content wise part of the education system of a country, but do not necessarily have a campus in that country.
- 5 Corporate Universities, which are usually parts of big transnational corporations providing their own higher education courses, without those being part of a national system of HE.
- 6 International Institutions, which offer international qualifications that are not part of a particular HE system.
- 7 Distance Learning arrangements and virtual universities, where the learner is provided with the course material via post or web-based solutions and self administers the learning process at home.

All these new forms of HE share certain characteristics. They all cross national borders and thus pose challenges and questions to national education systems and international co-operation with regards to equal access to higher education, quality assurance and accreditation, as well as recognition. The majority of TNE arrangements are not however aiming for a degree, but rather are mainly continuing education and professional development education.

Recent Developments and emerging challenges in TNE

In the last ten years the world has witnessed an enormous expansion of TNE, both by international institutions and other new providers such as publishing companies or multinational corporations, but also by traditional universities setting up branches around the globe and exporting their education to other countries. Arrangements for exporting and importing of educational services have been developed in several countries and many European and non-European countries have made investments in marketing their own higher education. In recent years, several virtual universities have emerged and traditional universities are also beginning to offer degrees online. This can offer more flexibility in learning arrangements.

International co-operation should be seen as a driving force for the development of HE. In many countries of the world TNE is seen as a solution to the problem arising from the explosion of the demand for HE and the lack of capacity in national systems to meet this demand. Whilst diversification of provision might be a positive aspect, it is also evident that expansion of TNE in many cases brings about a number of serious problems. TNE can endanger the building up and development of national systems or even replace those systems, especially in transition and developing countries.

The biggest providers of TNE at the moment are primarily highly developed countries such as Australia, the US, Canada, New Zealand, Japan, the UK, France, Germany, Spain and Portugal. However, there is no unified approach to the provision of TNE between those countries at the moment. Whereas some see it as a part of development co-operation others view it primarily as a means of generating profits. In each of these countries there are different groups of providers following either of the above mentioned approaches.

Firstly, problems arise from the fact that some of those new providers of TNE operate on a for-profit basis and are treating students as customers or consumers rather than partners in the educational process. This creates additional exclusion mechanisms. This is especially relevant where public HE systems are not able to meet the needs of the massive number of young people wishing to enrol into higher education. Tuition fee levels for TNE programmes are in many cases extremely high. TNE strengthens existing trends in many countries, where the state retreats from its responsibility of providing tuition free education to its citizens. Thus TNE contributes to the trend in many countries to evade existing human rights agreements, such as the UN Covenant on Social Cultural and Economic Rights from 1966. The for profit basis of many TNE offers is leading to curricula, which are focussing on educating for the market and tend to neglect basic research and the function of HEIs to critically reflect society.

Secondly, TNE often brings in providers whose quality could be questioned and whose qualifications might not be easily recognised. Thirdly, it has to be stressed, that certain TNE arrangements can lead to qualifications, which might not be easily applicable in the local context of the students and may thus increase brain drain. Additionally, it is obvious, that cultural differences tend to be overlooked by many TNE programmes, leading to an "export" of an essentially Western model of education to all parts of the globe.

The rapid growth of TNE arrangements and offers poses major challenges to national HE systems and builds up a tension between transnational and national education. The biggest challenges are related to the role of the state in financing and regulating of higher education.

Quality assurance arrangements are difficult to implement in TNE. Some forms of transnational provision, especially international institutions, off shore campuses and corporate universities are particularly challenging in terms of quality assurance, as they do not necessarily belong to the official higher education system of any particular country. National QA systems usually enshrine certain cultural, social and educational values, which are specific to the national contexts and might therefore not be applicable to transnational arrangements. Whilst there are attempts to establish accreditation agencies operating on a global scale, the question of how and by whom the quality assurance in TNE can and shall be done remains to a big extent unanswered. An international framework for QA in TNE has not yet been developed and its development for the future is uncertain.

TNE also poses questions about licensing and regulating HE. Some attempts have been made to solve these questions, for example by UNESCO and groups of providers. Some actors see the ongoing negotiations about the General Agreement on Trade in Services (GATS) in the World Trade Organisation (WTO) as a solution to those questions. The attempt to solve problems of regulation of transnational education in a free trade framework also suggests a more market driven approach to higher education in general, which conceptualises HE as a commercial service being offered to consumers.

The development of e-learning is one of the big challenges for higher education providers in the future. New pedagogical solutions and new teaching, learning and communication methods will have to be developed to make e-learning an attractive, open and beneficial arrangement. Also, the question of access to technology has to be resolved, not to create a new digital divide both within a given country and between the developed and developing countries.

Transnational qualifications and degrees obtained through TNE arrangements, pose questions to existing schemes of recognition of academic qualifications. Whilst recognition is comparatively easy for twinning arrangements or branch campuses of traditional universities, the recognition of degrees of international institutions, off shore campuses or corporate universities is often equally problematic as their quality assurance. The present instrument of recognition of academic qualifications in Europe called the Lisbon Convention does not cover TNE. The GATS treaty addresses recognition and domestic regulation, but with an aim of progressing deregulation and further liberalisation of trade in services. According to some legal interpretations the GATS articles on recognition could offer one possible framework for a legally enforceable way of addressing recognition issues. However, trying to organise recognition of academic qualifications within a free trade framework is questionable in itself.

Summing up, TNE as a transversal topic touches on almost every issue in higher education policy and poses totally new questions to political decision makers with regards to those questions. Issues arising from the increasing European co-operation in the Bologna Process of setting up a European Higher Education area and the general process of globalisation have certain characteristics in common with TNE, as well as they partly contradict each other. This complicate the issues even further and cannot be easily resolved.

ESIB

ESIB stresses that it is the responsibility of the state to provide its citizens with free higher education and life long learning education. The emerging TNE should not be seen as a means for evading this responsibility. ESIB further believes that education is a public good, which fulfils important functions for the social and economic development of societies and states. ESIB strives for creating an inclusive Higher Education system, which creates equal opportunities for students

from different social backgrounds. ESIB also views education as the main instrument for ensuring human rights, democracy, peace and sustainable economic growth.

However, ESIB believes that in some cases TNE can contribute to fostering access to higher education by allowing a bigger percentage of the population to enrol in tertiary educational programs. Furthermore ESIB believes that TNE can increase and diversify the educational possibilities available for students.

If implemented properly TNE can stimulate international co-operation and lead to an enhancement of quality of both the TNE programs and the programs of the traditional providers. In countries with a rapidly growing demand for higher education but not enough HE programmes available, TNE can help in bridging the gap between supply and demand of higher education. Twinning programs and program articulations can offer international and broad perspectives in many areas, which benefit from the global perspective. This can and should also be addressed by creating joint or double degrees as a result of these arrangements. Distance education can facilitate access to HE for traditionally underrepresented groups, such as part time learners or people from geographically remote areas.

However, in order to reach those objectives certain guidelines and principles have to be followed.

TNE degree programs must not be used as means for generating profit but TNE just as all other education should contribute to the development of the society, operate in the public interest and respect knowledge and research sharing. Tuition fees must not be introduced in programmes leading to a degree and thus supplementing national systems. Within TNE arrangements, students and staff should have the same legal rights as in all other forms of HE. Labour legislation and social security regulations for students and staff must not be bypassed despite possible deficiencies in labour legislation in some the countries where TNE is provided. As in all higher education, Students and staff in TNE have to be fully involved in decision making.

Transnational education providers must be sensitive to the needs cultures of the communities in which they operate. This responsiveness should be assured through a process of consultation with the local stakeholders such as the national and local policy makers and administration, employers and students. Co-operation with local higher education providers should be favoured. There should be clear goals stated for higher education provided transnationally.

Just as other forms of education, TNE should contribute to the development of democracy and citizenship. Therefore, academic freedom and freedom of research, quality, equality and diversity have to apply to TNE programs and institutions.

TNE providers should offer programmes of the same quality as in the countries they come from when operating abroad. Primarily, national quality assurance systems of the receiving countries should be used to assess the quality of transnational programs next to the responsibility of each sending country to control and assess the quality of it's TNE provision. However, it is crucial that national systems are being developed and enhanced to improve educational systems, especially where these mechanisms are not in place yet. Quality assurance is the most important tool for controlling TNE. Where quality assurance mechanisms do not exist, those should be created. TNE programs should generally fulfil the same quality standards applied to the national programs. Thorough information about the quality of TNE has to be made available to prospective students to facilitate their choice. ESIB calls upon the governments to implement quality assurance mechanisms and provide the necessary information to the students. Thus, degree mills and other bogus institutions can be easily controlled and ruled out.

Providers of TNE should adhere to codes of good practices such as the UNESCO/CEPES and Council of Europe Code of good practices.

With regards to regulation, ESIB believes that supranational bodies such as UNESCO have a vital role in the set up of a comprehensive regulatory framework for TNE. ESIB further believes that neither the World Trade Organization nor the GATS treaty can create appropriate regulatory frameworks for TNE. Therefore, ESIB has stressed on several occasions its disapproval of any further commitments in higher education into the GATS treaty and has called for a moratorium of the ongoing GATS negotiations.

With regards to e-learning arrangements ESIB stresses the need to provide access to the technical infrastructure to prevent the development of a digital divide between those countries where information technology is easily accessible and those where this is not the case. Also, within countries those students coming from socially or educationally disadvantaged backgrounds have to be provided with access to technology to allow them more easily to enter HE. Furthermore, more resources have to be invested in staff education in e-learning and research on appropriate pedagogical methods for e-learning.

ESIB does not believe that all forms of TNE can or even should be recognised as formal higher education. Those degrees recognised, however, need to be subject to quality assurance mechanisms to allow a formal assessment of their quality as a prerequisite of their recognition.

Given the above mentioned objectives and the principles to reach those, ESIB firmly believes that a dialogue between all stakeholders in HE is necessary to reach those. Therefore, ESIB calls on governments, UNESCO, the EU, the Council of Europe and international quality assurance bodies as well as students, teachers and universities to engage in a constructive dialogue about TNE and possible solutions to the questions which are posed by it.

ESIB firmly believes that a failure of such attempts will result in non-transparent and merely profit driven developments which will harm the objectives of the Bologna Process and the positive impacts that internationalization attempts can have on educational systems as well as violating existing Human Rights agreements.

ESIB commits itself to continue to work with our partners in IGOs, teacher and student NGOs, universities and other NGOs working on those issues, to address questions of mutual concern and to come up with constructive suggestions for solutions to these.

Conclusion

ESIB firmly believes in the role of education in developing a democratic responsible and sustainable society.

ESIB further believes that TNE can contribute to reaching these goals if implemented properly. However, if no constructive attempts are taken to make TNE beneficial for students, staff and societies, ESIB sees the danger of negative and harmful developments for the educational sector as a whole.

Therefore ESIB calls upon the higher education community to actively engage in the discussion around TNE, solve existing problems and ensure that the positive objectives of TNE are met.

Profile of the authors

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Stefan Bienefeld is a student of psychology at the university of Bielefeld in Germany. He is ESIB chairperson 2003 and it is his third year in the EC of ESIB. He has been working in student politics since 1998.

James Cemmell

James Cemmell is 24 years old and is currently studying for a master degree in international development studies in the UK. He first became involved in student issues whilst completing an undergraduate degree in chemistry at the university of Leeds where he was elected as education officer for the student union a couple of years ago. His academic and committee interests are of the relationship between higher education, globalisation and development. Specifically the impact of institutions such as the World Trade Organisation (WTO) particularly the GATS and TRIPS policies and the World Bank on this area.

Francesca D'Ingianna

Francesca D'Ingianna is a member of ESIB's Committee on Commodification of Education. She is a Master student in Science of Communication at the Alma Mater Studiorum - University of Bologna. She is preparing her final thesis on "The role of Higher Education in the European debate on knowledge-based society and its dissemination". She was previously member of the Academic Senate of her university and president of the local student union for two years. She was International Officer of UdU (Italian student union) for three years until January 2003.

Kristina Lutz

Kristina Lutz is a member of ESIB's Committee on Commodification of Education since the start in summer 2001. She has just finished her master degree (magister examen) in political science at Umeå University. She wrote her master thesis on the reconciliation process in South Africa and is specialized in transition countries and the process of reconciliation. She has been involved in student politics since 1997, from local level to national level as a board member and international officers for SFS and international level, involved in ESIB since 2001.

Terhi Nokkala

Terhi Nokkala is a member of ESIB's Committee on Commodification of Education. She is preparing her PhD on internationalisation of higher education in the University of Tampere, Finland. She has previously worked as the officer for education policy in the National Union of Students in Finland, where she was responsible for issues related to governance and financing of education, as well as commodification and quality assurance issues.