

**Symposium on International Labour & Academic Mobility:
Emerging Trends and Implications for Public Policy
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The Changing International Regulatory and Policy Environment

Response to Dr. Jan Sadlak by Katherine McGuire

In my remarks, I want to elaborate on one element of the international policy environment - the World Trade Organization (WTO) *General Agreement on Trade in Services* (GATS) - and its possible effect on labour and academic mobility.

In so doing, I want to make two general points: first, that the GATS is unlikely to have a significant effect on education because this trade agreement is designed to deal with the needs of *commercial* service providers while education is provided largely by public or non-profit institutions, especially at the primary and secondary levels; second, that the GATS is unlikely to have a beneficial *incidental* effect on the mobility problems experienced by those involved in educational services because trade in services is not yet seen as commercially significant and, therefore, countries are not prepared to engage in major reform.

First, why is the GATS largely irrelevant to educational services? We must start by recalling what the GATS was intended to accomplish: to remove discrimination against foreign service providers in sectors in which countries were prepared to make commitments. Such discrimination could take the form of limitations on the number of licenses, citizenship or residency requirements, higher taxation rates for foreign service providers, foreign ownership restrictions, and so on.

The GATS classifies educational services as falling into five categories: primary, secondary, higher, adult, and other educational services. Let us take the example of a commercial firm providing training in computer software, time management, and sales techniques: in other words a provider of adult education. Such a firm may not be subject to regulation as an educational service but may simply be subject to consumer protection and business registration regulations. The GATS can potentially help such a firm by allowing it to launch operations in a foreign market by removing the barriers designed to keep foreign firms out.

However, consider the situation of a commercial service provider of higher education, offering degree or professional programs. This commercial entity faces more challenges in entering a foreign market. It is simply not enough to be granted access to the market. To succeed, the entity needs to be able to market its diplomas or certificates as recognized and valuable to potential students; it needs to be able to deal with the evaluation of credits from other institutions; its potential students may need visas on short notice, and so on. These are barriers to sales of educational services that the GATS was not designed to alleviate.

As a result, even for commercial service providers, the GATS offers assistance with only some of the barriers faced in selling educational services into foreign markets or to foreign students travelling to the commercial service provider. Public and non-profit institutions may face financial and other barriers to selling their services abroad that may need to be overcome before

they can even take advantage of the removal of conventional, discriminatory measures through the GATS.

The GATS is a new trade agreement and has been in effect since 1995. To date, only 44 of the 148 member countries of the WTO have made any commitments to open their markets to foreign educational service providers. In the current round of negotiations to improve the GATS, only 7 countries have made offers in educational services, most of them very minor. Whatever the cause - the nature of the agreement or the degree of commercial interest - educational services are not currently one of the major topics in world services negotiations. The competition that foreign educational service providers currently offer in domestic markets may be the result of factors well beyond the GATS.

Canada has not made commitments in educational services and has made it known that it will not change its position in the current negotiations. The US has limited its commitments to the fields of adult education and 'other' educational services (which covers home tutoring, for example). This does not mean that Canadian and US public or non-profit institutions are disinterested in exporting educational services. They are, indeed, interested, as their recruitment of foreign students at all educational levels demonstrates. However, the problems they face: from funding, to student visas, to marketing, to the infrastructure to support distance education, are not going to be resolved through the GATS.

Second, why is the GATS unlikely to have an *incidental* positive effect by improving mobility generally? It is important to remember that the GATS deals only with temporary entry because it deems that this is all that is required to sell services on a cross border or in-market basis. *Temporary* entry can mean a reasonably long time. For example, under another agreement, the *North American Free Trade Agreement* (NAFTA), year-long visas for such occupations as university librarian can be indefinitely renewed.

However, in the GATS, countries have taken a very timid approach to temporary entry - despite the fact that face to face interaction is often required in selling services. Those of you who have been involved in managing the installation of a new computer application can attest to the amount of interaction that is required between client and service provider in translating the inchoate needs of the client into the design of the application, in testing, and in implementing the application. That same degree of interaction is required in any number of services: electronic blueprints or memos are simply not sufficient.

One way to ensure this face to face contact is to establish an office in the export market, in order to deliver the service. But this approach is not always practical. As a result, someone has to travel: either the service provider to the customer, or vice versa. Travel means dealing with temporary entry and the limitations on temporary entry.

In its *World Trade Report 2004*, the WTO painted this picture of the temporary entry commitments made by WTO members. Overwhelmingly, these are aimed at high-skilled intra-corporate transfers of executives, managers and specialists - which account for 70 percent of all

commitments made. A further 23 percent of commitments are for short term trips by business visitors, usually for less than 60 days. Very few commitments extend beyond a narrow range of the high-skilled. Looking at the UK, the WTO noted that in 2000, fully 97 percent of temporary work permits were issued to managers, professionals and associated 'professional and technical' occupations. Even within the NAFTA, a more 'trade liberalizing agreement', Canada, the US and Mexico have recognized only 60 credentialed occupations as eligible for renewable year-long visas.

We know that not all services are delivered by executives and recognized professions. So why, you may ask, are we so reluctant to broaden temporary entry? In Dr. Sadlak's paper, he refers to security concerns which undoubtedly are an important factor.

However, the reluctance to improve temporary entry pre-dated the current concern with global security. More important than security, I believe, is the belief that services trade is not commercially significant. Paradoxically, there is a parallel political perception that increased trade in services is a threat to employment, rather than providing both threat and opportunity. You see this argument playing out in the US debate on the importance of outlawing 'outsourcing' of jobs to firms outside the US.

Services trade is estimated to represent 20 percent of global trade. This figure is acknowledged to underestimate the actual extent of trade because of the methodological problems in measuring intangibles and in measuring some of the various modes of service delivery - for example, the sales of a domestic firm's foreign affiliates. Yet, despite the amount of measured trade, and despite all the talk of the 'knowledge based economy', the perception remains that goods production drives the economy and trade generally.

It is to be expected that our perception of the economy lags behind its actual composition. Over the past 30 years, we have gone through three stages in thinking about services. First, we thought that service jobs had no economic value. Once we realized that the majority of jobs in economies like Canada's were in services, we changed our tune but still continued to think of service jobs as both low-skilled and inherently local in nature. Consider how many allusions you have read to 'hair dressers' and 'fast food workers' as typical of the services economy.

We are now in a third stage, one in which we realize that a significant number of services can, in fact, be exported. However, because we do not fully understand what these services are, or how to measure their value, we continue to dismiss their economic significance. As long as we undervalue both the production and trade of services, we will not make the reforms in temporary entry which could, incidentally, benefit the education sector.

As a result, in the short term, I believe that improvements in mobility within the education sector are more likely to be achieved as a result of educational agreements, than of trade agreements.